2012 DEC 31 PM 5:23

EDWARD J.B. CALVO
Governor

RAY TENORIO
Lieutenant Governor

OFFICE OF THE GOVERNOR OF GUAM

December 31, 2012

31-12-2053

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 12/31/12
Time 5:13 PM
Received by

Honorable Judith T. Won Pat, Ed.D.
Speaker
31st Guam Legislature
155 Hesler Place
Hagatna, Guam 96932

Dear Madam Speaker,

Bill No. 507 comes at significant detriment to the livelihood of those whom the legislature has now suffered a 10 percent mandated pay cut. This pay cut for these workers in all three branches of government was not part of my original Bill No. 507; par for the course in a bill that is nothing like the original one I sent.

I can empathize with the public servants who will be taking this pay cut in a few short days. I, too, have lived with a 10 percent pay cut for over a year now. So have the Lieutenant Governor, our senior staff, and several of our Cabinet members. We voluntarily cut our pay and dedicated the savings to the payment of tax refunds until we are caught up. This essentially helped to pay down the deficit.

I cannot say I fully agree with this across-the-board mentality. Earlier this year Sen. Chris Duenas provided the legislature an opportunity to follow the administration's lead and itself set an example of cost-cutting from the top. His 'Bucks for Busses' bill would have reverted senators' salaries to the level it was before its pay raise. Bucks for Busses was a noble effort, because it was one made by a legislator to affect legislators. Respecting your independence as a branch of government, I did not get involved in that debate.

Rather than acting on this 10 percent pay cut for senators, the legislature instead decided to apply an across-the-board 10-percent pay cut for ALL unclassified employees earning more than a base salary of $50,000, the floor of the cut being $50,000. Such an action does save money. Is it fair? No. Will it affect operations? Probably. My main point is the irony in how this provision came to be. For as much as senators lamented and warned for the Executive Branch to stay out of legislative affairs, it was senators who decided that if their salaries are to be cut, so should everyone else's. That is fine. It is your prerogative. And for that, I have allowed Bill No. 507 to lapse into law.

The Cure for the Dying Patient

2053

While Public Law 31-279 significantly impacts the livelihood of many employees, its complete impact measured against what is needed to be done is wholly insignificant. If I may, it is like Neosporin for the Gangrene.

Madam Speaker, I sent the legislature a bill proposing to make structural cuts of more than $70 million from the operational cost of government annually. I understand the apprehension elected officials may have about making unpopular decisions. These affect the very people who elect us to hold these offices and make these decisions. Nonetheless, we were not elected to be popular; we were elected to make the right decisions. The bill I sent to the legislature embodied much of the bitter medicine needed to nurse the ailing patient – the government – to good health. Like the rot of Gangrene, bad financial practices over two decades have decayed part of this government's ability to provide services and sustain the resources needed to fully fund personnel levels. Without treatment, the decay will spread and the patient's life will continue to be in jeopardy.

The solution – a large part of which I proffered to the legislature in the form of Bill No. 507 – is severe and drastic to prevent the fester of further decay. To complete the simile, the severe treatment for Gangrene is surgery to remove what has decayed, and intense treatment and bitter medicine to strengthen the patient. I offered the legislature to surgically remove portions of operational spending and certain payroll entitlements through the legislation we submitted months ago. The administrative remedy we've already implemented – the 15 percent reserve, the suspension of the Hay plan, the freeze on increments, the increasing rate of attrition – is the bitter medicine to reverse the condition of the dying patient.

Something is better than nothing

Lt. Governor Tenorio and I understood that you may not agree with the surgical cuts we proposed. So, we remained open to changes you could make, asking only that if you were to forsake one of the spending cuts, you replace it with another of equal value. Some of the cuts we proposed would have commanded sacrifice from elected officials ourselves, namely a provision preventing us from cashing out accumulated annual leave. Senators removed this provision and instead replaced it with the across-the-board 10 percent pay cut affecting the unclassified employees of all three branches.

The legislature, in fact, gutted the entire bill, sending Bill No. 507 back to me with spending cuts that went from over $70 million, to less than $1 million from the General Fund. I question the wisdom of the across-the-board pay cut. While less than $1 million in savings is topical ointment for the rotting infection, something is better than nothing. And while at least Sen. Rodriguez's amendment to help pay down debts to the hospital was inserted, I must remind the legislature the primary purpose of the savings from the spending cuts was to ensure availability of funds when taxpayers file for their tax refunds. I suppose the logic went that since nearly all of the spending cuts were removed, there was no longer a need in this bill to dedicate anything to tax refunds.

This doesn't even begin to address our other obligations that remain on the deficit: remaining merit bonuses, promised compensation, vendor payments, overtime,

non-reconciled debts to the federal government, civil service back payments, etc. Senators have constantly sought the administration's assistance and at times have berated our financial agencies to make these payments, however when we ask you to allow us the financial wherewithal to cut spending so we can save the money to pay these debts, you reject the very vehicle by which we can solve these issues.

Possibility of Swapping Spending Cuts

In closing, I have received resounding opposition to the bill you sent to me, specifically your amendment making the across-the-board paycut to unclassified employees. This is a sacrifice Lt. Governor Tenorio, our senior staff, our Cabinet, and I already are making and are proud to make in the best interest of the people. It is a sacrifice you have decided to make months after the introduction of a similar measure by Sen. Duenas. But there are others in the unclassified service who may be affected. Time will tell whether this decision was wise, as many of those impacted are not what some critics may call 'political hires' but are in fact a cadre of professionals whose salaries were taken out of the civil service rankings in order to make them more competitive and attractive. These may include staff attorneys at the Judiciary, hospital doctors, the presidents of our college and university, the CEO of the hospital, the superintendent of education and his deputies, limited-term teachers, etc. I pray for them and for their families as they deal with the adversity and heartache brought about by amended Bill No. 507. Perhaps the legislature can reconsider its decision. Perhaps senators can absorb the burden they have placed on these unclassified employees and cut their pay along with their entitlement to annual leave cash out. This may save unclassified employees from taking this pay cut if done on time. I understand the legislature may go back into session this week, so there obviously is an opportunity to stave off this new policy.

Madam Speaker, our administration spent quite a bit of time studying our options and vetting these through the community. The solutions we proffered, unlike the sudden amendments to the bill, were thoroughly considered and publicly debated. Part of that discussion, as I'm sure you are aware, was that the solutions we proffered in the original Bill No. 507 were the only solutions standing in the way of an involuntary reduction in force in order to cure the ailing government. Your rejection of the bottom line in cuts needed has left me with no choice on the matter unless the new legislature very quickly reconsiders the essence of Bill No. 507 in the first quarter of its session. The clock is ticking. This is the final notice as we approach the precipice of our very own fiscal cliff.

God speed.

Sincerely,

EDDIE BAZA CALVO

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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

This is to certify that **Bill No. 507-31 (LS), "AN ACT TO *AMEND* §4119, AND TO *REPEAL* §4110.1, ALL OF CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PERSONNEL POLICY; TO ADD A NEW SECTION 4 TO PUBLIC LAW 31-154, RELATIVE TO BUDGETARY SAVINGS TO REDUCE THE GENERAL FUND DEFICIT; TO REPEAL AND REENACT CHAPTER 12 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO COMRIGHT-21; AND FOR OTHER PURPOSES."**, was on the 14TH day of December, 2012, duly and regularly passed.

Benjamin J.F. Cruz
Acting Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 17 day of Nov Dec, 2012, at 11:40 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: DEC 3 1 2012

Public Law No. 31-279

I MINA' TRENTA UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 507-31(LS)
As amended by the Committee on Youth, Cultural Affairs, General Government Operations, and Public Broadcasting; and further amended on the Floor; and further amended in the Committee of the Whole.

Introduced by:

Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources at the request of *I Maga'lahen Guåhan*

AN ACT TO *AMEND* §4119, AND TO *REPEAL* §4110.1, ALL OF CHAPTER 4 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO PERSONNEL POLICY; TO ADD A NEW SECTION 4 TO PUBLIC LAW 31-154, RELATIVE TO BUDGETARY SAVINGS TO REDUCE THE GENERAL FUND DEFICIT; TO REPEAL AND REENACT CHAPTER 12 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO COMRIGHT-21; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act shall be known, hereinafter, as the Omnibus Fiscal Reform Act of 2012.

Section 2. Repeal of Teacher Personal Leave. §4110.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 3. Allowance for Use of Compensatory Time Accrued for Military Leave. §4119 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4119. Military Leaves of Absence: National Guard or Reserves.**

All employees of the government of Guam who are members of the reserve components of the Department of Defense or Transportation, including, but *not* limited to, the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, *shall* be entitled to leaves of absence from their respective duties with the government of Guam without losses of time or efficiency ratings on all days during which they are engaged in active military duty ordered or authorized under the laws of United States. Such employees *shall* be entitled to military leave with pay while performing such duty *not to exceed* fifteen (15) working days per government of Guam fiscal year, and, to the extent *not* used in a fiscal year, accumulates in the succeeding year until it totals fifteen (15) days at the beginning of a fiscal year. Thereafter, the officers and employees *shall* elect annual leave, compensatory-time accrued, or leave without pay. The provisions of this Section *shall* be retroactive to October 01, 2012."

Section 4. Analysis of Retirement Fund Reforms.

Notwithstanding any other provision of law, and within sixty (60) days from the enactment of this Act, the Government of Guam Retirement Fund *shall* transmit to *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan*, a report analyzing the feasibility of Retirement Fund Reforms which *must* include, but *shall not* be limited to:

(a) Actuarial analysis of a limited Early Retirement Incentive Program, admitting *no more than* six hundred (600) employees within three (3) years of retirement, and excluding those employees that *I Maga'lahen Guåhan* determines to be essential to the health and safety of the people of Guam;

(b) The issuance of a pension Bond to decrease the unfunded liability of the Government of Guam Retirement Fund; and

(c) Any other retirement fund reform(s) which the Government of Guam Retirement Fund reasonably believes will decrease the cost of the Retirement Fund to the taxpayer and is in the best interest of its members.

Section 5. Salary Reduction. Notwithstanding any other law, the base salary of each elected or unclassified employee of any department, autonomous agency, public corporation, commission, or branch of the government of Guam with base pay greater than Fifty Thousand Dollars ($50,000) *shall* be reduced by ten percent (10%) effective January 8, 2013 to December 31, 2014, but said salary for those employees *shall not* be reduced below Fifty Thousand Dollars ($50,000). This provision *shall not* apply to Judges or Justices of the Supreme Courts of Guam or those in federally funded positions.

Section 6. Appropriation for GMHA. The ten percent (10%) reduction in the previous Section of this bill is hereby de-appropriated from the respective agency appropriations from the General Fund, if applicable, and re-appropriated to the Guam Memorial Hospital Authority (GMHA) to offset the government of Guam agencies' debt to GMH.

Section 7. A new Section 4 is *added* to Public Law 31-154 to read:

"**Section 4. Non-Compliance.** Failure of *I Maga'lahen Guåhan* to submit a report pursuant to Section 3 of this Act, will result in a five percent (5%) de-appropriation of *I Maga'lahi's* annual budget, and the savings shall be used to support the reduction of the General Fund deficit."

Section 8. Modernization and Rightsizing Commission.

(a) Legislative Findings and Intent. *I Liheslatura* finds that two (2) consecutive administrations did not implement the Modernization and

Rightsizing Commission of the Government of Guam for the 21st Century (COMRIGHT-21) which was first enacted in the Spring of 2007 and later amended into its present form in the Fall of 2007. In the elapsed time, the current administration has implemented a reorganization plan, citing its Organic Act authority. *I Liheslaturan Guåhan* thus finds it necessary to revisit the COMRIGHT-21 and amend its structure and focus. It is the intent of *I Liheslaturan Guåhan* to provide all departments, bureaus, agencies, commissions, or other instrumentalities, whether autonomous, semi-autonomous, or non-autonomous in the Executive Branch of the government of Guam, including all line agencies and the A.B. Won Pat International Airport Authority, the Port Authority of Guam, the Guam Power Authority, the Guam Waterworks Authority, the Guam Visitors Bureau, the Guam Housing and Urban Renewal Authority, and the Guam Economic Development Authority a regular opportunity to revisit all laws and administrative rules and regulations that affect the operation and purpose of its being through an internal audit in order to recommend amendments to or the repealing of statutes or functions as contained in the Guam Code Annotated, mandated by law or integrated via the Guam Administrative Rules and Regulations that hamper the entities' core mission or that are antiquated, unfunded, underfunded or contrary to the individual entity's function. This opportunity will be required on a triennial basis. COMRIGHT-21 *shall* serve as the clearinghouse for all recommendations submitted by individual entities.

(b) Chapter 12 of Title 5, Guam Code Annotated, is hereby *repealed* and *reenacted* to read:

"**CHAPTER 12**

MODERNIZATION AND RIGHTSIZING COMMISSION OF THE GOVERNMENT OF GUAM FOR THE 21ST CENTURY (COMRIGHT-21).

§ 12101. Title.

§ 12102. Definitions

§ 12103. Establishment of Modernization and Rightsizing Commission.

§ 12104. Purpose and Policy.

§ 12104.1 Agency Audit

§ 12104.2 COMRIGHT-21 *shall* serve as the clearinghouse

§ 12105. Membership of COMRIGHT-21.

§ 12106. Organization of COMRIGHT-21.

§ 12107. Duties of COMRIGHT-21.

§ 12108. Obtaining Information from Executive Branch Agencies.

§ 12109. Severability.

§ 12101. Title. This Chapter *shall* be known and cited as "The Government Reorganization and Program Performance Improvement Act of 2012."

§ 12102. Definitions. For the purposes of this Chapter:

(a) *COMRIGHT-21 or the Commission* shall mean The Modernization and Rightsizing Commission of the government of Guam for the Twenty-first (21st) Century and beyond.

(b) *Entity* shall mean any combination of all departments, bureaus, agencies, commissions, or other instrumentalities, whether autonomous, semi-autonomous, or non-autonomous in the Executive Branch of the government of Guam, including all line agencies and the A.B. Won Pat

International Airport Authority, the Port Authority of Guam, the Guam Power Authority, the Guam Waterworks Authority, the Guam Visitors Bureau, the Guam Housing and Urban Renewal Authority, and the Guam Economic Development Authority.

§ 12103. Establishment of Modernization and Rightsizing Commission. There is hereby established The Modernization and Rightsizing Commission of the government of Guam for the Twenty-first (21st) Century and Beyond (COMRIGHT-21).

§ 12104. Purpose and Policy. The purpose of this Chapter is to promote simplicity, economy, efficiency, modernization, and streamlining of the delivery of services by all departments, bureaus, agencies, commissions, or other instrumentalities, whether autonomous, semi-autonomous, or non-autonomous in the Executive Branch of the government of Guam, including all line agencies and the A.B. Won Pat International Airport Authority, the Port Authority of Guam, the Guam Power Authority, the Guam Waterworks Authority, the Guam Visitors Bureau, the Guam Housing and Urban Renewal Authority, and the Guam Economic Development Authority. This goal can be accomplished by:

(a) Determining which statutes or functions as contained in the Guam Code Annotated, mandated by law or integrated via the Guam Administrative Rules and Regulations hamper or are contrary to the core mission of individual entities, are antiquated, unfunded, underfunded;

(b) Eliminating duplication of services, activities, and functions not necessary to the efficient conduct of government through consolidation and integration; and

(c) Promoting the modernization and streamlining of government consistent with the public service needs of the citizenry by enhancing the skills of public service personnel through continuous training and education.

COMRIGHT-21 *shall* serve as the clearinghouse for all recommendations submitted by individual entities and provide the processes for the eventual disposition of such.

§ 12104.1 Agency Audit of Mandates, Administrative Rules, Internal Functions And Personnel. All administrators, directors or equivalent executives of all executive branch entities shall, within ninety (90) days of enactment of this Act, review its organization's purpose, structure and areas of responsibilities and all mandates relative to their respective entity for the purpose of recommending amendments to, or the repealing of statutes or functions as mandated by law that hamper or are contrary to the core mission of individual entities or are antiquated, unfunded, or underfunded.

As well, each organization *shall* identify unnecessary or additional positions and accompanying qualifications required to fulfill its purpose and provide enhanced public service.

Upon review, agency heads *shall* compile and forward their findings to COMRIGHT21 for consideration. This review *shall* take place on a triennial basis.

§ 12104.2 COMRIGHT-21 *Shall* Serve as the Clearinghouse. The Commission shall serve as the clearinghouse for all recommendations submitted by individual entities and provide the processes for the eventual disposition of such recommendations.

§ 12105. Membership of COMRIGHT-21. The COMRIGHT-21 Commission *shall* be comprised of seven (7) members as follows:

(a) *I Maga'lahen Guåhan* or his designated representative who must be member of his senior policy team or Cabinet;

(b) The Compiler of Laws, who *shall* serve as the Chairperson in the absence of *I Maga'lahen Guåhan*;

(c) A Member of the Mayor's Council of Guam (MCOG) who shall be appointed by its President;

(d) The Attorney General of Guam or his designee;

(e) The Director of the Civil Service Commission; and

(f) The Director of the Department of Administration; he shall serve as the Secretary of the COMRIGHT-21.

The term of any appointee *shall* expire with the term in office of the respective appointing authority unless he is reappointed.

§ 12106. Organization of COMRIGHT-21.

(a) *I Maga'lahen Guåhan shall* coordinate the inaugural swearing-in of all members of COMRIGHT-21 and schedule the Commission's first meeting within thirty (30) days of passage of this Act.

(b) The administrative support function of COMRIGHT-21 *shall* be assigned by *I Maga'lahen Guåhan* whose office shall provide administrative, clerical and professional services and logistical support and resources and a meeting as requested by the Chairperson of COMRIGHT-21.

(c) *If* necessary, the *Office of the Governor* may provide a budget request to *I Liheslatura* on behalf of COMRIGHT-21.

(d) After its inaugural year, COMRIGHT-21 *shall* convene on a Triennial basis and no later than April 1 of each designated year. All successor Governors that fall within the designated year of each subsequent convening of the COMRIGHT-21 *shall* coordinate the composition and swearing-in of all members of COMRIGHT-21 and schedule each subsequent Commission's first meeting *no later than* April 1 of each respective year.

§ 12107. Duties of COMRIGHT-21.

(a) COMRIGHT-21 *shall* review the recommendations of the heads of all departments, entities to amend, repeal or enact statutes relative to their respective entity as contained in § 12102.1(a)(b)(c).

(b) Upon review, the Commission *shall* conduct public hearings, pursuant to the provisions of the open government law, for each entity for the purposes of consulting with public officers and their employees and the general public and reconciling conflicting interests that arise from modernization and streamlining or any suggested repeal or enactment of law.

(c) After the requisite public hearings, COMRIGHT-21 *shall* adopt, reject or amend the findings of the respective agencies and forward their recommendations to the Speaker of *I Liheslaturan Guåhan* and the respective member and chairperson of *I Liheslatura's* standing committee with oversight over each entity for action.

(d) In its review of government agencies and in proposing reforms pursuant to this Chapter, COMRIGHT-21 *shall* consider and make use of such studies and recommendations as may be presented to it by each

respective entity with respect to enhancing the performance of the agencies *or* programs and services for the island community.

(e) COMRIGHT-21 may also as part of its function recommend to *I Maga'lahi* and *I Liheslatura* the merger, coordination, consolidation, *or* integration of departments, agencies, offices, instrumentalities, and functions of the government, and the transfer of functions, appropriations, equipment, property, records and personnel from one (1) department, agency, office *or* instrumentality to another.

(f) COMRIGHT-21 may recommend to *I Maga'lahi* and *I Liheslatura* the dissolution *or* termination of departments, agencies, offices, instrumentalities, programs *or* functions that are not necessary for the efficient conduct of government functions, services and activities.

(g) COMRIGHT-21 may recommend to *I Maga'lahi* and *I Liheslatura* the elimination *or* consolidation of overlapping and duplicative services, functions and activities of the government.

(h) COMRIGHT-21 may recommend to *I Maga'lahi* and *I Liheslatura* the creation, classification and dissolution of employment positions.

(i) COMRIGHT-21 *may* recommend to *I Maga'lahi* and *I Liheslatura* the standardization of salaries, materials and equipment throughout the government; suggest changes to existing law; and create and submit new legislation to *I Liheslatura* in addition to its triennial review of the various government entities.

§ 12108. Obtaining Information from Executive Branch Agencies. COMRIGHT-21 is authorized to obtain directly from any executive department, bureau, agency, board, commission, office, public corporation, or instrumentality of the government of Guam via written requests, any and all

information needed to execute its functions. All requests for information by COMRIGHT-21 *shall* have the benefit of the provisions of a Freedom of Information Act (FOIA) Request.

§ 12109. Severability. *If* any provision of this Act or its application to any person *or* circumstances 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 are severable."

Section 9. Severability. *If* any provisions of this Act or its application to any person or circumstances 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 are severable.

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I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2012 (SECOND) Regular Session

Date: 12/14/12

VOTING SHEET

A **Bill No.** 507-31 (LS)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Thomas C.	✓				
ADA, V. Anthony		✓			
BLAS, Frank F., Jr.		✓			
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam					EA
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.		✓			
PANGELINAN, vicente (ben) cabrera III		*			
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana		✓			
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				
TOTAL	9	5	0	0	1

CERTIFIED TRUE AND CORRECT:

Patricia C. Santos

Clerk of the Legislature

*3 Passes = No vote

EA = Excused Absence

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
The 31st Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

November 16, 2012

The Honorable Judith T. Won Pat
Speaker
I Mina' Trentai Unu Na Liheslaturan Guahan
31st Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

2012 NOV 20 AM 7:57

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

RE: Committee Report on Bill No. 507-31 (LS) As Amended

Dear Speaker Won Pat:

Transmitted herewith is the Report of Committee on Youth, Cultural Affairs, Procurement General Government Operations and Public Broadcasting on Bill No. 507-31 (LS) -An Act to Amend §4107, §4107.1, §4109,§4109.2 and §4119 of Chapter 4 of Title 4 GCA, to Repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, to Amend §6219 of Chapter 6 of Title 4 GCA, to Repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to Amend §8137(b) of Chapter 8 of Title 4 GCA and to Add a New Section §8174 to Article 1, Chapter 8 of Title 4 GCA.

Committee votes are as follows:

____ TO DO PASS
____ TO NOT PASS
__7__ TO REPORT OUT ONLY
____ TO ABSTAIN
____ TO PLACE IN INACTIVE FILE

Sincerely,

BENJAMIN J.F. CRUZ

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com

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155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

COMMITTEE REPORT

ON

Bill No. 507-31 (LS)

AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCAAND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
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November 16, 2012

MEMORANDUM

TO: **All Members**
Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting

FROM: **Vice Speaker Benjamin J.F. Cruz**

SUBJECT: **Committee Report on Bill No. 507-31(LS)** As Amended

Transmitted herewith for your consideration is the Committee Report on Bill No. 507-31 (LS) - An Act to Amend §4107, §4107.1, §4109,§4109.2 and §4119 of Chapter 4 of Title 4 GCA, to Repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, to Amend §6219 of Chapter 6 of Title 4 GCA, to Repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to Amend §8137(b) of Chapter 8 of Title 4 GCA and to Add a New Section §8174 to Article 1, Chapter 8 of Title 4 GCA.

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Bill No. 507-31(LS)
- Amended Bill No. 507-31 (LS)
- Public Hearing Sign-in Sheet
- COR Referral of Bill No. 507-31(LS)
- Fiscal Note Requirement
- Notices of Public Hearing
- Public Hearing Agenda

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.

Very truly yours,

BENJAMIN J.F. CRUZ
Chairperson

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com

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COMMITTEE VOTING SHEET

Bill No. 507-31 (LS) -An Act to Amend §4107, §4107.1, §4109,§4109.2 and §4119 of Chapter 4 of Title 4 GCA, to Repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, to Amend §6219 of Chapter 6 of Title 4 GCA, to Repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to Amend §8137(b) of Chapter 8 of Title 4 GCA and to Add a New Section §8174 to Article 1, Chapter 8 of Title 4 GCA.

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
CRUZ, BENJAMIN J.F. Chairperson				11/14/12		
MUÑA BARNES, TINA ROSE Vice-Chairperson						
WON PAT, JUDITH T. Speaker and Ex-Officio Member						
ADA, THOMAS C. Member				✓ 11/16/12		
GUTHERTZ, JUDITH P. Member				11/14/12		
RESPICIO, RORY J. Member						
RODRIGUEZ, DENNIS G. JR. Member				✓ 11/16/12		
ADA, V. ANTHONY Member				11/16/12 ✓		
DUENAS, CHRISTOPHER Member				✓		
MABINI, SAM Member				11/15/12		
YAMASHITA, ALINE Member				11/15/12		

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting
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Committee Report Digest

I. OVERVIEW

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting convened public hearings on September 17, 18, 24, 25, and 26, 2012, at 5:30 pm in *I Liheslatura's* Public Hearing Room.

Public Notice Requirements

Notices were disseminated via e-mail to all senators and all main media broadcasting outlets on September 10, 2012 (5-Day Notice), and again on September 12, 2012 (48 Hour Notice). A supplemental roundtable discussion was held. Notices were disseminated via e-mail to all senators and all main media broadcasting outlets on October 19, 2012 (5-Day Notice), and again on October 24, 2012.

(a) Committee Members and Senators Present

Vice Speaker Benjamin J.F. Cruz, Member
Senator Rory J. Respicio, Member
Senator Tina Rose Muña-Barnes
Speaker Judith T. Won Pat, Ed.D.
Senator Judith P. Guthertz, DPA
Senator Vicente C. Pangelinan
Senator Thomas C. Ada
Senator Adolpho B. Palacios, Sr.
Senator Dennis G. Rodriguez, Jr.
Senator Frank F. Blas, Jr.
Senator Aline A. Yamashita, Ph.D.
Senator V. Anthony Ada
Senator Christopher M. Duenas

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Senator Sam Mabini, Ph.D.
Senator Mana Silva Taijeron

II. SUMMARY OF TESTIMONY AND DISCUSSION

September 17, 2012, Public Hearing for Bill No. 507-31 (LS)

Vice Speaker B.J.F. Cruz Bill No. 507-31 (LS) introduced at the request of Governor Calvo. The Vice Speaker asserted that the roundtable discussion is an informational briefing in which invited Human Resources Officers to the discussion. The Vice Speaker then asked how maternity and paternity leave is being handled in each department.

Joann Muña, Human Resources Officer, Guam Community College, stated that the concern with Bill No. 507-31 (LS) is that in Section 3 it strikes-through the word "~~Maternity~~" and replaces it with "Administrative leave" then states, "Pursuant to the Department of Administration Personnel Rules and Regulation – leave shall be granted." Ms. Muña asserted that if the word "Administrative" is to be used in Bill No. 507-31 (LS), it must be clearly defined. Ms. Muña stated that the problem with changing the leave provision to follow the Personnel Rules and Regulations of the Department of Administration (DOA) is that it does not account for the fact that each agency has its own set of personnel rules that in some cases do not mirror those of DOA. Ms. Muña stated that as defined in the current statute personnel of the Guam Community College to take twenty work days of maternity and paternity leave and it is tied in with the Family and Medical Leave Act. If an employee needs more than twenty days the Family and Medical Leave Act allows up to twelve additional weeks. Employees may use maternity leave, paternity, annual leave, sick leave, and they have the leave sharing program as an option.

Vice Speaker B.J.F. Cruz asked if the maternity leave in the current statute is separate from annual leave and sick leave.

Joann Muña, Human Resources Officer, Guam Community College, stated that for being correct.

Vice Speaker B.J.F. Cruz asked if the amendment in Bill No. 507-31 (LS) would remove that separate twenty days.

Joann Muña, Human Resources Officer, Guam Community College, stated that Bill No. 507-31 (LS) only changes the term "Maternity Leave" to "Administrative Leave," but the amendment may create confusion when implemented pursuant to the Personnel Rules and Regulations of the Department of Administration (DOA) because each agency has its own set of personnel rules. Ms. Muña stated it would be equitable to keep the terminology as "Maternity Leave" to avoid confusion amongst agencies.

Senator Respicio stated that the Chairman may have come to this conclusion because on page 6 the amendment is to change "Maternity" to "Administrative" leave, but on page 7, line 3, "Maternity" leave remains recognized. Senator Respicio asserted that this may cause confusion so that employees may not be eligible for any type of leave because "Maternity" is being changed to "Administrative" leave while also recognizing "maternity" and "paternity" leave. Senator Respicio asked if this deletes the twenty working days.

Joann Muña, Human Resources Officer, Guam Community College, stated that it does not delete the leave for maternity, but it does reduce paternity leave by ten days.

Senator Respicio stated despite the amendment to "administrative" leave it keeps "maternity" and "paternity" leave in the bill thereby causing confusion. Senator Respicio stated that if the bill were to pass into law with this type of language confusion it may remove employees leave benefits.

Joann Muña, Human Resources Officer, Guam Community College, stated her agreement and reasserted that the word "Administrative" must be defined for purposes of consistency amongst the agencies.

Senator Respicio asked what the value would be in changing from "Administrative" to "maternity" leave.

Barbara Jean Perez, Human Resources Administrator, Judiciary of Guam stated that agreement that a clarification for the definition of "Administrative" is necessary because from the perspective of the judiciary, "administrative" means a person is conducting court business not leave for maternity or paternity. Ms. Perez said that based on her reading of Bill No. 507-31 (LS), men are getting fewer days than women for paternity leave and this is not equitable treatment.

Vice Speaker Cruz asked if everyone in the panel was in agreement with the opinions of the Human Resource specialists, Ms. Perez and Ms. Muña.

Larry Gamboa, Human Resources Administrator, University of Guam stated that Bill No. 507-31(LS) states that maternity leave is not to exceed six months and paternity leave will not exceed three months. Mr. Gamboa stated agreement with Ms. Perez regarding equal treatment for men.

Vice Speaker Cruz asked the human resources specialists how leave would be applied if a baby was born with medical conditions that required a parent to take more than six months of leave.

Tony Santos, Human Resources Administrator, Department of Education stated based on Bill No. 507-31 (LS), after the six month period, the employee must return to work.

Vice Speaker Cruz asked what would happen if they failed to return to work after six months.

Tony Santos, Human Resources Administrator, Department of Education stated disciplinary action would be taken against the individual. Ms. Santos said that it is not equal treatment for a woman to have six months of maternity leave while giving a man only three months of maternity leave.

Vice Speaker Cruz invited Alberto Lamorena, Executive Director of the Civil Service Commission into the discussion then asked if the discrepancy regarding maternity and maternity would be considered equal opportunity and the basis for abandonment of one's position from the perspective of the Civil Service Commission.

Alberto Lamorena, Director of the Civil Service Commission, stated that they would need to conduct research to clarify the answers to certain questions. Mr. Lamorena stated that insofar as the six months is concerned, the FMLA allows an employee twelve months of unpaid leave for the birth of a newborn and they may maintain their position as long as they provide proper medical excuses. Director Lamorena asserted that despite the answer provided, he would need to clarify the facts via research.

On September 18, 2012, the Office of Senator Cruz received clarifying written testimony from Alberto Lamorena, Director of the Civil Service Commission. Director Lamorena wrote:

> **"Last night I indicated that I needed to confirm, after review, leave available under the Family Medical Leave Act ("FMLA"). Please note that the FMLA provides employees with up to twelve (12) weeks (not twelve months) of leave (which may be unpaid) for the birth and care of a newborn."**

Vice Speaker Cruz requested that Director Lamorena provide written testimony and clarification of leave time for the care of a new born and for information related to equal and fair treatment of female and male employees where the woman, according to Bill No. 507-31 (LS), is accorded six months of maternity

leave and the male is accorded three months of paternity leave to care for a newborn baby.

Alberto Lamorena, Director of the Civil Service Commission, stated that his recollection of the FMLA is twenty days for maternity and ten days for paternity. Director Lamorena stated that Bill No. 507-31 (LS) is fairly consistent with the FMLA.

Senator Duenas asked if this could shift from a paternity/maternity issue to a medical condition thereby creating two different classifications. Senator Duenas stated that his understanding of cost savings in Bill No. 507-31 (LS) would be in the reduction of paternity leave. Senator Duenas asked the panel if that would be their interpretation as well.

Senator Pangelinan asked Director Manglona how many days of paternity leave have been paid out.

Benita Manglona, Director of the Department of Administration, stated that she did not have the answer to that question, but could provide the information. Ms. Manglona stated that the computation for the savings is $145,000 dollars, but she did not have the specific amount of days each person took for paternity leave.

Vice Speaker Cruz confirmed that Director Manglona had stated $145,000 dollars in savings.

Benita Manglona, Director of the Department of Administration, stated that the $145,000 is what they had for savings.

Senator Pangelinan asked Director Manglona if that is how much was paid.

Benita Manglona, Director of the Department of Administration, stated that fore being correct.

Senator Pangelinan stated the ten days is the removal of average salary per day – that is why he requested the figures for paternity leave. Senator Pangelinan asserted that one issue he has with changing the language from "Maternity" to "Administrative" is that Administrative Leave is granted almost discretionary - for example, leave is granted to someone going to the Olympics – Administrative Leave with full pay – it is discretionary. Senator Pangelinan asserted that paternity and maternity leave should not be discretionary and there should be no question concerning right to maternity and paternity leave to care for a newborn baby. Senator Pangelinan stated his agreement with the Human Resources specialists regarding their assertions concerning "Administrative" leave in comparison to "Maternity" and "Paternity" leave.

Joann Muña, Human Resources Officer, Guam Community College, stated that the Federal Family and Medical Leave Act is applicable to Guam and it states that the employer cannot deny an employee up to twelve weeks of leave, but it does not specify whether it is paid or unpaid; it is discretionary. Ms. Muña asserted that this is the reason that Bill No. 507-31 (LS) must clearly state "Maternity Leave."

Senator Palacios stated that Bill No. 507-31 (LS) states, "Pursuant to the Department of Administration Personnel Rules and Regulations, shall be granted." Senator Palacios asked how the DOA personnel rules and regulation would be applied were the bill to take effect.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that he agrees with the assertions of the other Human Resource Specialists regarding personnel rules differing amongst agencies. Mr. Nauta asserted that the law is clear that maternity and paternity leave shall be granted and it complies fully with FMLA.

Senator Pangelinan asked what the governing rule is for granting administrative leave.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that the DOA rules and regulations provide specific situations and examples. Nauta stated that sporting events and maternity leave are typical examples, but a request for administrative leave that is way out of the ordinary will be disapproved.

Senator Thomas Ada stated that on page 7, line 1, of Bill No. 507-31 (LS), "Occupying a permanent position" has been crossed out via strikethrough. Senator Thomas Ada stated that amending that portion of the law contradicts Governor Calvo's cost cutting measures by opening leave up to a broader range of employees. Senator Thomas Ada asked why that amendment has been placed into Bill No. 507-31 (LS).

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that there are situations where mothers not in classified service request maternity leave so the proposed amendment broadens the applicability of the law to all mothers.

Senator Thomas Ada stated that putting aside the fairness issue of whose classified or not classified, the amendment as proposed is contradictory because they want to save about $145,000 a year, but by opening leave up that savings may not be realized.

Benita Manglona, Director of the Department of Administration, stated that it could be a wash because of the inclusion of other mothers that are unclassified is minimal.

Senator Barnes asked how the amendment would impact the Federal Positions.

Benita Manglona, Director of the Department of Administration, stated that for being her understanding if they are unclassified and paid under the federal grant.

Senator Barnes asked if they are under the federal grant would they have to abide by the federal guidelines.

Benita Manglona, Director of the Department of Administration, stated that she did not know.

Joann Muña, Human Resources Officer, Guam Community College, stated that there is a federal statute called the Pregnancy Discrimination Act that prevents discrimination against females simply because she is pregnant. Ms. Muña suggested that the author of Bill No. 507-31 (LS) made the amendment for that reason.

Senator Respicio stated agreement with Ms. Muña then asserted that "Administrative Leave" may still be at the discretion of the director based on his interpretation of Bill No. 507-31 (LS). Senator Respicio asked if the DOA personnel rules and regulations currently recognize maternity and paternity leave.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that the rules took the language straight out of the statute by titling it maternity leave. Mr. Nauta said it is being administered as "Administrative Leave" once approved by the DOA director. Nauta asserted that this interpretation has been in practice for many years, but the bill is attempting to clarify the type of leave.

Senator Respicio stated that in the hope of clarifying, the issue of leave becomes more confusing and an employee that is supposed to be on either maternity or paternity leave is left in a position where they must continue to perform work related tasks. Senator Respicio said that if human resource officers are saying that there is no desire to change "maternity" and "paternity" to "Administrative leave" is it still possible to accomplish the $145,000 savings. Senator Respicio also asked how the $145,000 was quantified and whether $145,000 was spent last year for the benefit.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that if he is not mistaken the $145,000 is for paternity leave, but for maternity leave there is no estimated cost savings.

Senator Respicio asked if this means that last year's actual experience was $290,000 so if leave is reduced from twenty days to ten the government will realize $145,000 in savings based on a proposed change in the law or was it a $145,000 total.

Benita Manglona, Director of the Department of Administration, stated that her understanding is that the $145,000 would be the savings.

Senator Respicio asked if that means that last year the total expense for paternity leave was $290,000.

Benita Manglona, Director of the Department of Administration, stated that for being her understanding.

Vice Speaker Cruz asked if the Governor's proposal in Bill No. 507-31 (LS) was compared to the DOA personnel rules and regulations. The Vice Speaker stated that based on the DOA personnel rules and regulations, "Paternity leave shall not exceed five days" and based on what is being said in the public hearing by Director Manglona and her staff, maternity leave is ten days. However, in the rules maternity leave is twenty days with a provision stating it "Shall not exceed six months," but they keep in words "Without the approval of the employee's supervisor."" The Vice Speaker stated that in the Governor's proposal, the words "Without approval of the employee's supervisor" are being amended even though it exists in the DOA personnel rules and regulations.

Benita Manglona, Director of the Department of Administration, stated that it seems the rules have not been updated to reflect the current law.

Vice Speaker Cruz stated the current law is the current law – Bill No. 507-31 (LS) proposes to amend current law by striking through the current law language and it differs from what is in the DOA personnel rules and regulations. The Vice Speaker asserted that this creates problems amongst agencies with different personnel rules than DOA and it will create a conflict for DOA based on what will be in the law if it changes and its own DOA personnel rules and regulations.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that Vice Speaker Cruz is correct. Mr. Nauta said they are currently trying to update the rules that have not been updated since 1997 and it is an arduous process that includes insight from legal counsel, but once complete they will go through the Administrative Adjudication process. Nauta stated that if Bill 507-31 (LS) becomes law, the DOA personnel rules and regulations would reflect the new statutes.

Senator Pangelinan stated the statute as proposed tells agencies to follow the DOA personnel rules and regulations so DOA cannot mirror the law if it goes into effect.

Shane Nauta, Acting Human Resources Administrator, Department of Administration restated that they would default to the law.

Senator Pangelinan stated that for being incorrect by reasserting that the law as proposed states defaulting to the DOA personnel rules and regulations. Senator Pangelinan stated that perhaps the savings is really that Governor Calvo wants five days not ten days for paternity leave.

Larry Gamboa, Human Resources Administrator, University of Guam stated that there are some presumptions being made about administrative leave in the public hearing. Gamboa said that there is a presumption that it will not be charged to their accrued leave – either sick or annual – and that it will be paid. Bill No. 507-31 (LS) does read that it will be charged to their leave but the assumption

upon first reading is that they will not get charged to their accrued leave – this may need to be clarified in the proposed bill.

Vice Speaker Cruz clarified that if "Administrative Leave" is used it would be charged to either sick or annual leave.

Larry Gamboa, Human Resources Administrator, University of Guam stated that based on his interpretation of the bill that is correct.

Vice Speaker Cruz stated that it is important that everyone understand this because it does reduce by twenty the number of days available in accrued leave.

Larry Gamboa, Human Resources Administrator, University of Guam and Ms. Muña agreed with the Vice Speakers clarification.

Senator Respicio stated that the Governor's Director of Communications Troy Torres issued a press release that states:

> **"Vice Speaker BJ Cruz has called the first hearing on the Governor's spending cuts bill to order. Several senators are present. Human resources managers from throughout the government now are discussing the maternity leave provision in the Governor's bill. The Governor's provision for maternity leave makes it easier for mothers to take leave, and even makes the provision more liberal. Sen. Respicio tried to make a point that he believes the Governor's bill reduces maternity leave. The HR manager from Guam Community College says that is not so. She recommends more clear language in the bill."We hang our hat on every single word in these documents," Sen. Respicio said."Don't you believe this takes away the 20 days for mothers?" Sen. Respicio said to the HR manager at GCC."No. That's not what I stated. That's not what it does," the GCC HR manager replied."**

Senator Respicio stated that he is tired of being misquoted by the people writing press releases. Senator Respicio stated that what he said, to be clear, is "If there is a concern in the way this bill is presented, by changing the word "maternity" to "Administrative leave," and then by still recognizing "paternity leave" doesn't that provide for some ambiguity?

Joann Muña, Human Resources Officer, Guam Community College, stated that as she said at the start of the hearing the word "Administrative" is to be used in Bill No. 507-31 (LS), it must be clearly defined.

Senator Respicio stated that he and Ms. Muña are in agreement because the definition needs to be clear to avoid ambiguity. Senator Respicio said why change the word "maternity" to "administrative" when what is being provided is maternity leave. Senator Respicio said government of Guam employees and their families deserve the truth and do not need to be brought through a process of fear and uncertainty.

Benita Manglona, Director of the Department of Administration, stated that "Administrative leave" is a point of clarification, but if it creates ambiguity then the language should remain as is.

Senator Respicio reasserted that the way Bill 507-31 (LS) is written causes confusion, as was additionally pointed out by Senator Pangelinan, with the current personnel rules and regulations of DOA. Senator Respicio asked that Governor Calvo issue a new press release confirming the number of days for leave.

Benita Manglona, Director of the Department of Administration, stated that DOA is updating its personnel rules and regulations and that it may best to delete the lines that read "Pursuant to the Department of Administration Personnel Rules and Regulations."

Senator Respicio thanked Director Manglona for that assertion then made reassertions concerning a new press release from Governor Calvo.

Benita Manglona, Director of the Department of Administration, stated that they are there to work on the bill not what is coming out via press releases.

Senator Respicio asserted that they must discuss the press releases because that is how Adelup is controlling the minds of residents.

Benita Manglona, Director of the Department of Administration, stated that the goal is to clarify and not take anything away from paternity and maternity leave and that they are expanding it to include mothers that are currently not classified.

Senator Respicio asserted that he is thankful the administration is following every word he says and that is why he is clarifying his statements.

Vice Speaker Cruz asked if administrative leave will be charged to any part of an employee's accrued leave for sick or annual. Senator Cruz asked if administrative leave would be exactly like maternity leave.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that the intention is that the twenty days will be administrative leave and there will be no charge against annual or sick leave. Mr. Nauta stated that every day after the twenty days could be charged against an employee's leave bank up to the amount allowed by the Family Medical Leave Act.

Vice Speaker Cruz stated that this is the answer to his question. Senator Cruz then said that it is the statement from the Department of Administration that it is the "Intent of the Governor in this bill that the administrative leave for the delivering mother will not be charged against any accrued sick, Compensatory Time Off (CTO), or any other leave."

Benita Manglona, Director of the Department of Administration, stated that for being correct and that has been the practice.

Vice Speaker Cruz confirmed that the change from "maternity" to "administrative" will not be charged against an employee's accrued leave for sick or annual.

Benita Manglona, Director of the Department of Administration, stated that for being correct.

Senator Pangelinan asked what the practice would be after the twentieth day.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that after the twentieth day leave is charged against an employee's annual leave, sick leave or CTO.

Senator Pangelinan asked if that is the current application.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that currently it is charged against their leave.

Senator Pangelinan asked if there are situations of director discretion where a director decides that he will not charge maternity leave against an employees leave bank.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that he has not seen that type of scenario and that it is standard to charge additional leave against an employee's leave bank.

Vice Speaker Cruz stated that the amendment in the law from "may" to "shall" is really inconsequential.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated his agreement.

Vice Speaker Cruz moved the discussion of Bill No. 507-31 (LS) to Section 5. Elimination of Annual Leave Lump Sum Cash Out Payment Policy; Implementation of 'Use It or Lose It' Policy.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that the intent of the amendment is to encourage employee's with an accruement of leave over a two year period to use up any hours in excess of 320. Nauta stated that any lump sum for the annual leave is not to occur unless the employee is retiring.

Vice Speaker Cruz asked how annual leave in this area is currently being applied and how the amendment will make changes.

Joann Muña, Human Resources Officer, Guam Community College, stated that at GCC under the current statute if an employee resigns their annual leave is cashed out to 320. Ms. Muña said that current law allows employees that transfer to another agency the option of transferring the annual leave or cashing out. Ms. Muña said that based on the amendment the cost savings seems like it will come from not allowing an employee that resign or transfer to cash out.

Vice Speaker Cruz asked if a representative from DOA could explain why (e) of § 4109. Annual Leave is being amended.

Benita Manglona, Director of the Department of Administration, stated that the amendment is to eliminate the cash out of the lump sum due to spending large amounts on lump sum leave for employees that resign one day then reapply and get reinstated.

Vice Speaker Cruz asked who approves rehiring of these individuals.

Benita Manglona, Director of the Department of Administration, stated that department heads make those decisions.

Vice Speaker Cruz asked how a GG1 application is routed and who approves them.

Benita Manglona, Director of the Department of Administration, restated that it would be the department head, but that it goes through BBMR and is already approved when it reaches DOA.

Senator Pangelinan asked what is the maximum allowed for the accrual of annual leave.

Barbara Jean Perez, Human Resources Administrator, Judiciary of Guam stated that at the court they gross up the accumulation at the end of the fiscal year then designate what goes to sick then identify to the employee what hours are in excess so that the hours can be managed in advance. Ms. Perez said that at the start of the fiscal year every employee should be at 320 hours. Ms. Perez said these hours must be collaborated with comp time to avoid overtime. Ms. Perez said that what she is seeing in the amendment is a shifting of the amount paid out because an employee making $12.00 at the courts may transfer to DOA and get paid $15.00 an hour, therefore, when they cash out at DOA, they will get a larger amount. Ms. Perez said each agency will inherit accumulated leave depending on where an employee transfers.

Senator Pangelinan said that the amendment could actually increase the cost because accrued leave is at a higher rate.

Benita Manglona, Director of the Department of Administration, stated that some employees transfer without a pay increase and that in the last year she has not seen people transfer from DOA to GPA.

Senator Pangelinan said he's never heard of an employee transferring for the same amount of pay or less.

Vice Speaker Cruz said that the Public Auditor has lost Certified Public Accountants (CPA) in her staff to other agencies for higher pay. The Vice Speaker said that the rate of pay for 320 hours of accrued leave goes up dramatically when a CPA leaves the Office of the Public Auditor for a pay increase in another agency. The Vice Speaker asserted that this accrued leave will become an unfunded liability at their new agency.

Senator Pangelinan asserted that he and Senator Cruz have seen many people transfer from one department to another throughout the years and that they leave for better pay. Senator Pangelinan agreed with the assertions of Senator Cruz regarding unfunded liability.

Benita Manglona, Director of the Department of Administration, stated that the cutting options in Bill No. 507-31 (LS) are a collective effort and are not a one year perspective. Ms. Manglona restated that she is not aware of transfers from DOA to GPA.

Senator Pangelinan asked Mr. Nauta what his eight year experience working at DOA tells him about employee movement from one job classification to another throughout the government of Guam in relation to upward growth and development translating into better pay.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that DOA has been attempting to provide surveys to exiting employees to gauge why they move. Mr. Nauta said the reasons people leave their jobs, based on limited surveys, is workplace environment or better pay.

Senator Pangelinan asked if most instances of employee movement result in an increase in pay.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that he has not looked to see if moving was is for a pay increase, a demotion, or lateral movement. Mr. Nauta said the surveys are

voluntary and difficult to gauge, but conceded that there are instances when people move for higher pay.

Senator Pangelinan asked where the savings will be if an employee moves for higher pay brings an additional liability attached to the 320 hours of accrued leave.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that a transfer would likely not have a cost savings, but that the amendment in section (c) provides an exception for a retiring employee and that may be where the cost savings is realized.

Senator Yamashita said that the hours for the benefit of leave may be at too high a pay rate and that people with too much leave should be encouraged to take their leave. Senator Yamashita asked what percentage of people take leave.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that some departments are in a situation due to workload where it is difficult to take leave. Mr. Nauta said that in most instances people will cash out their leave at whatever amount possible.

Senator Yamashita said that there are a lot of hard working employees that toe the line so they will not think about taking leave due to their loyalty to their employer and the mission, which is why they accumulate 320 hours as a benefit.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that employees with more years of experience usually get to the 320 hours.

Senator Yamashita asked how many employees are employed throughout the government of Guam and what their age demographic is.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that he does not have those exact figures.

Senator Duenas asked if what they are trying to do for cost savings is eliminate the cash out.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that for being correct.

Senator Duenas stated that despite an employee transfer from one department to another for higher pay, the rate could be nominal.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that for being a possibility.

Senator Palacios redirected the discussion to paternity leave. Senator Palacios stated that there is a conflict between the amendments for paternity and maternity leave due to the strikethrough of the word "additional" in reference to charging additional leave against accumulated annual, sick leave to include compensatory time, or unpaid leave/leave without pay. Senator Palacios asserted that the strikethrough of "additional" under Paternity Leave should be removed to remain consistent with the benefits provided in Maternity Leave.

Benita Manglona, Director of the Department of Administration, stated that those changes to the amendment could be made.

Vice Speaker Cruz asked Ms. Manglona is she would send a letter stating they have no problem making the amendment to the strikethrough of the word "additional."

Benita Manglona, Director of the Department of Administration, stated concurred with Vice Speaker Cruz regarding the letter and amendment.

Senator Pangelinan asked if there are any recommendations for avoiding the lump sum cash out. Senator Pangelinan stated that there was a provision in the law that prevented employees from resigning then cashing out.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that such a provision did at one time exist, but was removed many years ago.

Vice Speaker Cruz asked if the administration would consider rewriting this section with an amendment that employees cannot resign to cash out then seek reemployment within a few days of their resignation.

Benita Manglona, Director of the Department of Administration, stated they are willing to work with the legislature.

Senator Sam Mabini stated that she introduced Bill No. 395-31 (COR) to try and discourage lump sum cash outs. Senator Mabini suggested that her proposed measure could be used as an amendment to Bill No. 507-31 (LS).

Vice Speaker Cruz moved the discussion to Section 6. Repeal of Accrued Leave Pay Out. The Vice Speaker stated that in § 4109.1. Accrued Leave. Is being repealed in its entirety and wondered if a typo had been made because the repeal directly affects nurses.

Benita Manglona, Director of the Department of Administration, stated that this was done for consistency with the lump sum payout.

Vice Speaker Cruz stated that the accrued leave for nurses has been completely wiped out.

Benita Manglona, Director of the Department of Administration, stated that this section needs to be clarified, but reiterated that they are attempting to be consistent with the lump sum payout unless they retire.

Vice Speaker Cruz stated that due to current law and because of their workplace circumstances that require them around the clock they have been allowed up to 580 hours. The Vice Speaker said that by comparison the hard working people at DOA have been working on tax payouts, refunds, and rebates so his educated guess would be that they are all up to or past their 320 hours. The Vice Speaker asked how many employees at DOA are up to or past the 320 hours mark.

Benita Manglona, Director of the Department of Administration, stated that she does not have that information.

Vice Speaker Cruz stated surprise that Director Manglona did not know how many people in DOA were at 320 hours or more.

Benita Manglona, Director of the Department of Administration, stated that she knows DOA employees take leave.

Senator Duenas asked if there is grand total of leave hours for the nurses in this section.

Benita Manglona, Director of the Department of Administration, stated that she knows for the lump sum payout for 2011 the number was $1.5 million.

Senator Duenas said is it reasonable to assume that the accumulation in this section is $1.5 million in savings.

Benita Manglona, Director of the Department of Administration, stated that what they need to extrapolate of the $1.5 million is due to retirement to determine the true lump sum leave payout.

Senator Pangelinan said that $1.5 million has been thrown out toward the bill, but needs to be tied into the bill.

Senator Respicio stated that a concern is that we are only on page 11 of Bill No. 507-31 (LS) and it has already been stated that we need to fix the maternity and paternity leave and now we have encountered problems with Section 6. Senator Respicio stated that there is a pattern that every time the Calvo administration submits legislation the legislature attempts to politely work with what they have been given even as the administration backs away and pins it back on the legislature via press releases.

Benita Manglona, Director of the Department of Administration, stated that they are here to clarify and answer questions.

Senator Respicio asked what they are going to do about section 6.

Benita Manglona, Director of the Department of Administration, restated that the idea was to have it line with the lump sum payout, but that they would look at amending it.

Shane Nauta, Acting Human Resources Administrator, Department of Administration stated that nurses to get a lump sum payout of their annual leave at 580, which is higher than the normal 320. Mr. Nauta stated his interpretation of section 6 is that it will not stop the accruement of hours, but it will stop the payout of 580 hours.

Vice Speaker Cruz said that is not how the amendment reads. The Vice Speaker asserted that he thinks the nurses need to be made aware that this section is being repealed in its entirety not being amended to 320 hours. The Vice Speaker asserted that the Calvo administration is attempting to repeal leave for the nurses of Guam.

Benita Manglona, Director of the Department of Administration, restated that this was done for consistency with the lump sum payout and that they want a uniform 320 for all employees.

Vice Speaker Cruz said that if that was the case then it should have been done before the introduction of Bill No. 507-31 (LS) and that they would notify the nurses that their leave is being removed.

Benita Manglona, Director of the Department of Administration, stated that it needs to be fixed.

Senator Respicio asked if any of the Human Resources managers in the panel were consulted regarding Bill No. 507-31 (LS).

Joann Muña, Human Resources Officer, Guam Community College, stated this is the first time she has worked on Bill No. 507-31 (LS).

Senator Respicio asked if it would be prudent for Human Resources managers to work with DOA and the Calvo administration to withdraw Bill No. 507-31 (LS) and rewrite it for reintroduction.

Benita Manglona, Director of the Department of Administration, stated that she thinks that Bill No. 507-31 (LS) could be amended now.

Senator Pangelinan stated that DOA and the Calvo administration are asking the legislature to do their work.

Senator Respicio stated that his concern that is if the legislature makes amendments to Bill No. 507-31 (LS) then they will become responsible for a bill submitted by the Calvo administration. Senator Respicio stated that it would be more prudent and responsible for the Calvo administration to withdraw and rewrite Bill No. 507-31 (LS).

Benita Manglona, Director of the Department of Administration, stated that the reason for the roundtable is that everyone will come to a consensus.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
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Senator Respicio stated that he is encouraging the Calvo administration to withdraw Bill No. 507-31 (LS), work with the stakeholders, and reintroduce it.

Vice Speaker Cruz stated that according to a July 13, 2012, article in the Marianas Variety the Department of Revenue and Taxation could collect $30 million from 74,600 delinquent tax accounts. The Vice Speaker read the article into the record:

Nearly $500K Needed to Chase Unpaid Taxes
Friday, 13 Jul 2012 03:30am
BY MAR-VIC CAGURANGAN | FOR VARIETY

> The Department of Revenue and Taxation has identified 74,600 delinquent tax accounts worth close to $30 million as of the last tax period, but the agency doesn't have the funds and personnel needed to chase the tax evaders.
>
> According to its 2013 budget submittal, the department had missed the 90-day deadline for issuance of notices to delinquent taxpayers "due to budgetary constraints and lack of personnel."
>
> Rev and Tax said the postage cost $426,000 for the required notices, and the amount excluded personnel and supply.
>
> Although collecting delinquent tax dues is one of DRT's key goals for the upcoming fiscal year, the proposed 2013 budget doesn't look promising for the department.
>
> The Governor's Office has requested $9.78 million for DRT, plunging from the current year's level of $10.25 million.

And despite its perennial complaint about manpower shortfalls, DRT is not likely to hire additional staff in 2013. Its proposed allotment for personnel drops from $9.18 million to $8.67 million.

In its 2010 Citizencentric report submitted to the Office of the Public Accountability, DRT said the scarce manpower was compounded by "outdated or limited equipment such as computers and printers, which exacerbate the ever increasing workload of DRT personnel."

But the department said it makes do with a limited staff "to maximize the use of all resources available in an effective and efficient manner."

In an effort to identify missed revenue potential for the government of Guam, DRT is seeking to "identify, establish value and create tax assessment records of all properties (lands and buildings) in Guam."

Last week, DRT began inspecting commercial improvements on real properties. The department's memo said the inspections, which end on Aug. 31, "are designed to ensure the accuracy of property record data and to update existing assessment records."

Vice Speaker Cruz asked whether DRT could collect taxes if they were accorded more funding as stated in the article.

Benita Manglona, Director of the Department of Administration, stated that she cannot speak for DRT, but they work hard and are finding ways to make tax payers comply.

Speaker Won Pat clarified that the legislature did not cut funding to DRT. The Speaker stated that the submittal from Governor Calvo for the executive branch was the same and Governor Calvo has a provision for transfer authority to assist DRT.

Senator Pangelinan concurred with Speaker Won Pat. Senator Pangelinan stated that the budget is a lump sum budget with great flexibility to manage and allocate resources.

Vice Speaker Cruz moved the discussion into Section 7 Reversion of Leave Sharing Program to Its Original Intended Purpose. The Vice Speaker asked if Director Manglona would like to discuss the amendments in the section.

Benita Manglona, Director of the Department of Administration, stated that the reversion of leave sharing to its intended purpose, which is basically for medical purposes, is to return it to its original purpose and to prevent leave sharing.

Vice Speaker Cruz stated that he is glad for her statement because the legislative intent in Section 7 is indicative of what the Calvo administration is intending when one seeing what they are removing with the proposed amendment. Vice Speaker then read (a) of § 4109.2. Leave Sharing Program **(Strikethrough included to show proposed amendment)**:

> "(a) Legislative Statement. From time to time, classified employees in the civil service of the government of Guam have occasion to need leave for medical reasons, but may have already exhausted the leave that they have earned and accrued. ~~At times like these, particularly when the employee needs time off to take care of sick family members or in the case of the military reserves and National Guard members, being called to active duty in excess of fifteen (15) working days, the employee might be forced to take leave without pay. Through the generosity of the other employees, the affected employees could be relieved of the stress of this situation.~~"

Vice Speaker Cruz stated that he notes the intention of the Calvo administration is to strikethrough lines 5 through 12 with the proposed amendment in Bill No. 507-31 (LS). The Vice Speaker stated that Governor Calvo is proposing just medical

and National Guardsmen will not be able to use leave sharing. The Vice Speaker asked Director Manglona if this is correct.

Benita Manglona, Director of the Department of Administration, stated that for being correct.

Vice Speaker Cruz said that the Territorial Adjutant General, Guam National Guard. Major General Donald J. Goldhorn made an announcement that 600 guardsmen will be deployed to Afghanistan right after the first of the year. In his statement he asked the community to support them, but with this legislation we are adding to their stress because they are faced with the possibility that they will incur leave without pay and their families while they are on duty for a year.

Benita Manglona, Director of the Department of Administration, stated that this was done for consistency with the lump sum payout, but that when they go on active duty they are getting paid by the armed services.

Vice Speaker Cruz said that anyone who serves in the military below E6 puts them into a pay scale where they would eligible for public assistance. The Vice Speaker said it concerns him that 600 guardsmen will be on the frontlines with the possibility of losing leave sharing.

Barbara Jean Perez, Human Resources Administrator, Judiciary of Guam, said that one is not eligible for leave-sharing until they have exhausted all accrued leave. She said that the court communicates with court employees who are going to be on deployment. She said that they have not used leave sharing during deployments.

Vice Speaker Cruz points out that the maximum accumulated leave is equivalent to about eight (8) weeks and asked what happens on long deployments.

Barbara Jean Perez, Human Resources Administrator, Judiciary of Guam, said that the salary is discontinued, but other benefits continue during deployment.

Vice Speaker Cruz asked about what happens with regard to the employee's bills.

Barbara Jean Perez, Human Resources Administrator, Judiciary of Guam, said that that they can expend their other leave and it would ultimately be up to the employee what leave is expended.

Senator Mana Silva Taijeron said that while they are deployed, the military provides a housing allowance, which would cover their mortgage payment.

Senator Ben Pangelinan asked about the savings to be realized from this provision of the bill. He said that if the employee whose leave is transferred went on leave, instead, that the leave would still be paid. He asked whether it is an additional cost.

Vice Speaker Cruz asked how much of the estimated savings from the bill is attributed to this provision. He asked Director Manglona if they have prepared something that indicates the levels of savings from the provision.

Director Benita Manglona, Department of Administration, said that the estimated savings is about three hundred thousand dollars ($300,000).

Senator Ben Pangelinan asked how they determined the level of savings from the provision.

Director Benita Manglona, Department of Administration, said it is based upon the historical costs of leave-sharing.

Senator Ben Pangelinan asked how much leave-sharing has cost for those who are deployed. He asked how much is for medical purposes and how much for other purposes.

Director Benita Manglona, Department of Administration, reiterated that the ballpark figure which they use is three hundred thousand dollars ($300,000).

Senator Mana Silva Taijeron said that what National Guard and Reservists make from their military service and for the government of Guam are separate.

Vice Speaker Cruz asked how much of the estimated reduction is from the shortened leave sharing from ninety (90) days to sixty (60) days.

Director Benita Manglona, Department of Administration, said that the three hundred thousand dollars ($300,000) is for both, but they have not broken it down by component.

Vice Speaker Cruz said these first sections that have been covered so far have hardly totaled one million dollars ($1,000,000) in savings.

Director Benita Manglona, Department of Administration, said that savings have to start somewhere.

Senator Dennis G. Rodriguez, Jr., asked what the savings will be when they will occur.

Director Benita Manglona, Department of Administration, said it differs by the provision.

Senator Aline A. Yamashita said that she thought there would be a presentation on the overall cost-cutting measures and the estimated savings.

Vice Speaker Cruz said that he was hoping to see the administration's estimated savings broken down in a clear manner by provision.

Senator Thomas C. Ada said that they are trying to nickel and dime and maybe it's just wasting time. He said that the central savings are probably from the early

retirement program, so they should cut to the chase. He said if that is where the beef is, then the administration should make the case.

Vice Speaker Cruz said that he proceeded sequentially according to the provisions of the bill. He displayed §4109.5 of Chapter 4 of Title 4, Guam Code Annotated, which is proposed to be repealed:

> "§ 4109.5. Teachers Eligible to Participate.
>
> (a) Teachers employed by the Department of Education who are members of the reserve components of the Department of Defense or Transportation, including, but not limited to the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, shall be eligible to participate in the leave sharing program established by 4 GCA, § 4109.2 and implemented by 4 GCA, §4109.3. Such additional leave acquired through leave sharing may be used solely for leave required for military training or active duty."

Vice Speaker Cruz asked how many DOE employees would be affected by the section.

Tony Santos, Human Resources Administrator, Department of Education replied that they had not been aware of the provisions affecting Department of Education employees until after the bill was introduced.

Vice Speaker Cruz stated that he would hold a hearing on the portions affecting teachers on September 16.

Vice Speaker Cruz said that teachers' personal leave is affected by the Bill. He asked how much the savings would be from that provision.

Tony Santos, Human Resources Administrator, Department of Education stated that she did not know the amount of savings.

Benita Manglona, Director of the Department of Administration, stated that it is to make the language conform to the lump sum payout provision of law with regard to unused personal leave.

Senator Ben Pangelinan asks if language could be presented to match the intention for the bill. Senator Respicio discussed the coverage of the bill and how it affects teachers, nurses and maternity leave, among other issues. Senator Respicio asked about whether the administration intends to eliminate the three (3) days of personal leave and Director Manglona did not answer the question. Senator Respicio asked the question one more time, but the Director did not answer.

Speaker Judith Won Pat said that the three (3) days of personal leave is traditionally "use it or lose it" and teachers are paid at the end of the year. Speaker Won Pat asked what the savings would be for this provision. Director Manglona suggested that the provision may be removed. Senator Ben Pangelinan said if the language is not the intention of the administration, it should be rewritten.

Vice Speaker Cruz asked Director Manglona if she is speaking for the administration or the Department of Administration.

Benita Manglona, Director of the Department of Administration, said it depends on the question because some pertains to the Department of Administration and some to the administration. Senator Rory Respicio suggested that perhaps the Governor should send a representative.

Vice Speaker Cruz read Section 10 of the bill, which pertains to lump sum payment of accrued annual leave. He asked about the savings and

Benita Manglona, Director of the Department of Administration, said that it is minimal, but the provision is just to be consistent with the annual payouts.

Vice Speaker Cruz asked how much they estimated.

Benita Manglona, Director of the Department of Administration, said they do not have an actual number.

Vice Speaker Cruz read Section 11 of the bill, which pertains to compensatory time accrued for military leave.

Shane Nauta, Acting Human Resources Administrator, Department of Administration said that it is the same, except that it allows compensatory time off to be used.

Vice Speaker Cruz asked how much the administration expects to save from this amendment to current law.

Senator Ben Pangelinan said that this provision increases the costs because it allows the use of compensatory time off.

Vice Speaker Cruz asked if anyone disagrees with Senator Pangelinan's analysis.

Tony Santos, Human Resources Administrator, Department of Education said that she is not sure whether there is a benefit of having the provision in statute, since it is currently by mutual agreement.

Vice Speaker Cruz asked if they are supposed to be receiving compensatory time off within two (2) weeks of accruing it under the wage and hour law.

Tony Santos, Human Resources Administrator, Department of Education said that if they do not take the time off, they are paid for it after they reach a certain threshold. She said that it is potentially converted into an unfunded liability. She said that it has to be something that the service member would have to elect to.

Benita Manglona, Director of the Department of Administration, gave no estimate of savings. Joann Muña said that GCC does not use compensatory time off because it is accrued like overtime on a time and a half basis.

Vice Speaker Cruz asked Director Manglona to explain Sections 12, 13 and 14, which relate to the compensation of Guam Fire Department Firefighters.

Director Benita Manglona, Department of Administration, said that she believes the provisions are being taken out. She said that they intend to amend the section on firefighters.

Senator Mana Silva Taijeron said that she intends to offer an amendment on those provisions. She said that savings were identified which would allow the provisions to be removed.

Vice Speaker Cruz said that the Guam Fire Department members will be given the opportunity to testify on those provisions tomorrow.
Senator Rory Respicio asked how the administration will take the provisions out if they are before the legislature.

Director Benita Manglona, Department of Administration, said that they will bring forward a proposed amendment.

Senator Ben Pangelinan asked where the money to remove the sections of the bill regarding firefighter compensation will come from.

Director Benita Manglona, Department of Administration, said that the savings will come from a lower cost telecommunications contract.

Senator Dennis G. Rodriguez, Jr., said that he is glad that the provisions will be moved, but noted that these were part of the over forty million savings that is estimated to be realized if the bill is enacted. He asked how much would be lost by removing these provisions.

Director Benita Manglona, Department of Administration, said there would not be an impact.

Senator Rodriguez asked what the impact would be on the initial savings of the over forty million dollars in savings.

Speaker Won Pat said how long the savings from the telecommunications contract would continue to be realized.

Director Benita Manglona, Department of Administration, said that this allows the cuts for firefighters to be eliminated.

Vice Speaker Cruz stated that the telecommunications savings is what he wrote the Governor in May, saying that BIT and the University of Hawaii had a study that if there were a consolidated purchase of telecommunications, the savings would be about nine hundred thousand dollars ($900,000) and asked Director Manglona if that is the savings she is discussing. He said after the BIT had done a department by department analysis, which indicated savings could be $1.6 million in savings. He said that that is what is being used for savings.

Vice Speaker Cruz asked whether Section 14 will also be cut from the bill. Director Manglona said that it will. Vice Speaker Cruz asked the administration to explain the intent of the early retirement program. He asked how many DOE employees would be eligible for the early retirement program and Tony Santos indicated the following:

Total eligible at DOE: 701
Teachers: 300
Paraprofessionals/administration: 41
Bus drivers: 9
Custodians: 7
Food service: 30

Health: 6
Inventory: 1
Professionals: 40
Support/administration: 81
Support/school: 123

Barbara Jean Perez, Unified Judiciary of Guam, indicated that 180 employees may be eligible at the courts and that the total payroll of the courts is about 320 employees. She said there would be a serious impact on the court for employees that have institutional knowledge.

Larry Gamboa, Human Resources Administrator, University of Guam, said there are 585 employees of UOG and 120 would be affected. He said that a lot would be administrators and staff.

Joann Muña, Human Resources Officer, Guam Community College, said they have 241 full-time employees, 74 are currently on the defined benefit plan, 52 are eligible and according to a survey they conducted, approximately 25 are interested.

Vice Speaker Cruz asked Director Manglona to provide an estimate for how many employees are eligible. Vice Speaker Cruz pointed out that agency heads will have approval authority for participation of the early retirement program. He asked if there are any standard operating procedures.

Alberto Lamorena, Director of the Civil Service Commission, said that they have a problem giving the authority to Directors because eligibility is about what the law and the GovGuam Retirement Fund say and that giving authority to the Director for who can or cannot retire could call for a filing of a grievance or even an EEO complaint for discrimination. He said that the requirement of training a subordinate should be a standard operating procedure or policy that it is done on a continuing basis and not as a provision of early retirement.

Vice Speaker Cruz expressed regret that no representative from the Department of Revenue and Taxation is present to discuss potential impacts on tax collecting ability of the agency. Vice Speaker Cruz asked what the intent is.

Director Benita Manglona, Department of Administration, said that the intent is to realize savings in having to pay for employees who have been in the employee for many years and would be paid at a high rate and that if they were to backfill with starting employees, they would be compensated at a lower rate.

Vice Speaker Cruz asked how much the administration estimates could be saved by the section.

Benita Manglona, Director of the Department of Administration, indicated that it could be from $15-33 million.

Vice Speaker Cruz asked how much the administration would have to pay to the retirement fund to pay the government's share of the contributions for participants and how does the administration intend to pay.

Senator Pangelinan said that the employee has to prepay before they retire. Director Manglona said they could also sign a promissory note for five years.

Vice Speaker Cruz asked how much the government would have to pay.

Shane Nauta, Acting Human Resources Administrator, Department of Administration said that they would have to pay $15-30 million.

Vice Speaker Cruz asked how much the government's contribution will have to be for the early retirement program.

Benita Manglona, Director of the Department of Administration, said that she does not have that with her. She said they will save $15-30 million.

Stephen Leon Guerrero, Bureau of Budget and Research, said that based on their estimates of line agencies for 500 employees, the government's share would be $8.1 million. He said that they did not include the Department of Education.

Vice Speaker Cruz said if the totals are added from the Department of Education, the Unified Judiciary of Guam, the University of Guam and Guam Community College, that would be more than 1,000 additional employees. He said that would come to about $24 million for government contributions.

Senator Pangelinan asked how the court ruling which the retirement fund uses to prevent members from retiring before they are eligible. He said that according to the court order, the employer and employee must make the full payments to receive their retirement.

Senator Judith P. Guthertz asked if there is intended to be a cap on the number of people who are allowed to participate in the early retirement program.

Stephen Leon Guerrero, Bureau of Budget and Research, said that 500 employees is the estimate of the line agencies and that there is no cap for total participation in the early retirement program. Stephen Leon Guerrero said that he did not believe it would be legal to have such a cap.

Senator Guthertz asked how the administration would deal with the promissory note with the retirement fund to allow them to undertake the program. She said that the government of Guam is not allowed to issue promissory notes to retirees, agreeing to future payments because that is contrary to the court order.

Stephen Leon Guerrero, Bureau of Budget and Research, said that he is not sure on the status of that, but the intent is to get an agreement with the employee so they can take an option to retire.

Senator Guthertz asked what alternative is there if that is not allowed because of the court decision. She asked if the employees who would retire would have the

money to pay for five years' contributions before they retire. Stephen Guerrero said that he is sure there would be some who are capable of doing that, but probably not most.

Senator Guthertz said these things should have been studied before this section of the bill was written.

Senator Rory Respicio asked if the $15-33 million is the estimate based upon 500 employees taking advantage of the program.

Stephen Leon Guerrero, Bureau of Budget and Research, said that those figures could vary and the savings may even be less.

Senator Respicio asked if that estimate includes Department of Education, UOG and GCC.

Stephen Leon Guerrero, Bureau of Budget and Research, said that the data quoted is probably from the estimates from the Department of Administration from information they had received.

Senator Respicio asked whether the data includes DOE, UOG and GCC or just the other line agencies.

Benita Manglona, Director of the Department of Administration, said that she needed to verify that.

Senator Respicio asked what the response was about how the program would be paid for.

Stephen Leon Guerrero, Bureau of Budget and Research, said that the main source would be the savings that would be generated.

Senator Respicio asked whether there is a plan for another bond.

Stephen Leon Guerrero, Bureau of Budget and Research, denied that he had said anything of that nature. Stephen Guerrero said that the previous bond issue had a provision for paying contributions for DOE and GMHA. He was saying that if the bond settled the obligations for DOE and GMHA, then the issue with the promissory note would be resolved.

Senator Pangelinan said that is not true because they would be buying up to five years of contributions and that would need to be paid upfront because of the court order.

Stephen Leon Guerrero, Bureau of Budget and Research, said that if you look at the actuarial table and that the affected group is under the Defined Benefit Program. He said that the average salary for potential retirees is $52-55 thousand. He said that comes to about $26.6 million for 500 employees.

Senator Pangelinan said that the government's contribution is determined by gross payroll, so if there is a decrease in the amount of payroll, then the contribution rate will be higher. He said that there would also be a needed payment upfront because they are going to begin drawing a retirement.

Stephen Guerrero Bureau of Budget and Research said that as they retire, the employees that replace them will likely be paid less.

Vice Speaker Cruz said that he understands that there would be a savings, but that if the provision is passed, that there may also have to be an appropriation of up to $24 million or would it be a chance for the administration to claim that the legislature passed an entitlement program that is not paid for.

Senator Respicio said that he is concerned about the effect on the unfunded liability of the retirement fund and that the board of the Government of Guam Retirement Fund was never consulted before the bill was introduced. Senator

Respicio said that Mr. Joe San Agustin estimated that the bill could easily cost $100 million to the retirement fund.

Stephen Guerrero Bureau of Budget and Research said that if they did the early retirement which covered 500 employees, that according to his analysis, the additional unfunded liability would be eliminated within 4-5 years. He said that the contribution rate would have to be increased in the first year and gradually brought down over time.

Senator Respicio said that he understood this proposal as trying to generate savings to pay tax refunds.

Stephen Guerrero Bureau of Budget and Research said that they still need to meet obligations.

Senator Pangelinan said that it eats up the savings.

Vice Speaker Cruz asked what would happen if the amount of employees who take the early retirement is more like 1,500. Vice Speaker Cruz said that there will need to be an appropriation for this type of program to start because the government's contribution to the retirement fund must be paid in full.

Senator Pangelinan said that the contributions have to be fully paid depending on the level of benefits that will be paid.

Senator Guthertz said that a better early retirement plan would start by identifying those positions that will not be needed in the near future. She said that right now there is a universal plan that would have an impact on operations.

Stephen Guerrero Bureau of Budget and Research said that there are current attempts to keep positions vacant that are not considered necessary.
Senator Guthertz asked what about identifying positions that are not necessary and focusing the scope of an early retirement program on such positions.

Stephen Guerrero Bureau of Budget and Research said that much of the positions that are likely to be eliminated by a retirement incentive program are like Police Officer III, Bus Drivers and other lower positions which would be harder to eliminate without impacts. Stephen Guerrero said that if the early retirement program goes through, he could end up losing six senior budget analysts.

Vice Speaker Cruz said that a lot of people left the Department of Revenue and Taxation in the last early retirement program and that has hindered operations. The Vice Speaker said that he is not sure that people have thought this through. He said that there is discretion to deny early retirement.

Senator Guthertz said perhaps the administration could request authority to transfer personnel from one department to another.

Senator Pangelinan pointed out that this last budget the Department of Revenue and Taxation received an extra $3 million in appropriations.

Stephen Guerrero Bureau of Budget and Research said that they have allowed the Department of Revenue and Taxation to seek positions, but that it is very difficult to fill the positions because of the pool of applicants.

Vice Speaker Cruz said that there are gaps in the bill that need to be addressed and it would behoove the Governor to reintroduce the bill. The Vice Speaker recessed the committee until 5:30 p.m. tomorrow.

September 18, 2012, Public Hearing for Bill No. 507-31 (LS)

Senators in attendance:

Vice Speaker Benjamin J.F. Cruz, Chairman
Speaker Judith T. Won Pat, Ed.D.
Senator Rory J. Respicio

Senator Tina R. Muña-Barnes
Senator Vicente C. "Ben" Pangelinan
Senator Mana Silva Taijeron
Senator Chris Duenas
Senator Thomas C. Ada
Senator V. Anthony "Tony" Ada
Senator Shirley "Sam" Mabini, Ph.D.
Senator Aline A. Yamashita, Ph.D.

Vice Speaker Cruz called the hearing to order and announced the Public Hearing Notices. He then asked Fire Chief Joey San Nicolas to testify.

Chief Joey San Nicolas Testified that he had received written and verbal verification from the Governor's office that the proposed cuts for firefighters were off the table and that he was just there answer any questions that the Senators may have.

Vice Speaker Cruz asked Chief San Nicolas if the department supported the proposed cuts.

Chief San Nicolas said that the Fire Department did not support the cuts towards the firefighters, and that the governor did allow him to search for alternatives.

Vice Speaker Cruz asked how much the proposed cuts would have saved the government.

Chief San Nicolas stated that based on the announcement the 15% reduction would have resulted in $400,000, overtime reduction would have netted about $1.2 million, and cuts to leave would have been about $1 million.

Vice Speaker Cruz asked the Chief since the $1.5 million in savings he had identified for the unified telecom contract were insufficient because the savings that were required were $2.6 million, how would the difference be made up.

Chief San Nicolas asked the senators for guidance to ensure that firefighters would not be subject to a reduced work week and would continue to be paid fairly for the work they do.

Vice Speaker Cruz asked if the department was currently collecting fees for ambulance service.

Chief San Nicolas said that they had collected about $40,000 last month and that collectibles were currently at about $1 million.

Vice Speaker Cruz asked the Chief how much was currently billed monthly.

Chief San Nicolas said he did not have that figure, but would provide it to the committee.

Speaker Judith T. Won Pat Ed.D asked if the Chief or any of his staff were involved in identifying these cuts as savings for the Government of Guam.

Chief San Nicolas stated that these cuts were identified in an audit performed by the Public Auditor.

Speaker Judith T. Won Pat Ed.D asked how much input he as the Chief had in identifying these cuts or identifying other areas to cut.

Chief San Nicolas said that when he was named Fire Chief, these cuts were put on his table, and he has been working with his staff and others to identify areas where the department could save money.

Speaker Judith T. Won Pat Ed.D asked the Chief how much input he had into realizing how much could be saved by imposing these cuts.

Chief San Nicolas again stated that these cuts were proposed by the Public Auditor and that he proffered a counter proposal.

Speaker Judith T. Won Pat Ed.D asked the chief to share what his input was in regards to a counter proposal in his effort to avoid theses spending cuts.

Chief San Nicolas replied that they currently operate on a 2 platoon system; he proposed that a 3 platoon system but that would require additional personnel. He says that the current system works and is a cost saving measure in itself.

Speaker Judith T. Won Pat Ed.D asked if there was anyone else who helped him in proposing this savings measure.

Chief San Nicolas said he worked with his immediate staff to try and meet the mandates of savings proposed by the administration. He said it is more difficult because of FLSA laws. The chief also went on to say that the fire department is a 24 hour operation, and that firefighters are already losing out because they work a 120 pay period but are only compensated for 106 hours.

Speaker Judith T. Won Pat Ed.D then asked if the front office (Adelup) were amenable to his ideas for cost savings and what the middle ground was.

Chief San Nicolas replied that he was looking for alternatives and that the middle ground was about $1.6 million.

Vice Speaker Cruz asked for more testimony from the crowded public hearing room.

Matt Iglesias spoke of how firefighters already work 120 hours but are only compensated for overtime after 106 while other GovGuam employees are compensated for overtime after 80 hours. He says that the Government already asked them to take a pay cut and he is concerned that they are being unfairly targeted for cuts.

Speaker Judith T. Won Pat Ed.D agreed with the officer and exclaimed that it is important that this section be removed from this bill because they are already taking cuts to their salaries for the difficult work they do.

Gerard Terlaje GFD said he is in opposition to the bill, he states that if there are to be permanent cuts to employees pay and benefits, he thinks there should be a study done to determine the impact on firefighters and their families should these cuts be enacted and become permanent. He understands the need for government

efficiency but at what cost to firefighters. He feels they are being unfairly targeted and that any permanent changes that need to be made should be amicable for employees of the government of Guam including Firefighters.

Lt. John Santos spoke of his 20 year history in the department and explained the pay issue. He said for his first 10 years in GFD he was only compensated for 106 although he worked 120 hours every pay period. It was not until 2003 that a new Fire Chief found that GovGuam was in violation of the FLSA. He said that the Government was taking "sleep time" from the firefighters, but that there was no way to guarantee sleep especially in Dededo. He had worked at least 4 years in that station and rarely got any rest due to the high volume of calls in that village. He also spoke on annual leave and that firefighters refuse to take annual leave because it's a big loss in pay.

Lt. John Santos continued his testimony by saying he didn't understand what 207K was and that they should be educated on this. He talked about firefighters that work on ambulance take pride in their job because it's specialized. He prefers to work on the fire truck. He says that all firefighters have EMT skills. He also said that while working on the ambulance he made as many as 20 runs a day while on ambulance duty, and asked how anyone can expect one making 20 runs could possibly sleep. He also said that Fire Stations are all open 24 hours a day 7 days a week. He feels that they are being shortchanged by not receiving holiday pay for all the hours they work on holidays. He also feels like the government wants to withhold pay for special certifications they may be entitled to.

Gerard Terlaje agreed with Lt. Santos, and said that he was compensated on 90 hours per pay period while working 120 hours previous to the 1990 agreement.

Vice Speaker Cruz apologized to Lt. Santos for not recognizing his rank.

Lt. Santos replied I'm a firefighter, that's all.

Senator Rory Respicio said that he appreciated all the firefighters who testified and asked Lt. Santos what happened in the meeting that transpired that morning.

Lt. Santos said that the Governor and Fire Chief met with Firefighters and promised that the sections dealing with the Fire Department would be removed.

Senator Rory Respicio asked Chief San Nicolas what kind of meetings he had with the firefighters under his command.

Chief San Nicolas said he met with both platoons on off work hours so they could voice their concerns without fear of repercussions.

Senator Rory Respicio asked what the response was to the bill.

Chief San Nicolas it was not favorable.

Senator Rory Respicio asked what the time frame was for these meetings, before or after the bill was introduced and that a press release was sent out previous to its introduction.

Chief San Nicolas said after the introduction.

Lt. Santos agreed with the Chief and said that while he did not initially support Chief San Nicolas' appointment, he has kept his word and was able to get these sections removed and that he would guess that all firefighters would agree that he handled this situation the best that he could. (applause)

Senator Rory Respicio also applauded Chief San Nicolas, and asked the crowd to applaud as well. He wanted to ensure that Chief San Nicolas should protect his employees and get the sections removal in writing. He says that in the previous hearing the administration claiming that their intentions were not to take away nurses leave or teachers leave and they would make amendments to fix these issues. The Senator also believes that the term non productive pay is misleading and should be changed to duty pay.

Lt. Santos agreed with the Senator and thinks there should be a special category for firefighters pay. He also stated that no one else works the hours the firefighters do, and this is the issue.

Senator Respicio says that firefighters are first responders and should be viewed as such. He believes that they should be compensated for the service they provide the government.

Chief San Nicolas explained that the 207k exception standardizes that after working 106 hours a firefighter should be paid overtime. He went on to use the federal firefighters as an example and said they work a 144 hour pay period so they are paid 106 hours of straight time, and 36 hours overtime.

Senator Rory Respicio said that his answer validates his point because either the government will be paying more for additional employees needed or additional overtime to cover the gaps.

Ed Mendiola testified that he would love to spend additional time with his family, and that he too felt firefighters were being targeted unfairly. He went on to talk about how little time he gets to spend with his family. His kids attend private school and that he may have to pull them out of private school so he can afford to feed his family. He feels that everyone should sacrifice not just one department.

Vice Speaker Cruz thanked Mr. Mendiola for his testimony and asked if anyone else had testimony.

Senator Respicio made a motion that the section regarding firefighters be removed immediately by the committee.

Vice Speaker Cruz asked for objections, there were none so the motion carried, and the section was essentially removed from the bill.

September 24, 2012, Public Hearing for Bill No. 507-31 (LS)

Senators in attendance:

Vice Speaker Benjamin J.F. Cruz, Chairman
Speaker Judith T. Won Pat, Ed.D.
Senator Rory J. Respicio
Senator Tina R. Muna-Barnes
Senator Vicente C. "Ben" Pangelinan

Senator Dennis G. Rodriguez, Jr.
Senator Mana Silva Taijeron
Senator Chris Duenas
Senator Thomas C. Ada
Senator Adolpho B. Palacios, Sr.
Senator V. Anthony "Tony" Ada
Senator Shirley "Sam" Mabini, Ph.D.
Senator Aline A. Yamashita, Ph.D.

Chairman Benjamin J.F. Cruz gave an introduction to the bill and called Mr. Mark G. Calvo, military buildup director and special assistant for military matters and infrastructure.

Mark Calvo, Military Buildup Director and Special Assistant for Military Matters and Infrastructure, stated that he is present to represent the administration. He indicated his support of the Bill, which reverts leave-sharing to its original purpose. He said that the cost taskforce presented estimates of the cost of leaving-sharing to the public. He said that the provision would save about $460 thousand from line agencies, alone. He said that he is prepared to answer any questions that the committee may have. Vice Speaker Cruz asked when Mr. Calvo received the figure $460 thousand. Mr. Calvo said that he was told that amount a few weeks ago. Vice Speaker Cruz said that he believed Benita Manglona said it would amount to $300 thousand. Mr. Calvo indicated that Vice Speaker Cruz is correct. He said that 2009-2011 the average is about $340 thousand per year for military leave-sharing.

Vice Speaker Cruz asked Mr. Mark Calvo if he is aware of anyone during his service in the National Guard that have utilized leave sharing.

Mark Calvo, Military Buildup Director and Special Assistant for Military Matters and Infrastructure, stated that he did not know anyone who received more than the 15-day leave.

Vice Speaker Cruz asked questions about his service. He asked about how much the salaries are for E-5 and below.

Mark Calvo, Military Buildup Director and Special Assistant for Military Matters and Infrastructure, stated said that he is not aware of that but the information is publicly available. He said that base pay is taxable but other forms of compensation generally are not.

Vice Speaker Cruz wondered why one would utilize leave sharing when the compensation is not a problem for Guardsmen. He said that he believes National Guard and their families would support this because it helps secure the government's finances.

Senator Mana Silva Taijeron asked about activation locally and deployments but Mr. Calvo did not comment.

Mark Calvo, Military Buildup Director and Special Assistant for Military Matters and Infrastructure, stated that there are systems to deal with challenges on the home-front from deployments and that they can be taken up within the command.

Senator Pangelinan asked whether the $340 thousand is a total or an average for the years and Mr. Calvo said that it is an average. He said that he can get data about how much the average duration for leave-sharing was applied. Senator Pangelinan asked whether there could be another way to decrease the costs, like allowing leave-sharing for deployments into a war theater but not for training or local activation. He said there are many ways to make savings of even $100 thousand. Mark Calvo said that he will inform the administration of that sentiment.

Senator Thomas C. Ada asked for Mr. Calvo to provide information about the federal laws which can put a stay on collections for service members.

Senator Aline A. Yamashita, Ph.D., said that there is a difference of opinion about the level of financial distress that the government of Guam is under. She

asked whether other soldiers view their duty and ideas of sacrifice in the same way. Senator Yamashita asked whether the commands are supportive.

Mark Calvo, Military Buildup Director and Special Assistant for Military Matters and Infrastructure, stated that Major General Paulino has discussed the bill with men and women under his command. Mr. Calvo said that this received input at the village-level. He said that the Department of Education has the majority of GovGuam employees that serve in the National Guard. Senator Yamashita asked whether it is supported. Mr. Calvo said that they have received enough support. Mr. Calvo said that accepting the oaths for enlisted and offers includes selfless service and he believes that this will be accepted by service members.

Vice Speaker Cruz said that General Paulino had said that about 10% of the upcoming deployment will be GovGuam employees. He asked how many of those who are deploying would be E-5 or below. Vice Speaker Cruz said that some military receive public assistance and Mr. Calvo said that he does not know much about that. Vice Speaker said that he does not believe that this provision takes care of the families that deployed reserve or guard members who are left behind.

Senator Tina R. Muña-Barnes said that usually there are some who will serve actively on Guam during deployment.

Mark Calvo, Military Buildup Director and Special Assistant for Military Matters and Infrastructure, stated that the figures he had given earlier are inclusive of both.

John Flores, Quartermaster, said that the 10% is used for a "backfill". He said that when some are deployed, there must be a backfill at home station.

Vice Speaker Cruz said that General Paulino was saying that 10% of the deployment would be GovGuam employees. He said that he believes this does a disservice to service members and if the administration disagrees, then it will be up to his colleagues to decide.

John Flores, Quartermaster, says that when someone is deployed on Guam, there are benefits which they do not receive, like hostile pay, but they are mobilized. He said that their salary is based upon the pay scale.

Senator Thomas C. Ada said that he is concerned about some of the comments that have been made. He said it is not intended that both the service member and their family should be inconvenienced by his or her deployment. He says that those who are activated as an E-6, there could be a sacrifice because of the difference in pay between their GovGuam job and their service in the guard or reserve. He says that if there is a hardship, then there maybe should be some way of making up the difference in pay. He believes some people will be hurt by the change.

Senator Pangelinan asked if Mark Calvo could make the transcripts of the village meetings available.

Senator V. Anthony Ada said that he is concerned with treating guard members unequally based on their employment.

Vice Speaker Cruz recessed the hearing until tomorrow.

September 25, 2012

Senators in attendance:
Vice Speaker Benjamin J.F. Cruz, Chairman
Senator Rory J. Respicio
Senator Tina R. Muña-Barnes
Senator Vicente C. "Ben" Pangelinan
Senator Dennis G. Rodriguez, Jr.
Senator Mana Silva Taijeron
Senator Chris Duenas
Senator Thomas C. Ada
Senator Frank F. Blas, Jr.
Senator V. Anthony "Tony" Ada
Senator Aline A. Yamashita, Ph.D.
Senator Shirley "Sam" Mabini, Ph.D.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
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Proceedings:

Vice Speaker Benjamin J.F. Cruz read the agenda and invited the administration to make a presentation before the Government of Guam Retirement Fund is invited to testify.

Benita Manglona, Director of the Department of Administration, that about 1,033 employees is eligible for the early retirement. She said the average salary is about $45,500 and $49,000 for teachers. She said that there would be savings of about $50.7 million in salaries, not including benefits. She stated the intent of the administration to backfill about half of the line agency positions at a cost of $30,000 average salary, $33,000 for teachers. She said they intend to backfill all the teaching positions. She said the payroll savings for salaries only would be $29.16 million, of which the contribution savings would be $8.7 million. She said the total saving from this would be $37.9 million, after backfilling. She said that the early retirement would be paid for by annual savings and the 10-year amortization extension, which would save $28.1 million. Altogether the savings would be $66 million.

Vice Speaker Cruz asked about how much they would have to pay the retirement fund and Director Manglona said about $32.4 million over five years. Vice Speaker Cruz asked whether they expect the retirement fund to allow the payment over five years. Director Manglona said that with the savings, it can be paid up front. Vice Speaker Cruz asked how the funding would be made available. He said that he thought the intent was to find $43-70 million. Director Manglona stated that even after the $32.4 million is paid, there would be about $33.6 million in savings remaining to pay tax refunds.

Senator Pangelinan said that the intention is to pay tax refunds and that he has been a strong supporter on paying tax refunds for longer than the Governor. He asked how much needs to be found and for what year.

Director Manglona said that the Department of Revenue and Taxation would need about $40 million for 2011 tax year and prior. Senator Pangelinan mentioned that these categories of tax refunds were never brought up in discussions with the administration in earlier discussions about dealing with tax refunds. Director Manglona said they are owed refunds, too. Senator Pangelinan confirmed that it is

about $40 million and said that the Department of Revenue and Taxation has indicated that they would provide further information about how much is outstanding in tax refunds.

Senator Pangelinan said that there is a $14 million cut in the budget, which means that would be $26 million needed. He discussed other potential money that addresses the shortfall for refunds. He said there would be about $18 million from the Series B bonds which would be redirected from health insurance to refunds. Director Manglona said that money is gone, spent for insurance. There is a discussion of the expenditure of funds for insurance.

Director Manglona said that she would provide the accounting analysis of the use of funds from the series B bond proceeds. Senator Pangelinan said he does not understand why the tax refunds were not paid if there was sufficient funding from other sources to pay health insurance premiums.

Vice Speaker Cruz asked for the Government of Guam Retirement Fund to testify.

Joe T. San Agustin Chairman of the Government of Guam Retirement Fund, said that he does not know why the retirement fund is being brought into this. He said that there appears to be an executive branch dilemma: that they are either overstaffed or do not have enough money to run their operations. He suggested they should reorganize, realign their staff, etc. He said that there are two ways to make finances work; either reduce operations to fit the tax revenues, or increase tax revenues to fit the operations. Chairman San Agustin said that they are the recipients of peoples' salaries to support their retirement and are being called to bail out the government. He said they are the trustees of funds for retirement. He stated his belief that the government is raiding the retirement fund. He said it belongs to the 15,000 members of the fund. Chairman San Agustin read his prepared written testimony. He said that the fund is obligated to consult with the recommendations and the advice of their financial consultants and cannot act otherwise, according to the law. Chairman San Agustin said that they have a fiduciary responsibility for actions which they take on behalf of the fund. He said that the bill imposes a burden on the Government of Guam Retirement Fund. **Chairman San Agustin** said that the government of Guam had never balanced its budget on the back of the retirement fund. He stated that the bill imposes a slow death on the retirement fund. He said they want to work with the administration

and they worry about the members which work for the government. Chairman San Agustin stated turned over the discussion to the experts from the retirement fund.

Rich White, Actuary, Government of Guam Retirement Fund, stated that he was tasked with looking at early retirement incentive plan and the 10 year amortization extension. He said that the early retirement incentive plan would increase benefit payments from the fund and the extension would reduce the contributions going into the fund. Mr. White said that the combination could pose a problem over the long run. He said that his estimates are a bit higher. They estimated that about 1,800 employees who are not currently eligible to retire would become eligible to do so as a result of the bill. He said that if they all did so, the additional liability would be $276 million. The provision would require additional contributions they estimated would be worth $65 million, resulting in a net increase of $211 million in the unfunded liability. He said that the contribution would be increased if that were not coupled to the 10 year amortization extension. He said that the increase would be from 30.76% to 34.02%, assuming all positions are backfilled. If none of the positions are backfilled, it would be increased to 41.86%. With the 10-year extension and the early retirement plan, the contribution rate would increase from 30.76% to 33.64%. He said that the security ratio is more troubling. The security ratio is the fund's assets divided by the fund's actuarial liability. He said that a good target is 70-80%, but the ratio is currently 43.49%. He said that under current law, the security ratio is projected to increase to 100% in twenty years. With a 10-year extension, the security ratio would decrease to 33% through twenty years, then increase thereafter. With both, the security ratio drops to 12% in twenty years. He said that there is a major difference between the different scenarios.

Maggie Ralbousky, Investment Consultant, Government of Guam Retirement Fund, said that she is concerned about the two provisions. She believes that the perceived savings are fictitious because of flawed assumptions. There are three things going on with the investment program: cash coming in, cash going out and investment earnings. She said the assumption seems to be that the investment program will continue earning at its current level in the future. Ms. Rabobski said that when you pay out more than you take in, drawing down the investment program, even if you are earning the same rate, the dollar amount is decreasing, especially as the security ratio decreases. By their calculations, if the two provisions are imposed, the total contribution over the next 30 years will increase by $1.24 billion. She said the perceived savings are not there and it will increase

the contribution to the plan. Ms. Rabobski said that the current portfolio is $1.3 billion. The benefit payment will reach $250 million in 10 years. That is about 20% of the fund. She said if the current contributions remain, there will be a small surplus for cash flow and the compounded interest will be a powerful force. She said that if the plan is enacted, there would be an increase of benefit payments to about $250-260 million immediately. She said that immediately the fund will experience a 34% increase in benefit payments, which will cut down the level of investments. She said that 10 years of earning capability will be eliminated immediately. Further, she said that the amortization extension will create a significant drawdown during the peak years of the fund. She said the returns will be in jeopardy from that level of drawdown. She said that they left out the possibility that returns on investment may drop below 7%. Ms. Rabobski said that the $1.24 billion drop in contribution is actually optimistic. She said that under the current law, it is challenging to make benefit payments and maintain a healthy path. She said that the average level of funding is in the 70s and Guam's is in the 40s. She said this will push the retirement fund into an unstable path that may end up a path of no return.

Gerry Cruz, Government of Guam Retirement Fund, said that there is a degree of ambiguity in the statute as written, which would unnecessarily increase costs to the retirement fund. Mr. Cruz said it would require the retirement fund to defend the plan, if enacted. He said that the fund must aggressively defend any legislation or mandate that would pay out benefits. He said that there are many ambiguities, which are included in their written testimony. Mr. Cruz said that it does not say what creditable service is. He said that there is military credit, educational credits and other form of credits which might be able to be counted toward creditable service. Mr. Cruz stated that some members are not actively working, but may qualify for benefits under the defined benefit plan and the bill is unclear whether they would be included. He further stated that the approval authority has no guidance which could help reduce the possibility of discrimination claims. Mr. Cruz also said it is unclear who will pay for the employer contributions. It says that the employee will pay the remaining contributions, but it might be construed to mean that the employee must pay their and the employer's share of their retirement contributions for each year credited. Furthermore, the purchase of additional years by promissory note is contrary to a decision of the Bautista v. Perez, which prevents employees from getting additional retirement benefits which are unfunded or underfunded actuarially and the purchase of 5 years with a promissory note is clearly not allowed.

Chairman Joe San Agustin said that the bill is unworkable and imposes a burden on the fund, which would render it unsustainable. He said that this bill is a dagger at the heart of the fund. Chairman San Agustin said that those who contribute to the fund have spent years serving their government and that this will harm the fund irreparably. He said that they cannot in good conscience support the bill. He said the Governor should go back to basics, make the government more efficient or increase revenues.

Senator Pangelinan asked at what rate the early retiree would purchase the five years. Mr. Wright said that the bill is unclear when and how the purchase of up to five years of service would be, so they assumed that it was all at the time of retirement and whatever rate was at that time. Senator Pangelinan asks whether that magnifies the harm to the fund. Mr. Wright said that is. Mr. White said that it would have a minor improvement if they were to conduct the study in a different manner. Ms. Ralbousky said it is not material in the calculations.

Senator Christopher M. Duenas asked if another scenario took place, massive layoffs, what would be the affect on the fund.

Rich Wright, Millman, said that in that scenario, there would not be the additional burden of the early retirement benefits, although there would be a reduction in payroll so the contribution rate would go up. Overall, the fund would be projected to be fully-funded within twenty years. Senator Duenas said that his projections were sort of a worst case scenario. Mr. White said out of about 30% contribution rate, 24% would pay the unfunded liability. If payroll to be reduced by half, then the 24% would be doubled to 48%, but the dollar amount would remain the same.

Senator Duenas asked if there could be a compromise, like a smaller number of potential retirees, perhaps based upon years of service.

Rich Wright, Millman, said that there would be two problems one is that of the security ratio but the other is cash flow. He said if there is a reduction in contributions, it requires a greater liquidation of investments to pay for benefits. If the amortization is extended, then the liquidation of investments will increase. He said that they have run several scenarios and at some point the fund will reach the

level where there will be no return to the fund. He said cash flow and contribution can be predicted, but investment returns cannot.

Senator Duenas asked whether any scenario would basically be destabilizing to the fund.

Maggie Ralbousky, Investment Consultant, Government of Guam Retirement Fund said that the current scenario is already very challenging because the payment is barely not touching the corpus. She said anything that decreases contributions or increases benefits paid will make it harder. Senator Duenas asked whether the hybrid with an amortization would be unworkable. Mr. Wright said that there are trade-offs for that and the 5 year amortization would involve a trade-off which they felt was amenable or workable because the security ratio does not go below 43% before it starts to climb. He said if it goes down to 12% funded, making 100% return every year will not be enough to make the fund whole.

Senator Thomas C. Ada asked if the amount of retirees used by the GGRF and the Department of Administration were the same. Mr. White said that they used 1,800 and the administration used 1,053. He said they have not reconciled the two calculations. Senator Ada asked whether that included the autonomous agencies and Mr. White said that they included everyone in the fund with at least 20 years of service.

Senator Frank F. Blas, Jr., asked about the rate of returns on investments for public funds which have funding of 70-80%.

Maggie Ralbousky, Investment Consultant, Government of Guam Retirement Fund said that they have done a survey every year and the average funding was 72% and the average expected return is about 7-7.5%. She said that they also collected asset allocation and that the assets allocation could support 6.5% and Guam's average asset allocation could be as high as 7%, but over the last 10 years it has been 6.8%. She pointed out that the 10 year treasury bonds have much lower interest rates, so maintaining the funding of the plan will already be very challenging. Senator Blas asked if there would be a significant difference if they had assumed 1,053 rather than 1,800. Ms. Ralbousky said that the biggest impact is the extension of the amortization, so the number of retirees would not have much of an impact on the security ratio. Ms. Ralbousky said that doing the amortization

alone would increase the contribution by over a billion dollars. The early retirement made it worse, but the 10-year amortization is much worse.

Senator Blas asked what it would be without the amortization. Ms. Ralbousky said that the early retirement adds about a billion dollars to the contributions.

Vice Speaker Cruz asked for the administration to return to the panel for a chance to respond to the retirement fund's testimony.

Arthur Clark, Chief Policy Advisor, Office of the Governor, said that the scenarios they present are not germane to the issue and that the comparison with the Northern Marianas Islands is not appropriate. He said that the NMI's problem is that their General Fund has collapsed. Mr. Clark said that they have relied upon taxpayers to forcibly fund the deficit. He said that they need to change the spending habits of the government of Guam. Mr. Clark said that the health of the government's finances will have a net effect on the retirement fund. He discussed the differences between layoffs and early retirement. He said that the 1,800 is a doomsday scenario and that even 1,053 is conservative. He pointed out that in 1998, the number of GovGuam employees was 14,600 and today is 13,300. He said that early out was only for the Defined Benefit Plan and only 800 employees retired. He believes it is overstated.

Vice Speaker Cruz said that the administration has also been changing the numbers and that a week ago Director Manglona estimated 500. Director Manglona said that today they are including Department of Education. Vice Speaker Cruz said that he did not understand how there could be discussion of this without the numbers. He said that it was not until last week when a number of these agencies indicated the levels they estimate could participate. Vice Speaker Cruz said that they should have had these numbers from the beginning and that the numbers keep changing. He suggested that the administration go through the figures once more. He asked whether the estimated savings for net payroll was $29.16 million and Director Manglona said that is correct. Vice Speaker Cruz said an additional $8.7 million would be from the retirement contribution.

Director Manglona said that $66 million would be the total savings from payroll. She said that takes into consideration backfilled positions. She also said there would be savings of about $28 million from the 10 year extension of the amortization.

Vice Speaker Cruz said that the extension of the amortization is more deleterious to the retirement fund than the early retirement.

John Rios, Acting Director of Bureau of Budget and Management Research, said that the savings to the general fund would reduce the cost of payroll by 5.7%. The second year would be 6.16%. He said that by 2041 the retirement fund would be fully funded.
Vice Speaker Cruz asked about the effect of the amortization on the security ratio.

John Rios, Acting Director of Bureau of Budget and Management Research, said it would reduce the security ratio and that the returns have been less than 7% returns over the last five years. Mr. Rios said that another option might be to have a temporary relief on contributions for five years with full funding by 2036. Vice

Speaker Cruz asked how the administration intends to address the fact that there has to be full payment for additional years in advance before benefits can be paid out.

Acting Director Rios said that their scenarios assume that there will be full payment before an employee retires.

Vice Speaker Cruz asked who would pay what before the employee retires. Mr. Clark said the language is the same as the early out in 1998 and that the government pays the government's contribution and the employee pays their contribution. Mr. Rios said that is correct and they were allowed to enter into a promissory note. He said that if the promissory note included 7% interest, then they would be making more than their average over the last five years. Vice Speaker Cruz asked what his position was on the previous early out program and Mr. Rios said that he had been against it as it was formulated. Mr. Clark said that the retirement fund has a duty to the fund only but the Governor and the Legislature have a responsibility to the retirement fund and the retirement fund. He cited a case where the retirement fund improved its financial position at a cost to the general fund. Vice Speaker Cruz said that he is unsure how the court will address this issue. Vice Speaker Cruz characterized Mr. Clark's position that the government of Guam can raid the retirement fund at will. Vice Speaker Cruz questioned putting the retirement fund in jeopardy and Mr. Clark said that the bill would not put the board in jeopardy with regard to their fiduciary duties. Vice

Speaker Cruz asked whether the government should only go through with the early retirement plan and not the amortization because of the effect on the health of the fund. Mr. Clark said that the ten year temporary extension might be an improvement. Mr. Rios discussed the early retirement with a temporary extension.

Senator Pangelinan said that first the governor stated that there would be a doomsday scenario of laying off 1,000 employees and the legislature borrowed money to pay tax refunds, and that GovGuam is unable to borrow more on the bond market. He sees it as another means of borrowing money. Senator Pangelinan said that basically it is just borrowing from the retirement fund. Senator Pangelinan stated that this will double the debt that the government of Guam owes compared to the debt ceiling which is maxed out. Mr. Clark began to compare the 1998 early retirement with the current proposal and Senator Pangelinan said that they are incomparable because this proposal extends the amortization period.

Arthur Clark, Chief Policy Advisor, Office of the Governor, talked about the number of people retiring and Senator Pangelinan said that is not what he is discussing. Senator Pangelinan asked if the administration could prepare the same kind of analysis on the impact of the fund using the same kind of criteria that the actuaries of the retirement fund would use. Senator Pangelinan said that the administration is asking senators to trust them and to disregard the retirement fund's analysis. Mr. Rios said that for the 5-year extension how it would be fully funded in 2036 and the 10-year extension would be fully funded in 2041. Senator Pangelinan said that it will be fully funded at the end of the extension period because that is how it is written.

Senator Pangelinan said if he planned an extension of 15 years, then it would be fully funded in 15 years. He said if the administration had different projections for the security ratios and other financial information that would be more helpful. Mr. Clark said that he believes those projections can be made available.

Vice Speaker Cruz asked what kind of estimates for participation would be used. Mr. Clark said that they could use different scenarios, including the 1,053. Vice Speaker Cruz said they would like to see that.

Senator Duenas said that he would like to also see cleaned up language about the eligibility for the program. Mr. Clark said that he believes that there are not as

many issues with ambiguity as Vince mentioned earlier, but that there probably is an issue with the language on the contributions.

Senator Respicio said that he preferred the retirement fund's approach, which looked out how many employees could avail themselves of the program as it is presented and he believes it should be addressed on 1,800 because there is no way to cap it. Mr. Clark said that some, if not most, of the agencies have surveyed their employees about participation and some agencies report that less than 25% of those who would be eligible would be interested in participating. He said there should be a range, but it should be closer to what is realistic. Vice Speaker Cruz said he understands that but does not understand why this was not done before the bill was sent to the Guam Legislature. Mr. Rios said that the information received from the retirement fund is correct, but the Department of Administration data came from payroll information and that the retirement fund would be more prepared to know other data. Vice Speaker Cruz stated that there should have been more communication between the administration and the retirement fund before the bill was presented to the legislature. Mr. Rios said that the legislature now has the analysis.

Senator Pangelinan said that the hybrid plan does not have the withdrawal component of early retirement. Mr. Rios said that the hybrid plan is basically a defined benefit plan with a 1% diversion to deferred compensation. Mr. Rios said that there can still be increases in benefits in the hybrid plan. Senator Pangelinan pointed out that there is no early retirement component in the hybrid plan. He said that when he looks at the 5 year amortization, there is a reduction in the contribution percentage. Mr. Rios stated that there would be a reduction in payroll contributions. Mr. Clark said that they are making adjustments to the budget and there is a choice between allowing early retirement or indiscriminate furloughs or layoffs, with impacts to safety net programs.

Vice Speaker Cruz asked if perhaps the eligibility criteria could be those close to 30 years and not 25. Mr. Clark said he would allow the fiscal team to answer. Director Manglona said yes, but it is currently for 30 and there is an option to purchase the additional years beyond 25.

Director Manglona said they will provide an analysis with different scenarios. Vice Speaker Cruz asked if they could show the impacts if they take it from 30, 28, 27, 26. He says that at some point the administration will have to work with the

amortization provision. He asked how much the savings would be for the amortization. Director Manglona said it would be $28.1 million annually. Vice Speaker Cruz asked how the administration intends to address the concerns about the effects upon the retirement fund. Director Manglona said that is their opinion. Vice Speaker Cruz said that they can come up with their own analysis. Mr. Rios pointed out that they did not include a scenario where there would be deferred payments to the retirement fund for up to ten years with full funding by 2031.

Senator Dennis G. Rodriguez, Jr., asked about the impact on services. He said that about 159 nurses at the hospital would be eligible but there is a shortage of nurses. He wants to know what the plan is to ensure the continuity of services. Director Manglona said that the provision to allow directors to retain the employee for an extra year to train a replacement is intended to deal with that. Senator Rodriguez said even without the early retirement program, there is a problem with retaining nurses. Director Manglona stated that it may be a unique situation. Senator Rodriguez asked about the impact, Director Manglona directed him to the hospital management, and Vice Speaker Cruz stated that she should be prepared to answer questions like this and whether there are decisions which have been made already about which positions are critical.

Vice Speaker Cruz asked Mr. Rios about the impacts of early retirement on the Department of Revenue and Taxation. Mr. Rios said that he does not know and cannot answer that. Senator Pangelinan asked that if a lot of the employees have to stay behind and train a replacement, wouldn't the payroll savings be considerably less. Director Manglona said that once they train a replacement, they would leave. Senator Pangelinan pointed out that their estimated savings assumed that every employee would leave at the beginning of the fiscal year and nobody gets left behind to train replacements.

Vice Speaker Cruz asked Maggie Ralbousky if she had any comments.

Ms. Ralbousky said that she wanted to comment about the contribution rates. She believes that should not be considered in isolation and should be viewed in combination with the security ratio. She said that 70% is a more adequate ratio because there are more margins for error. Ms. Ralbousky said that getting a 7% return never actually happens, even if it is assumed. She said that even if it averages out to 7%, probably on none of the years will they get 7%. There may be 0%, negative returns or 10%. If the security ratio falls below 30%, there is

basically no margin for error. If there is a year of negative returns and there is a drawdown in assets, the security ratio will go down considerably and it does not depend how long the amortization is for. With the security ratio of about 40% and a potential reduction to 30%, there is no margin for error. Someone said that the retirement fund has been getting 3.5% return on the last five years and she said that is good because it's the top 10%. She said the stock market over five years returned a 0% rate of return over the last five years. She stated they are only a player in the market. She believes it is flawed to look at the contribution rate and that the security ratio is needed as well. Ms. Ralbousky said that it is true that the NMI has issues with their fund, it is cash flow that matters, not why. She said that from the fund's point of view, it is irrelevant.

Mr. Wright said that the 1,800 is a worst case scenario. He said the surveys and additional information should be used, but they should still look at the possible outcome that all eligible to retire. He said they could change the eligibility requirements and that may affect the cost. He suggested that there could be an age component because it is most expensive for those who are the youngest and not quite as expensive as someone in their 50s or 60s. He said that with the different horizons on the temporary extension that putting a longer window now but committing to shortening it in the future may be difficult depending on future conditions. Mr. Wright said it was just an option they wanted to show, not a recommendation from the fund. Mr. Wright said that they estimated $66 million savings, $28.1 million from the extension, but he is not sure how they calculated that. He assumes it is because of the decrease in the contribution rate. He is not sure if they accounted for the increase in the contribution rate because of the early retirement incentive program. He said the $28.1 million may not be achievable.

Vice Speaker Cruz said that a year ago, there was a temporary reduction in the contribution and he hopes that there can be a way to work together.

Chairman San Agustin said that he is concerned that they ignored the retirement fund and did not consult them before they presented a plan to the legislature. San Agustin said that there are so many components involved in the bill and they would like to work with the administration. Vice Speaker Cruz said that he will keep the record open for 10 days to allow further input from the administration and the retirement fund.

Senator Rory Respicio asked if the language of the current bill is the same as the early out for 1999 and Chairman San Agustin said that it is not. Paula Blas said that it was 1999, but the program started in 2000. Senator Respicio asked if the language is the same. Ms. Blas said that it is not identical. Senator Respicio said that there was a statement that it was identical and he was wondering whether it was.

Vice Speaker Cruz said that there will be a hearing tomorrow and anyone who wants to talk about any provision of the bill may discuss the bill at 5:30 p.m.

Senator Pangelinan said that there is the ability to have early retirement. He said that maybe the existing program can be modified to change the penalty provision, instead of ignoring it and putting a new program in place.

Vice Speaker Cruz thanked everyone for their attendance and recessed the committee until 5:30 p.m. tomorrow.

Round table 10-29-2012

Senators in attendance:

Vice Speaker Benjamin J.F. Cruz
Speaker Judith T. Won Pat
Senator Tina R. Muna Barnes
Senator Thomas C. Ada
Senator V. Anthony Ada
Senator Aline A. Yamashita, Ph.D.

Vice Speaker Benjamin J.F. Cruz convened the round table at 5:30 p.m., read the agenda, and read the letter from Paula M. Blas of the Government of Guam Retirement Fund. The Retirement Fund thanked Vice Speaker Cruz for safeguarding the solvency of the retirement fund. The Retirement Fund said that it is in the best interest of the fund not to participate in such policy-making, but to analyze any proposed policies. The Retirement Fund stated that the Early Retirement Incentive Program and the 10-year extension of the repayment of the unfunded liability do not assist the government of Guam sufficiently to justify the

harm to the retirement fund. *(See attached written testimony.)* Vice Speaker Cruz recognized the presence of Director John Rios and asked whether the administration has a response to the letter or a suggestion regarding what the government of Guam should do.

Director John Rios stated that he did not receive that letter. He cited a letter that he sent on October 10. Director Rios said that they developed alternatives in response to concerns brought up by the Government of Guam Retirement Fund. He discussed the original proposal for the 10-year extension. The Retirement Fund proposed to extend for five (5) years and add in the implementation of the hybrid plan and an increase in annuities, while the administration's proposal was to fund the Early Retirement Incentive Program. He suggested that there could be a temporary extension by ten (10) years, but extend the maturity date by five (5) years. He said that the idea would be to reduce the repayment rate somewhat for five (5) years, through 2017, as though it were going to be extended for ten (10) years, which would bring short-run cost savings. He said that this would generate savings. He pointed out that the original Early Retirement Proposal is for up to five (5) years starting for those employees who have twenty (20) years of service. The alternative from the Retirement Fund would reduce the amount of persons that could be affected from 1,800 to 600. For employees who started in 1981, they would be able to buy up to five (5) years so they would receive their full retirement of twenty-five (25) years. Post-1981 would be able to buy up to five (5) years so they would receive a thirty (30) years retirement. The retirement fund said that it would still cost GovGuam $4.2 million a year. He said that the whole thing would be paid upfront by employees and GovGuam. He said that their intention with the extension of the unfunded liability would be used to pay for the increase in survivor benefits and the Early Retirement Incentive Program.

Vice Speaker Cruz asked Director Rios whether he foresees the possibility that a board member or the board of trustees could challenge the proposal, as it's currently written or even another proposal to which the board had not provided consent. Vice Speaker asked about the deterioration of the retirement fund's security ratio under the original proposal and Director Rios said that is why they have produced an alternative Early Retirement Incentive Program. He said that the

proposed amount is $4.2 million from the General Fund. He said that there would be a slight difference between the temporary ten-year extension and the five-year extension which is proposed by the Retirement Fund. Vice Speaker Cruz said that the concern was that the security ratio would drop into the teens, which would be unreasonable and unsustainable.

Director Rios said that is based upon the 1,800 early retirement. He said that the early retirement program would have added about $200 million to the unfunded liability.

Vice Speaker Cruz asked whether the administration has done a survey to provide an estimate for how many employees would be expected to participate. He said that if 60% of those who are eligible participate, it would save $14.7 million on payroll, but that would depend on the level of backfilling. He said about half would be backfilled, under their assumptions and all teachers who participate would have their positions backfilled. He said that the extension of the amortization for five (5) years, according to the Retirement Fund, would save $9.6 million.

Vice Speaker Cruz asked what the administration's position is on the hybrid plan.

Director Rios said that the Retirement Fund's plan was that moving all of the Defined Contribution members into the hybrid plan would cost about $7.2 million and it would be paid for by the five (5) year extension of the repayment of the unfunded liability.

Vice Speaker Cruz asked whether the administration would support the inclusion of hybrid plan along with the five (5) year amortization extension.

Director Rios said that they would support it for a ten (10) year extension. Director Rios questioned whether there would be additions of benefits over time that would make it less affordable. Director Rios said that the projected impacts are based upon the assumption that all Defined Contribution members would elect to have the hybrid plan, but that would mean a higher personal contribution rate. Director Rios said that with the temporary ten (10) year amortization extension, it may be able to work. He said that he is unsure how many would transfer.

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Senator Thomas C. Ada asked about the changes in the Early Retirement Incentive Program.

Director Rios explained the proposed different Early Retirement Incentive Program.

Senator Thomas C. Ada pointed out that the temporary ten (10) year extension is basically like having balloon payments after five (5) years.

Vice Speaker Cruz said that when the payments increase, it will rise by about $12 million and that the Retirement Fund questioned the ability of GovGuam to make the higher payments.

Senator Thomas C. Ada pointed out that several payments will rise rapidly around that same time.

Vice Speaker Cruz said that the Retirement Fund did not accept the Early Retirement Incentive Program alternative.

Director Rios said that the Retirement Fund has not supported it because they assume that all the positions will be backfilled. Director Rios said that the Retirement Fund would require that all those who are purchasing years of contributions would cover the cost upfront.

Vice Speaker Cruz asked how the legislature can support this bill when things like a survey of employees are not included. He said that it seemed irresponsible to go forward with this without the retirement fund. Vice Speaker Cruz said that there were many employees who were looking forward to buying the remaining years to thirty (30) years. He said that the original proposal was that anyone with at least twenty (20) years could buy extra years and retire early and that was irresponsible because it could not be done. Vice Speaker Cruz said that there were people who began prior to 1981 and were waiting for this to go into effect. Vice Speaker Cruz asked where the legislature and the administration can go from here, if the retirement fund is against it and will oppose it.

Director Rios said that the Early Retirement Incentive Program would continue through 2014.

Vice Speaker Cruz asked if an action is filed, would GovGuam be accomplishing anything if a lawsuit results.

Director Rios reiterated the extension and early retirement plans.

Vice Speaker Cruz said that there are about 7,000 Defined Contribution members and they can propose the hybrid plan because it is providing a reasonable retirement for Defined Contribution members and that any other actions could result in an action in court.

Vice Speaker Cruz discussed a sunset of the survivor benefit. He discussed the financial difficulties faced by survivors. Vice Speaker Cruz asked if there is anything that the administration is willing to work with the retirement fund on and whether the administration supports the hybrid.

Senator Thomas C Ada asked whether the administration is going to rewrite the bill or whether it expects the legislature to rewrite these provisions.

Director Rios said that they can make the changes to the bill.

Senator Muña Barnes asked where the savings are coming from.

Director Rios said that they are trying to find ways to cut expenditures and make payroll savings. Director Rios said that the total tax refunds are $131 million. Director Rios said that there is an estimated $105 million for 2012 and another $31 million for last year. He said that he does not have numbers for prior year obligations.

Vice Speaker Cruz said that the original proposal was un-researched and un-surveyed and asked what would be acceptable to the administration and whether the administration would be willing to work with the retirement fund on the hybrid. He said that this would have savings this year, but the Early Retirement Incentive Program would not have savings this year. Vice Speaker Cruz suggested that the

Early Retirement could be left out and the extension and the hybrid could be included.

Director Rios said that with the ten (10) year extension, they would consider the hybrid plan. He said that the administration should meet the retirement fund halfway and there is no point in the legislature working it out if the administration will veto it anyway.

Vice Speaker Cruz said that any action that could harm the retirement fund that is enacted would likely be challenged in court by the retirement fund and may be cancelled.

Director Rios said that if they did a five (5) year extension, alone, then removed the increase in survivor benefits; there would be some savings there.

Senator Thomas C. Ada said that the retirement fund may be thinking is that the legislature and the administration can develop a plan, but that it will be challenged in court if it does not meet with their approval.

Vice Speaker Cruz said that they expect to hear from the administration because currently the total proposals under discussion have about $1.5 million in savings. Vice Speaker Cruz adjourned the round table at 6:40 p.m.

Senators in attendance:

Vice Speaker Benjamin J.F. Cruz, Chairman
Speaker Judith T. Won Pat, Ed.D.
Senator Rory J. Respicio
Senator Tina R. Muña-Barnes
Senator Vicente C. "Ben" Pangelinan
Senator Mana Silva Taijeron
Senator Chris Duenas
Senator Thomas C. Ada
Senator V. Anthony "Tony" Ada
Senator Shirley "Sam" Mabini, Ph.D.
Senator Aline A. Yamashita, Ph.D.

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Vice Speaker Benjamin J.F Cruz called the public hearing to order at 6:00 p.m. and announced the evening's agenda and public hearing notices. Vice Speaker Cruz said tonight's discussion on Bill 507-31 is devoted to discussing the provisions as related to teacher leave, personal leave. Vice Speaker Cruz said we have been made to understand there was a redundant provision, and the committee has found it at 17 GCA 3216, Teacher Personal Leave.

Lisa Mosher said she is a teacher at George Washington High School. Mosher said she came forward because people at GW and other schools are concerned that this bill might take away the personal leave. Mosher stated they remain in a contract under previous Superintendent Taling Taitano. Mosher said that with the Governor's representative here we would like to have contract negotiations moving forward. Mosher said we're here for the students first and for the future of Guam.

Vice Speaker Cruz said thanked Ms. Mozure. Vice Speaker Cruz told Mr. Leon Guerrero that one of his concerns with the provisions is that it has to be contingent on the teacher's contract. Vice Speaker Cruz said his understanding from discussions with Dr. Yamashita and Dr. Won Pat is that this provision was to try to reward the teachers for having perfect attendance and that the decision to repeal 4110.1 as opposed to 3260 was not to take advantage of the issue that there is a contract currently.

Mr. Leon Guerrero: said the Vice Speaker is correct. The intent was to clarify that two sections of law exist. The one that's going to remain, in terms to the introductory sentence, "beginning SY 2004-2005", seems to say that notwithstanding, Title 4, "beginning SY 2004-2005, educators"— versus teachers only, so this is more permissive language — "employed by DOE shall be paid unused personal leave at the end of each school year." In Title 4, it's 'fiscal year' so teachers will get leave pay a little sooner. Mr. Leon Guerrero said the part he is referring to is the authority to pay, and it doesn't link to a collective bargaining agreement, but the next sentence does. Mr. Leon Guerrero said the administration believes that there's still some flexibility in terms of the authority to pay absent the collective bargaining agreement. Mr. Leon Guerrero said the other part in which

the administration feels strongly is in the option to transfer any accrued personal leave to sick leave at the option of the employee. Mr. Leon Guerrero said the administrations feels that this was a much better option to remain on the books, and to make it real clear in case there's any question about fiscal year, teacher vs. educator, and when does it take effect; and in terms of the rule of construction, and how you would interpret this—that this is the one that will prevail in conflicts.

Vice Speaker Cruz thanked Mr. Leon Guerrero and said that it will be part of the committee record and the legislative history so it is understood that this was not a means of taking anything away from the teachers.

Ms. Mosher stated that she would share the information with other teachers.

Vice Speaker Cruz said that would be appreciated.

Mr. Leon Guerrero said that he would send an e-mail to the superintendent and the President of the Guam Federation of Teachers stating the position and the comments that were made tonight, so that they're clear on what our intentions were.

Speaker Won Pat said there are two different things here. The Speaker said there is one provision that says—the three personal leaves will either transfer to sick leave—the other is that they will be able to cash it out at the end of the school year. The question now is which of the two is preferred. The Speaker said the reason why I bring this up is because the personal leave is designed so that the teachers who need to take care of other business other than sick leave, and which does not qualify as sick leave, they can use as personal leave. The Speaker said if it is to be transferred; it increases the number of leaves for them. The Speaker said she is not sure if the union addresses that—how sick leaves can be used for other purposes.

Mr. Leon Guerrero said that during his time, the sick leave was something that could not be carried over. Mr. Leon Guerrero said here the three days at the end of the school year - if accumulated during the school year - gives the opportunity to

make the decision thirty days before the end of the school year - if you wanted to lose it, if you had a balance and didn't want to take off, or you could have it converted to sick leave. Mr. Leon Guerrero said the other part of that question is that there's a lot of discretion on the school site level. Mr. Leon Guerrero said school administrators will allow for a more permissive use of sick leave at their discretion and that these are the two ways of addressing this.

Speaker Won Pat I understand your desire to correct this, and that there is some redundancy. Speaker Won Pat said that although administrators have the discretion to be able to do this and some are lenient, there are others who are sticklers about this – for them sick leave is sick leave and nothing else. Speaker Won Pat said with the option off, it would make it seem as if it would depend - if the option were to stay, it would give them an option to do one or the other.

Mr. Leon Guerrero said I believe that the option remains - you have up to thirty days.

Speaker Won Pat said that with the other option you lose it or you transfer it over - with this, you lose it or cash it out or transfer to sick leave.

Mr. Leon Guerrero said they have the option to receive the lump sum, or the option to transfer any unused personal leave to your sick leave account with the restriction that it has to be requested thirty days prior. The provisions are still the same—you can't use leave in the last two weeks of school.

Speaker Won Pat said what will be kept is in Section 3216—in lieu of payment, teachers may at their option transfer all unused pay to their sick leave account. That's all there is, to transfer.

Mr. Leon Guerrero said the first sentence says you shall be paid unused personal leave in a lump sum.

Speaker Won Pat said I wanted to ensure that option is still there.

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Vice Speaker Cruz thanked members of the panel for their testimonies then adjourned the meeting.

III. FINDINGS & RECOMMENDATIONS

The Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting to which was referred Bill No. 507-31 (LS) "AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCAAND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA" hereby submits these findings to *I Mina' Trentai Unu na Liheslaturan Guåhan* and reports out Substitute Bill No. 507-31 (LS) with a recommendation:

To Report out only

I MINA' TRENTA UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 507-31(LS)

Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources

Introduced by:

At the request of the Governor

AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCAAND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Findings and Intent. The budget policies of Fiscal Years 2007 and 2008 ended a decade of deficit spending in the government of Guam. Calculations based on conservative methodology and forecasting of revenues were used based on the trending of *actual* revenue collections from Fiscal Years 2004, 2005, and 2006. Appropriations for operational expenditures, debt service payments, reserves for provision for tax refunds, as well as the 2% reserve on appropriations were collectively based on realistic revenue projections.

The austerity measures were initiated by this administration in order to address the General Fund deficit. By Fiscal Year 2007 the accumulated deficit (audited) amounted to $510.1 Million. The mounting deficit was mainly the result of years of optimistic revenue projections, previously "unrecorded" obligations

being recorded, and court orders adding to the amount the General Fund owed to several debtors and for various improvements ordered by the federal government. As had been the practice of the past, when actual revenues were not collected as adopted, the government prioritized the payment of operations and court orders by using funds that should have been set aside for the payment of the ensuing year's tax refunds. Additionally, payments to vendors for goods and services already received by this government as well as payments for other outstanding obligations were not being paid in a timely manner and in many cases, over one year. As a result, government over-expenditures were financed in part by the tax refunds due to tax filers. In order to pay tax refunds from prior years, it became necessary to seek alternate financing through issuance of municipal bonds.

The accumulated deficit was exacerbated by annual deficits created by the government's failure to project realistic revenues for each budget year. This was pointed out by Standard & Poor's in Fiscal Year 2007, when the ratings agency placed GovGuam on "Credit Watch" following the use of bridge financing to float operations at the Department of Education for payroll. This brought to light the burden such a huge and unmanageable accumulated deficit has on the ability of the Executive Branch to manage the cash flow of the government. It also brought to light that the government's habit of deficit spending was systemic. There was, in fact, a structural imbalance in the General Fund, where the deficit will continue growing so long as the expenditure level continuously outpaces actual revenue collections. This burden stopped growing at the end of Fiscal Year 2007, when actual revenue collections exceeded revenue projections. The savings from the difference along with the savings from the two-percent reserve helped to pay down the deficit.

The deficit was once again decelerated by the end of Fiscal Year 2008, when it became clear that actual revenue collections again met the projected levels.

A shift in power occurred in the legislature through Fiscal Year 2008. The chairman of the legislative finance committee had submitted a budget for Fiscal Year 2009; however, that budget was revised and replaced by the new legislative majority. Despite repeated foreshadowing and warnings from the legislative minority members of *I' Liheslaturan Guåhan* about the miscalculation of revenues in the revised Fiscal Year 2009 budget, the legislature passed the budget into law.

As a result, at the end of Fiscal Year 2009, deficit spending started again after two fiscal years when deficit spending ended. A cumulative deficit of $526.8 Million would have been recorded based on the deficiency between actual revenue collections and adopted revenue projections had it not been for a deficit financing bond within Fiscal Year 2009. We should note this bond did not figure into the balancing of the revised Fiscal Year 2009 budget.

The adopted revenues for FY 2010 were once again overstated and added$71 Million to the deficit by the end of Fiscal Year 2010. We should note that the deficit financing bond of 2009 brought the accumulated deficit from $415.5 Million at the end of FY 2008, down to $250.2Million at the end of FY 2009. Because of the deficit of Fiscal Year 2010, the accumulated deficit increased again to $321.3 Million.

Interestingly, in the FY 2011 Budget Bill, the legislature arbitrarily increased the FY 2010 provisions for tax refunds by $32.4 Million toward the end of Fiscal Year 2010 without a corresponding decrease to appropriations which will appear in the books that actual revenue collections did indeed shorten the gap between the adopted levels versus actual collections. Such initiative of offsetting the balance of the budget by crediting the provision for tax refunds against the operational revenues gave the impression of a pledge of more funds for tax refunds without any cash to back it up. The result was a huge liability of cash to debtors, especially those owed tax refunds. The outgoing administration relieved part of

that burden by using almost all of the cash remitted to the government of Guam by the U.S. Internal Revenue Service for the Make Work Pay Tax Credit, and all of the cash remitted by the U.S. Treasury for Section 30 reimbursements in the first quarter of Fiscal Year 2011 alone. Such funds, estimated at $20 Million, must be repaid to the IRS by January 2013.

These unprecedented financial maneuvers culminated when the issues were brought to light in the first week of the new administration, when it was found that millions of dollars in transactions of inter-fund borrowings were occurring to cover cash shortfall, and that the government was operating without a cash flow model and projection system.

The new administration further found that several departments had underreported millions in past-due obligations, and that by January 2013; a portion of what was spent from the Make Work Pay Tax Credit would have to be paid back to the U.S. IRS. To make matters worse, the compounded cash shortfall by that time was at $2.7 Million and growing because of the deficient budgetary policies that went unchecked.

By the end of Fiscal Year 2011, actual revenue collections were below the adopted revenues by $17.3 Million; and, because of unbudgeted expenditures to include the payments for the Permanent Injunction and the accumulation of unbudgeted income tax refund interest payables, the accumulated deficit grew to $368.2 Million. However, primarily due to the offset of ARRA funds, this deficit level is reduced to $303.1 Million.

To stop the hemorrhaging of the General Fund, the Governor immediately suspended the Hay Study pay increases. He implemented a series of austerity measures, froze increments, and won passage of part of his deficit-financing plan, which placed the fiscal debt of tax refunds owed to taxpayers on the backs of the bank, and *not* the people.

As a result of these fiscal policies and communication with the legislature and the public, the administration was able to jump-start the weekly payment of tax refunds that had ended in the month prior to the new administration taking office. More obligations were being paid from the cash savings as well. The financing of part of the accumulated deficit through two series of a bond for tax refunds, overdue COLA judgment obligations, debt to the Retirement Fund, and health insurance obligations, the accumulated deficit is expected to decrease by $318.3 Million.

Fiscal solutions that were initiated beginning in January, 2011, were meant to address the accumulated deficit, stop runaway and unchecked spending in the government, and begin to address the root of the problem, the structural imbalance of the General Fund. However, these measures in and of themselves would not suffice as resolution to the structurally imbalanced financial practices of the past and the cumulative impact it has had on how the government manages its financial challenges.

As a result of this structural imbalance and the constant inability of the government to afford its several obligations, the government has not been in a stable position to, at the very least:

a. Pay tax refunds on time
b. Pay vendors for services and resources provided as well as other outstanding obligations
c. Supply students and teachers with learning and teaching materials
d. Purchase school buses
e. Provide adequate police vehicles to the Guam Police Department
f. Increase medical services at the Guam Memorial Hospital
g. Adequately fund disease prevention efforts around a strategic framework

h. Procure a new emergency radio communications system to replace the existing and far-outdated system, which will break at any given time

i. Implement the Hay Study pay raises to adequately compensate the GovGuam workforce

j. Provide the remaining 20 percent increase to base pay for public safety officers to bring the officers closer to market

This is not the correct way to finance government operations. The people contribute enough of their tax dollars for their leaders to implement an efficient system of services. Such efficiency can occur when government leaders truly prioritize the spending of tax dollars. The first step in this action to prioritize is to remove the structural imbalance so that operational expenditures truly meet realistic revenue thresholds each year, with sufficient funding to pay down the deficit.

To balance the structure of the General Fund, this government must reduce its structural (yearly) expenditures. Such reductions are found by reducing the size of the GovGuam workforce and the amount spent yearly to fund certain benefits. Moreover, this government must realize annual savings in the General Fund, which can be reinvested into priority areas and for deficit elimination. This can be accomplished by amortizing the yearly debt to the Unfunded Liability of the Retirement Fund to fully pay down by the year 2041, a 10-year extension.

Section 2. Short Title. This act shall be known, hereinafter, as the Omnibus Fiscal Reform Act of 2012.

Section 3. Clarification of Maternity Leave. §4107 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

§ 4107. Maternity Leave.

~~Maternity~~ Administrative leave, pursuant to the Department of Administration Personnel Rules and Regulations, shall be granted to ~~a~~ all

female employees ~~occupying a permanent position~~ who ~~is~~ are absent from work as a result of childbirth or adoption of a child(ren) five (5) years old or younger. Such maternity leave shall not exceed twenty (20) days, encompassing the date of childbirth or adoption. Any additional leave taken for such childbirth or adoption purpose ~~may~~ *shall* be charged against accumulated sick and/or annual leave to include compensatory time, or may be unpaid leave / leave without pay, at the option of the employee. Total leave, whether maternity, annual leave to include compensatory time, sick or unpaid leave / leave without pay, shall not exceed six (6) months. ~~without approval of the employee's supervisor.~~

Section 4. Reversion of Paternity Leave to Industry Standard. §4107.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4107.1. Paternity Leave.**

~~Paternity~~ Administrative leave, pursuant to the Department of Administration Personnel Rules and Regulations, shall be granted to all male employees ~~occupying a permanent position~~ upon the birth or adoption of his child(ren). Such paternity leave shall not exceed ten (10) days, encompassing the date of childbirth or adoption of a child(ren) five (5) years old or younger. Any ~~additional~~ leave taken for such purpose ~~may~~ *shall* be charged against accumulated annual and sick leave to include compensatory time, or may be unpaid leave / leave without pay, at the option of the employee. Total leave, whether paternity, annual leave to include compensatory time, sick or unpaid leave / leave without pay shall not exceed ~~six~~ three~~(6)~~(3) months. ~~without approval of the employee's supervisor~~."

Section 5. Elimination of Annual Leave Lump Sum Cash Out Payment Policy; Implementation of 'Use It or Lose It' Policy. §4109 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4109. Annual Leave.**

(a) Annual leave shall be granted to employees occupying permanent positions, except personnel of the Department of Education, the Guam Community College or the University of Guam, who are employed on a school year basis, and judges and justices of the Judiciary of Guam who are not members of the defined benefits retirement plan of the government of Guam, in accordance with the following schedule:

(1) One-half day (4 hours) for each full bi-weekly pay period in the case of employees with less than five (5) years of service;

(2) Three-fourths day (6 hours) for each bi-weekly pay period in the case of employees with five (5) years of service but less than fifteen (15) years of service.

(3) One (1) day (8 hours) for each full biweekly pay period in the case of employees with fifteen (15) years or more service.

For purposes of this Subsection (a), all elected officials except members of the Guam Education Policy Board, and the Consolidated Commission on Utilities shall be deemed employees occupying permanent positions.

(b) The term years of service shall be deemed to include service with the Naval Government of Guam or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three (3) years of service shall be credited to any individual for purposes of this Section. Years of service shall include one (1) year for each year served as a school employee.

The provisions of this Subsection shall not apply to those employees of the government of Guam hired prior to the date of enactment of this Act,

except that any current employee of the government who has been in the employ of the government for less than three (3) years on the date of enactment and is a former member of the Armed Forces of the United States and is receiving a retirement annuity or pension as result of such military service shall be deemed to have three (3) years of service with the government at the date of enactment of this Subsection for the purposes of accruing annual leave.

(c) Employees entitled to annual leave hereunder may accumulate up to three hundred twenty (320) hours. Any annual leave earned by eligible employees in excess of three hundred twenty (320) hours shall be credited to such employee's accumulated sick leave, provided, that no more than one hundred (100) hours shall be credited to sick leave at the end of each fiscal year. The determination of accumulation of annual leave, and crediting of excess hours sick leave, shall be done at the end of each fiscal year. Notwithstanding the provision of this Section, employees who have accumulated annual leave in excess of three hundred twenty (320) hours as of ~~February 28, 2003~~ October 1, 2012, may carry over their excess and shall use the excess amount of leave by the first pay period following September 30, 2014~~, prior to retirement or termination from service. At the time of retirement or termination of service, that~~. That portion permitted to be credited to sick leave shall be so credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave for any employee, except one who retires. The allowance for lump sum compensation or retirement credit for those employees retiring shall not exceed ~~in excess of~~ three hundred twenty (320) hours.

(d) [Repealed.]

~~(e) Any employee who transfers from one branch of the government of Guam to another, or from one department, agency, instrumentality or corporation of the government of Guam to another department, agency, instrumentality or corporation at his option may accept the cash value of his earned leave at the time of transfer or transfer his accumulated leave to his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and reemployment.~~

(f) Any employee of the government of Guam who shall transfer from one government of Guam department or agency to the Guam Housing and Urban Renewal (GHURA) shall be credited with all prior creditable service to the government of Guam in computing annual leave. This subsection shall be applicable to all former employees of GHURA who shall make specific application for such credit within six (6) months after the date of enactment hereof.

(g) Any employee of the government of Guam who is a participating athlete or coach or administrator in an athletic contingent, recognized by the Guam National Olympic Committee ('GNOC'), representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the GNOC, shall be granted leave by his or her respective department director or appointing authority for the time it takes to complete both competition and any necessary travel, not to exceed fifteen (15) working days; provided, that his or her accumulated annual leave or compensatory time off ('CTO') is charged with the number of hours he or she is absent from duty, and further provided, that the employee requests such leave in writing thirty (30) calendar days prior to the first day of leave. If said employee has exhausted his or her annual leave, or chooses

not to use such, he or she shall be granted leave without pay. Under no circumstances shall any employee of the government of Guam be granted said leave for competition more than three (3) times in one (1) calendar year under this Subsection.

(h) Any employee of the government of Guam who has been qualified as a donor for medical purposes and has received notice that the employee has been determined to be a match shall be granted leave with pay by his or her respective department director or appointing authority for the time it takes to complete the medical procedure involved, not to exceed ten (10) working days."

Section 6. Repeal of Accrued Leave Pay Out. §4109.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 7. Reversion of Leave Sharing Program to Its Original Intended Purpose. §4109.2 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4109.2. Leave Sharing Program.**

(a) Legislative Statement. From time to time, classified employees in the civil service of the government of Guam have occasion to need leave for medical reasons, but may have already exhausted the leave that they have earned and accrued. ~~At times like these, particularly when the employee needs time off to take care of sick family members or in the case of the military reserves and National Guard members, being called to active duty in excess of fifteen (15) working days, the employee might be forced to take leave without pay. Through the generosity of the other employees, the affected employees could be relieved of the stress of this situation.~~

(b) Voluntary Transfer of Sick Leave or Annual Leave. If a government of Guam employee desires to transfer a number of hours of

earned sick leave and/or annual leave to another employee in any department or agency of the government, the recipient must first exhaust all his/her accrued annual and sick leave and compensatory time for the purposes of a medical emergency or medically related ~~or for personal~~ reasons. Leave transferred from donors whose hourly rates of pay or salaries are lower than the recipient shall be paid at the hourly rate or salary of the donor. Leave transferred from donors whose hourly rates of pay or salaries are higher than the recipient, shall be paid at the hourly rate or salary of the recipient. A formal written request shall be made by the donor employee to that person's payroll supervisor, stating the name of the recipient, the number of hours of leave to be transferred and the type of leave. No transfer may be made by any employee to that person's supervisor, or to any person above that employee in the supervisory chain, or to a member of the supervisor's or such supervisory person's immediate family. If the donor has sufficient hours of leave accrued to cover the donation, the payroll supervisor shall notify the Payroll Division to transfer the approved number of hours to the recipient. Upon receipt of the notice of transfer, the receiving employee may then submit a leave request for the number of hours of leave, sick and/or annual, that the employee needs and the department head ~~shall~~ may ~~then~~ approve the leave request. Leave may not be transferred to another employee if as a recipient that employee intends to use it for credit towards retirement or accumulated leave. This transfer of leave shall be strictly on a voluntary basis. Leave transferred shall be used as leave by the person to whom it is transferred, and if it is not used in its entirety, it may be re-transferred to the person who originally earned it. In no event shall transferred leave be converted to cash or retirement credit by the person to whom it is transferred. Participation in the leave sharing program shall not

exceed ~~ninety~~ sixty~~(90)~~(60) working days per fiscal year. ~~shall require a certification from the attending medical doctor that the recipient of the leave needs additional time for medical treatment or recovery from a medical illness and is physically unable to return to work due to the medical illness. An additional ninety (90) working days may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the first ninety (90) day period. A final period of thirty (30) working days may be granted upon an additional certification from the attending medical doctor that additional time is needed for recovery.~~

(1) Employees of the government of Guam shall not transfer their unused annual leave and/or sick leave to another employee in exchange for any money, favors, or items of value. Employees who transfer or receive annual and/or sick leave in violation of this provision shall be guilty of official misconduct pursuant to Title 9 GCA §49.90.

(2) This provision shall apply to all government employees in the classified, appointed, elected, and unclassified positions, and all branches of the government of Guam, including line departments and agencies, autonomous agencies, public corporations, and all other government instrumentalities."

Section 8. Same: Reversion of Leave Sharing Program to Its Original Intended Purpose. §4109.5 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 9. Repeal of Teacher Personal Leave. §4110.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 10. Repeal of Lump Sum Payment of Annual Leave Prior to Taking Leave. §4111 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 11. Allowance for Use of Compensatory Time Accrued for Military Leave. §4119 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

§ 4119. Military Leaves of Absence: National Guard or Reserves.

All employees of the government of Guam who are members of the reserve components of the Department of Defense or Transportation, including, but not limited to, the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, shall be entitled to leaves of absence from their respective duties with the government of Guam without losses of time or efficiency ratings on all days during which they are engaged in active military duty ordered or authorized under the laws of United States. Such employees shall be entitled to military leave with pay while performing such duty not to exceed fifteen(15) working days per government of Guam fiscal year, and, to the extent not used in a fiscal year, accumulates in the succeeding year until it totals fifteen (15) days at the beginning of a fiscal year. Thereafter, the officers and employees shall elect annual leave, compensatory-time accrued, or leave without pay. The provisions of this Section shall be retroactive to October 01, ~~1994~~ 2012.

Section 12. Reversion of Overtime Compensation for Firefighters to Fair Labor Standards Act Regulations Relative to the 207(k) Exemption. §6219 of Chapter 6 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 6219. Firemen: Compensation: Annual and Sick Leave.**

(a) Notwithstanding any other law, rule, or regulation, firefighters within the Guam Fire Department, except the Fire Chief, shall be compensated at the regular hourly rate of pay consistent with all Fair Labor Standards Act (FLSA) regulations relative to the 207(k) exemption. ~~at one~~

~~hundred six (106) hours, and shall be compensated at one and one-half (1½) times the regular hourly rate for hours worked in excess of one hundred six (106) hours per pay period~~. Firefighters who are working administrative duty shall work eighty (80) hours per pay period at their regular rate of pay in the same manner as other government of Guam employees. ~~and at one and one-half (1½) times their regular hourly rate only in the event that they work in excess of one hundred six (106) hours in a pay period~~.

~~(b) All hours of work performed by firefighters during a legal holiday shall be compensated at double the regular hourly rate, irrespective of work shifts, provided, however, that work performed on such a holiday in excess of nine (9) hours shall be compensated at the regular hourly rate.~~

(c) Firefighters shall be charged no more than nine (9) hours annual leave or sick leave for any given day on which such leave is taken.

(d) All other laws, rules, regulations applicable to firefighters not consistent with this Section shall remain in full force and effect."

Section 13. Repeal of Incentive Pay for Firefighters. §6223 of Chapter 6 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

~~**§ 6223. Firefighters - EMT-A Duty.**~~

~~Notwithstanding any law to the contrary, a Firefighter in the Guam Fire Department who performs work as an Emergency Medical Technician-Ambulance (EMT-A) and is a certified EMT-A shall be entitled to differential pay calculated at the rate of his or her regular wage plus fifteen percent (15%) for all periods he or she is assigned as an EMT-A and is a certified EMT-A.~~

Section 14. Repeal of Triennial Review of Positions Requiring Certification. §6232 of Chapter 6 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

~~**§ 6232. [Untitled].**~~

~~The Director of Administration shall triennially review all positions requiring certification as either EMT-B, EMT-I, or an EMT-P and recommend salary adjustments based on such qualifications to be competitive with national salary schedules.~~

Section 15. Early Retirement Incentive Plan. A new section §8174 is added to Article 1 of Chapter 8 of Title 4 of the Guam Code Annotated to read:

"**§8174. Early Retirement Incentive Plan.** Notwithstanding any other provision of law or terms and conditions set by the Board of Trustees of the Government of Guam Retirement Fund (GGRF) pursuant to §8130 of Title *4* of the Guam Code Annotated, and for a period between the effective date of this Act and September 30, 2013, any active member of the Defined Benefits Plan of the Government of Guam Retirement Fund who has a minimum of twenty (20) years of creditable service may retire and receive the following additional benefits:

1. Actively employed members of the Defined Benefit Plan who would reach their full service requirement pursuant to Title 4 GCA, Chapter 8, §8120.1 are eligible to apply to purchase up to five (5) years of retirement credit.
2. Actively employed members of the Defined Benefit Plan who are eligible to participate *may* apply for this plan beginning October 1, 2012 until September 30, 2013.
3. Employees who are eligible *may* apply to their respective department / agency heads to participate in the program to purchase up to five (5) years of retirement credit. Department / agency heads will have approval authority based on assessments of their respective agencies' operations.

4. Eligible employees who are approved to participate in the program will have up to one year to train and transition institutional knowledge, policies, and procedures to other remaining staff to ensure continuity of services.
5. The member retiring shall suffer no penalty or diminishing of the amount of annuity to be received on account of the age of the member retiring upon the date of retiring.
6. No employee voluntarily purchasing early retirement credit shall be rehired by the government of Guam in any position, whether contractual or otherwise, for at least five (5) years from the effective date of retirement, except for those specifically determined by the Governor of Guam to be critical to the delivery of services. The Retirement Fund shall make all individuals who voluntarily apply for early retirement credit aware that their purchase of such credit shall be construed as a voluntary waiver of their right to re-employment or reinstatement.
7. Employees who are approved to participate in the program will have to pay, in full at the time of retirement, the remaining contributions that would have been paid to the GGRF should they have remained employed. Except however, employees may have up to five (5) years to pay for those contributions through execution of a promissory note with the GGRF. The term of any such promissory note shall not exceed five (5) years at an interest rate determined by the GGRF.
8. Employees who are approved and purchase additional years of service credit are entitled to the full application of such additional years of service immediately upon their retirement, regardless of when a promissory note is finalized between the Retirement Fund and the

retiree. Should the Retirement Fund be unable to have a promissory note effectuated simultaneously to the separation of the employee from government service or their retirement from the government of Guam, the Retirement Fund shall retroactively apply the annuity based on the additional years of service."

Section 16. Government Unfunded Liability extension of amortization period. §8137(b), Article 1, Chapter 8, Title 4 Guam Code Annotated, is hereby amended to read:

"(b) Government Unfunded, Liability Amortization Cost. An amount resulting from the application of a rate percent of total salaries of all members which will amortize the remaining liability for prior service over a period of ~~eighty~~ ninety (~~80~~ 90) years following May 1, 1951. From July 1, 1955, to August 30, 1972, the rate of contribution shall be not less than one and three hundred seventeen thousandths percent (1.317%) of the total salaries of the members participating in the Fund. From September 1, 1972, the rate of contributions shall be not less than one and four hundred and seven thousandths percent (1.407%) of the total salaries of the members participating in the Fund. From the beginning of the first full pay period following the beginning of the 1992 fiscal year, the rate of contribution shall be equal to thirteen and six hundred sixty-five thousandths percent (13.665%) of the total salaries of the members participating in the Fund. From October 1, 1993, the rate of contribution shall be equal to the Government Unfunded Liability Amortization Cost rate percent determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, subject to the approval by *I Liheslaturan Guåhan* by legislation. From March 1, 2003, until the next completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, the rate of contribution shall be eighteen percent (18%) of the total salaries of the members

participating in the Fund. Thereafter, the contribution shall be equal to the Government Unfunded Liability Amortization Cost rate percent prepared for the Board of Trustees by the actuary appointed by the Board, subject to approval by *I Liheslaturan Guåhan* by legislation, which will amortize the remaining liability for prior service for the full period authorized herein.

The amount of contributions by the Government shall be determined by applying the applicable percentage rate of contributions as hereinabove prescribed to the total salaries paid to the members during each payroll period, and all such amounts shall be paid into the Fund following the close of each payroll period, concurrently with the contributions made to the Fund by the members. For purposes of this Section, the term total salaries of members shall be interpreted to include Base Pay, as defined in 4 GCA, §8301(l), of members participating in the Government Defined Contribution System."

Section 17. This Act shall be effective upon enactment.

Section 18. Severability. *If* any provisions of this Act or its application to any person or circumstances 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 are severable.

I MINA' TRENTA UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 507-31(LS)
As Amended by the Committee

Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources

Introduced by:

At the request of the Governor

AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCAAND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Findings and Intent. The budget policies of Fiscal Years 2007 and 2008 ended a decade of deficit spending in the government of Guam. Calculations based on conservative methodology and forecasting of revenues were used based on the trending of *actual* revenue collections from Fiscal Years 2004, 2005, and 2006. Appropriations for operational expenditures, debt service payments, reserves for provision for tax refunds, as well as the 2% reserve on appropriations were collectively based on realistic revenue projections.

The austerity measures were initiated by this administration in order to address the General Fund deficit. By Fiscal Year 2007 the accumulated deficit (audited) amounted to $510.1 Million. The mounting deficit was mainly the result of years of optimistic revenue projections, previously "unrecorded" obligations

being recorded, and court orders adding to the amount the General Fund owed to several debtors and for various improvements ordered by the federal government. As had been the practice of the past, when actual revenues were not collected as adopted, the government prioritized the payment of operations and court orders by using funds that should have been set aside for the payment of the ensuing year's tax refunds. Additionally, payments to vendors for goods and services already received by this government as well as payments for other outstanding obligations were not being paid in a timely manner and in many cases, over one year. As a result, government over-expenditures were financed in part by the tax refunds due to tax filers. In order to pay tax refunds from prior years, it became necessary to seek alternate financing through issuance of municipal bonds.

The accumulated deficit was exacerbated by annual deficits created by the government's failure to project realistic revenues for each budget year. This was pointed out by Standard & Poor's in Fiscal Year 2007, when the ratings agency placed GovGuam on "Credit Watch" following the use of bridge financing to float operations at the Department of Education for payroll. This brought to light the burden such a huge and unmanageable accumulated deficit has on the ability of the Executive Branch to manage the cash flow of the government. It also brought to light that the government's habit of deficit spending was systemic. There was, in fact, a structural imbalance in the General Fund, where the deficit will continue growing so long as the expenditure level continuously outpaces actual revenue collections. This burden stopped growing at the end of Fiscal Year 2007, when actual revenue collections exceeded revenue projections. The savings from the difference along with the savings from the two-percent reserve helped to pay down the deficit.

The deficit was once again decelerated by the end of Fiscal Year 2008, when it became clear that actual revenue collections again met the projected levels.

A shift in power occurred in the legislature through Fiscal Year 2008. The chairman of the legislative finance committee had submitted a budget for Fiscal Year 2009; however, that budget was revised and replaced by the new legislative majority. Despite repeated foreshadowing and warnings from the legislative minority members of *I' Liheslaturan Guåhan* about the miscalculation of revenues in the revised Fiscal Year 2009 budget, the legislature passed the budget into law.

As a result, at the end of Fiscal Year 2009, deficit spending started again after two fiscal years when deficit spending ended. A cumulative deficit of $526.8 Million would have been recorded based on the deficiency between actual revenue collections and adopted revenue projections had it not been for a deficit financing bond within Fiscal Year 2009. We should note this bond did not figure into the balancing of the revised Fiscal Year 2009 budget.

The adopted revenues for FY 2010 were once again overstated and added$71 Million to the deficit by the end of Fiscal Year 2010. We should note that the deficit financing bond of 2009 brought the accumulated deficit from $415.5 Million at the end of FY 2008, down to $250.2Million at the end of FY 2009. Because of the deficit of Fiscal Year 2010, the accumulated deficit increased again to $321.3 Million.

Interestingly, in the FY 2011 Budget Bill, the legislature arbitrarily increased the FY 2010 provisions for tax refunds by $32.4 Million toward the end of Fiscal Year 2010 without a corresponding decrease to appropriations which will appear in the books that actual revenue collections did indeed shorten the gap between the adopted levels versus actual collections. Such initiative of offsetting the balance of the budget by crediting the provision for tax refunds against the operational revenues gave the impression of a pledge of more funds for tax refunds without any cash to back it up. The result was a huge liability of cash to debtors, especially those owed tax refunds. The outgoing administration relieved part of

that burden by using almost all of the cash remitted to the government of Guam by the U.S. Internal Revenue Service for the Make Work Pay Tax Credit, and all of the cash remitted by the U.S. Treasury for Section 30 reimbursements in the first quarter of Fiscal Year 2011 alone. Such funds, estimated at $20 Million, must be repaid to the IRS by January 2013.

These unprecedented financial maneuvers culminated when the issues were brought to light in the first week of the new administration, when it was found that millions of dollars in transactions of inter-fund borrowings were occurring to cover cash shortfall, and that the government was operating without a cash flow model and projection system.

The new administration further found that several departments had underreported millions in past-due obligations, and that by January 2013; a portion of what was spent from the Make Work Pay Tax Credit would have to be paid back to the U.S. IRS. To make matters worse, the compounded cash shortfall by that time was at $2.7 Million and growing because of the deficient budgetary policies that went unchecked.

By the end of Fiscal Year 2011, actual revenue collections were below the adopted revenues by $17.3 Million; and, because of unbudgeted expenditures to include the payments for the Permanent Injunction and the accumulation of unbudgeted income tax refund interest payables, the accumulated deficit grew to $368.2 Million. However, primarily due to the offset of ARRA funds, this deficit level is reduced to $303.1 Million.

To stop the hemorrhaging of the General Fund, the Governor immediately suspended the Hay Study pay increases. He implemented a series of austerity measures, froze increments, and won passage of part of his deficit-financing plan, which placed the fiscal debt of tax refunds owed to taxpayers on the backs of the bank, and *not* the people.

As a result of these fiscal policies and communication with the legislature and the public, the administration was able to jump-start the weekly payment of tax refunds that had ended in the month prior to the new administration taking office. More obligations were being paid from the cash savings as well. The financing of part of the accumulated deficit through two series of a bond for tax refunds, overdue COLA judgment obligations, debt to the Retirement Fund, and health insurance obligations, the accumulated deficit is expected to decrease by $318.3 Million.

Fiscal solutions that were initiated beginning in January, 2011, were meant to address the accumulated deficit, stop runaway and unchecked spending in the government, and begin to address the root of the problem, the structural imbalance of the General Fund. However, these measures in and of themselves would not suffice as resolution to the structurally imbalanced financial practices of the past and the cumulative impact it has had on how the government manages its financial challenges.

As a result of this structural imbalance and the constant inability of the government to afford its several obligations, the government has not been in a stable position to, at the very least:

a. Pay tax refunds on time
b. Pay vendors for services and resources provided as well as other outstanding obligations
c. Supply students and teachers with learning and teaching materials
d. Purchase school buses
e. Provide adequate police vehicles to the Guam Police Department
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i. Implement the Hay Study pay raises to adequately compensate the GovGuam workforce

j. Provide the remaining 20 percent increase to base pay for public safety officers to bring the officers closer to market

This is not the correct way to finance government operations. The people contribute enough of their tax dollars for their leaders to implement an efficient system of services. Such efficiency can occur when government leaders truly prioritize the spending of tax dollars. The first step in this action to prioritize is to remove the structural imbalance so that operational expenditures truly meet realistic revenue thresholds each year, with sufficient funding to pay down the deficit.

To balance the structure of the General Fund, this government must reduce its structural (yearly) expenditures. Such reductions are found by reducing the size of the GovGuam workforce and the amount spent yearly to fund certain benefits. Moreover, this government must realize annual savings in the General Fund, which can be reinvested into priority areas and for deficit elimination. This can be accomplished by amortizing the yearly debt to the Unfunded Liability of the Retirement Fund to fully pay down by the year 2041, a 10-year extension.

Section 2. Short Title. This act shall be known, hereinafter, as the Omnibus Fiscal Reform Act of 2012.

Section 3. Clarification of Maternity Leave. §4107 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

§ 4107. Maternity Leave.

~~Maternity~~ Administrative leave, pursuant to the Department of Administration Personnel Rules and Regulations, shall be granted to ~~a~~ all

female employees ~~occupying a permanent position~~ who ~~is~~ are absent from work as a result of childbirth or adoption of a child(ren) five (5) years old or younger. Such maternity leave shall not exceed twenty (20) days, encompassing the date of childbirth or adoption. Any additional leave taken for such childbirth or adoption purpose ~~may~~ *shall* be charged against accumulated sick and/or annual leave to include compensatory time, or may be unpaid leave / leave without pay, at the option of the employee. Total leave, whether maternity, annual leave to include compensatory time, sick or unpaid leave / leave without pay, shall not exceed six (6) months. ~~without approval of the employee's supervisor.~~

Section 4. Reversion of Paternity Leave to Industry Standard. §4107.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4107.1. Paternity Leave.**

~~Paternity~~ Administrative leave, pursuant to the Department of Administration Personnel Rules and Regulations, shall be granted to all male employees ~~occupying a permanent position~~ upon the birth or adoption of his child(ren). Such paternity leave shall not exceed ten (10) days, encompassing the date of childbirth or adoption of a child(ren) five (5) years old or younger. Any ~~additional~~ leave taken for such purpose ~~may~~ *shall* be charged against accumulated annual and sick leave to include compensatory time, or may be unpaid leave / leave without pay, at the option of the employee. Total leave, whether paternity, annual leave to include compensatory time, sick or unpaid leave / leave without pay shall not exceed ~~six~~ three~~(6)~~(3) months. ~~without approval of the employee's supervisor~~."

Section 5. Elimination of Annual Leave Lump Sum Cash Out Payment Policy; Implementation of 'Use It or Lose It' Policy. §4109 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4109. Annual Leave.**

(a) Annual leave shall be granted to employees occupying permanent positions, except personnel of the Department of Education, the Guam Community College or the University of Guam, who are employed on a school year basis, and judges and justices of the Judiciary of Guam who are not members of the defined benefits retirement plan of the government of Guam, in accordance with the following schedule:

(1) One-half day (4 hours) for each full bi-weekly pay period in the case of employees with less than five (5) years of service;

(2) Three-fourths day (6 hours) for each bi-weekly pay period in the case of employees with five (5) years of service but less than fifteen (15) years of service.

(3) One (1) day (8 hours) for each full biweekly pay period in the case of employees with fifteen (15) years or more service.

For purposes of this Subsection (a), all elected officials except members of the Guam Education Policy Board, and the Consolidated Commission on Utilities shall be deemed employees occupying permanent positions.

(b) The term years of service shall be deemed to include service with the Naval Government of Guam or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three (3) years of service shall be credited to any individual for purposes of this Section. Years of service shall include one (1) year for each year served as a school employee.

The provisions of this Subsection shall not apply to those employees of the government of Guam hired prior to the date of enactment of this Act,

except that any current employee of the government who has been in the employ of the government for less than three (3) years on the date of enactment and is a former member of the Armed Forces of the United States and is receiving a retirement annuity or pension as result of such military service shall be deemed to have three (3) years of service with the government at the date of enactment of this Subsection for the purposes of accruing annual leave.

(c) Employees entitled to annual leave hereunder may accumulate up to three hundred twenty (320) hours. Any annual leave earned by eligible employees in excess of three hundred twenty (320) hours shall be credited to such employee's accumulated sick leave, provided, that no more than one hundred (100) hours shall be credited to sick leave at the end of each fiscal year. The determination of accumulation of annual leave, and crediting of excess hours sick leave, shall be done at the end of each fiscal year. Notwithstanding the provision of this Section, employees who have accumulated annual leave in excess of three hundred twenty (320) hours as of ~~February 28, 2003~~ October 1, 2012, may carry over their excess and shall use the excess amount of leave by the first pay period following September 30, 2014~~, prior to retirement or termination from service. At the time of retirement or termination of service, that~~. That portion permitted to be credited to sick leave shall be so credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave for any employee, except one who retires. The allowance for lump sum compensation or retirement credit for those employees retiring shall not exceed ~~in excess of~~ three hundred twenty (320) hours.

(d) [Repealed.]

~~(e) Any employee who transfers from one branch of the government of Guam to another, or from one department, agency, instrumentality or corporation of the government of Guam to another department, agency, instrumentality or corporation at his option may accept the cash value of his earned leave at the time of transfer or transfer his accumulated leave to his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and reemployment.~~

(f) Any employee of the government of Guam who shall transfer from one government of Guam department or agency to the Guam Housing and Urban Renewal (GHURA) shall be credited with all prior creditable service to the government of Guam in computing annual leave. This subsection shall be applicable to all former employees of GHURA who shall make specific application for such credit within six (6) months after the date of enactment hereof.

(g) Any employee of the government of Guam who is a participating athlete or coach or administrator in an athletic contingent, recognized by the Guam National Olympic Committee ('GNOC'), representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the GNOC, shall be granted leave by his or her respective department director or appointing authority for the time it takes to complete both competition and any necessary travel, not to exceed fifteen (15) working days; provided, that his or her accumulated annual leave or compensatory time off ('CTO') is charged with the number of hours he or she is absent from duty, and further provided, that the employee requests such leave in writing thirty (30) calendar days prior to the first day of leave. If said employee has exhausted his or her annual leave, or chooses

not to use such, he or she shall be granted leave without pay. Under no circumstances shall any employee of the government of Guam be granted said leave for competition more than three (3) times in one (1) calendar year under this Subsection.

(h) Any employee of the government of Guam who has been qualified as a donor for medical purposes and has received notice that the employee has been determined to be a match shall be granted leave with pay by his or her respective department director or appointing authority for the time it takes to complete the medical procedure involved, not to exceed ten (10) working days."

Section 6. Repeal of Accrued Leave Pay Out. §4109.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 7. Reversion of Leave Sharing Program to Its Original Intended Purpose. §4109.2 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4109.2. Leave Sharing Program.**

(a) Legislative Statement. From time to time, classified employees in the civil service of the government of Guam have occasion to need leave for medical reasons, but may have already exhausted the leave that they have earned and accrued. ~~At times like these, particularly when the employee needs time off to take care of sick family members or in the case of the military reserves and National Guard members, being called to active duty in excess of fifteen (15) working days, the employee might be forced to take leave without pay. Through the generosity of the other employees, the affected employees could be relieved of the stress of this situation.~~

(b) Voluntary Transfer of Sick Leave or Annual Leave. If a government of Guam employee desires to transfer a number of hours of

earned sick leave and/or annual leave to another employee in any department or agency of the government, the recipient must first exhaust all his/her accrued annual and sick leave and compensatory time for the purposes of a medical emergency or medically related ~~or for personal~~ reasons. Leave transferred from donors whose hourly rates of pay or salaries are lower than the recipient shall be paid at the hourly rate or salary of the donor. Leave transferred from donors whose hourly rates of pay or salaries are higher than the recipient, shall be paid at the hourly rate or salary of the recipient. A formal written request shall be made by the donor employee to that person's payroll supervisor, stating the name of the recipient, the number of hours of leave to be transferred and the type of leave. No transfer may be made by any employee to that person's supervisor, or to any person above that employee in the supervisory chain, or to a member of the supervisor's or such supervisory person's immediate family. If the donor has sufficient hours of leave accrued to cover the donation, the payroll supervisor shall notify the Payroll Division to transfer the approved number of hours to the recipient. Upon receipt of the notice of transfer, the receiving employee may then submit a leave request for the number of hours of leave, sick and/or annual, that the employee needs and the department head ~~shall~~ may ~~then~~ approve the leave request. Leave may not be transferred to another employee if as a recipient that employee intends to use it for credit towards retirement or accumulated leave. This transfer of leave shall be strictly on a voluntary basis. Leave transferred shall be used as leave by the person to whom it is transferred, and if it is not used in its entirety, it may be re-transferred to the person who originally earned it. In no event shall transferred leave be converted to cash or retirement credit by the person to whom it is transferred. Participation in the leave sharing program shall not

exceed ~~ninety~~ sixty~~(90)~~(60) working days per fiscal year. ~~shall require a certification from the attending medical doctor that the recipient of the leave needs additional time for medical treatment or recovery from a medical illness and is physically unable to return to work due to the medical illness. An additional ninety (90) working days may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the first ninety (90) day period. A final period of thirty (30) working days may be granted upon an additional certification from the attending medical doctor that additional time is needed for recovery.~~

(1) Employees of the government of Guam shall not transfer their unused annual leave and/or sick leave to another employee in exchange for any money, favors, or items of value. Employees who transfer or receive annual and/or sick leave in violation of this provision shall be guilty of official misconduct pursuant to Title 9 GCA §49.90.

(2) This provision shall apply to all government employees in the classified, appointed, elected, and unclassified positions, and all branches of the government of Guam, including line departments and agencies, autonomous agencies, public corporations, and all other government instrumentalities."

Section 8. Same: Reversion of Leave Sharing Program to Its Original Intended Purpose. §4109.5 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 9. Repeal of Teacher Personal Leave. §4110.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 10. Repeal of Lump Sum Payment of Annual Leave Prior to Taking Leave. §4111 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 11. Allowance for Use of Compensatory Time Accrued for Military Leave. §4119 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

§ 4119. Military Leaves of Absence: National Guard or Reserves.

All employees of the government of Guam who are members of the reserve components of the Department of Defense or Transportation, including, but not limited to, the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, shall be entitled to leaves of absence from their respective duties with the government of Guam without losses of time or efficiency ratings on all days during which they are engaged in active military duty ordered or authorized under the laws of United States. Such employees shall be entitled to military leave with pay while performing such duty not to exceed fifteen(15) working days per government of Guam fiscal year, and, to the extent not used in a fiscal year, accumulates in the succeeding year until it totals fifteen (15) days at the beginning of a fiscal year. Thereafter, the officers and employees shall elect annual leave, compensatory-time accrued, or leave without pay. The provisions of this Section shall be retroactive to October 01, ~~1994~~ 2012.

Section 12. Reversion of Overtime Compensation for Firefighters to Fair Labor Standards Act Regulations Relative to the 207(k) Exemption. §6219 of Chapter 6 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 6219. Firemen: Compensation: Annual and Sick Leave.**

(a) Notwithstanding any other law, rule, or regulation, firefighters within the Guam Fire Department, except the Fire Chief, shall be compensated at the regular hourly rate of pay ~~consistent with all Fair Labor Standards Act (FLSA) regulations relative to the 207(k) exemption.~~ at one

hundred six (106) hours, and shall be compensated at one and one-half (1½) times the regular hourly rate for hours worked in excess of one hundred six (106) hours per pay period. Firefighters who are working administrative duty shall work eighty (80) hours per pay period at their regular rate of pay in the same manner as other government of Guam employees and at one and one-half (1½) times their regular hourly rate only in the event that they work in excess of one hundred six (106) hours in a pay period.

(b) All hours of work performed by firefighters during a legal holiday shall be compensated at double the regular hourly rate, irrespective of work shifts, provided, however, that work performed on such a holiday in excess of nine (9) hours shall be compensated at the regular hourly rate.

(c) Firefighters shall be charged no more than nine (9) hours annual leave or sick leave for any given day on which such leave is taken.

(d) All other laws, rules, regulations applicable to firefighters not consistent with this Section shall remain in full force and effect."

Section 13. Repeal of Incentive Pay for Firefighters. §6223 of Chapter 6 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

§ 6223. Firefighters - EMT-A Duty.

Notwithstanding any law to the contrary, a Firefighter in the Guam Fire Department who performs work as an Emergency Medical Technician-Ambulance (EMT-A) and is a certified EMT-A shall be entitled to differential pay calculated at the rate of his or her regular wage plus fifteen percent (15%) for all periods he or she is assigned as an EMT-A and is a certified EMT-A.

Section 14. Repeal of Triennial Review of Positions Requiring Certification. §6232 of Chapter 6 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

§ 6232. [Untitled].

The Director of Administration shall triennially review all positions requiring certification as either EMT-B, EMT-I, or an EMT-P and recommend salary adjustments based on such qualifications to be competitive with national salary schedules.

Section 15. Early Retirement Incentive Plan. A new section §8174 is added to Article 1 of Chapter 8 of Title 4 of the Guam Code Annotated to read:

"**§8174. Early Retirement Incentive Plan.** Notwithstanding any other provision of law or terms and conditions set by the Board of Trustees of the Government of Guam Retirement Fund (GGRF) pursuant to §8130 of Title *4* of the Guam Code Annotated, and for a period between the effective date of this Act and September 30, 2013, any active member of the Defined Benefits Plan of the Government of Guam Retirement Fund who has a minimum of twenty (20) years of creditable service may retire and receive the following additional benefits:

1. Actively employed members of the Defined Benefit Plan who would reach their full service requirement pursuant to Title 4 GCA, Chapter 8, §8120.1 are eligible to apply to purchase up to five (5) years of retirement credit.
2. Actively employed members of the Defined Benefit Plan who are eligible to participate *may* apply for this plan beginning October 1, 2012 until September 30, 2013.
3. Employees who are eligible *may* apply to their respective department / agency heads to participate in the program to purchase up to five (5) years of retirement credit. Department / agency heads will have approval authority based on assessments of their respective agencies' operations.

4. Eligible employees who are approved to participate in the program will have up to one year to train and transition institutional knowledge, policies, and procedures to other remaining staff to ensure continuity of services.
5. The member retiring shall suffer no penalty or diminishing of the amount of annuity to be received on account of the age of the member retiring upon the date of retiring.
6. No employee voluntarily purchasing early retirement credit shall be rehired by the government of Guam in any position, whether contractual or otherwise, for at least five (5) years from the effective date of retirement, except for those specifically determined by the Governor of Guam to be critical to the delivery of services. The Retirement Fund shall make all individuals who voluntarily apply for early retirement credit aware that their purchase of such credit shall be construed as a voluntary waiver of their right to re-employment or reinstatement.
7. Employees who are approved to participate in the program will have to pay, in full at the time of retirement, the remaining contributions that would have been paid to the GGRF should they have remained employed. Except however, employees may have up to five (5) years to pay for those contributions through execution of a promissory note with the GGRF. The term of any such promissory note shall not exceed five (5) years at an interest rate determined by the GGRF.
8. Employees who are approved and purchase additional years of service credit are entitled to the full application of such additional years of service immediately upon their retirement, regardless of when a promissory note is finalized between the Retirement Fund and the

retiree. Should the Retirement Fund be unable to have a promissory note effectuated simultaneously to the separation of the employee from government service or their retirement from the government of Guam, the Retirement Fund shall retroactively apply the annuity based on the additional years of service."

Section 16. Government Unfunded Liability extension of amortization period. §8137(b), Article 1, Chapter 8, Title 4 Guam Code Annotated, is hereby amended to read:

"(b) Government Unfunded, Liability Amortization Cost. An amount resulting from the application of a rate percent of total salaries of all members which will amortize the remaining liability for prior service over a period of ~~eighty~~ ninety (~~80~~ 90) years following May 1, 1951. From July 1, 1955, to August 30, 1972, the rate of contribution shall be not less than one and three hundred seventeen thousandths percent (1.317%) of the total salaries of the members participating in the Fund. From September 1, 1972, the rate of contributions shall be not less than one and four hundred and seven thousandths percent (1.407%) of the total salaries of the members participating in the Fund. From the beginning of the first full pay period following the beginning of the 1992 fiscal year, the rate of contribution shall be equal to thirteen and six hundred sixty-five thousandths percent (13.665%) of the total salaries of the members participating in the Fund. From October 1, 1993, the rate of contribution shall be equal to the Government Unfunded Liability Amortization Cost rate percent determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, subject to the approval by *I Liheslaturan Guåhan* by legislation. From March 1, 2003, until the next completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, the rate of contribution shall be eighteen percent (18%) of the total salaries of the members

participating in the Fund. Thereafter, the contribution shall be equal to the Government Unfunded Liability Amortization Cost rate percent prepared for the Board of Trustees by the actuary appointed by the Board, subject to approval by *I Liheslaturan Guåhan* by legislation, which will amortize the remaining liability for prior service for the full period authorized herein.

The amount of contributions by the Government shall be determined by applying the applicable percentage rate of contributions as hereinabove prescribed to the total salaries paid to the members during each payroll period, and all such amounts shall be paid into the Fund following the close of each payroll period, concurrently with the contributions made to the Fund by the members. For purposes of this Section, the term total salaries of members shall be interpreted to include Base Pay, as defined in 4 GCA, §8301(l), of members participating in the Government Defined Contribution System."

Section 17. This Act shall be effective upon enactment.

Section 18. Severability. *If* any provisions of this Act or its application to any person or circumstances 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 are severable.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting.
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PUBLIC HEARING SIGN-IN SHEET

Tuesday, September 18, 2012
I Liheslatura • Public Hearing Room • Hagåtña, Guam

Public Hearing on Bill No. 507-31 (LS)

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
Joey San Nicolas	GFD			✓	688-6533	joey.c.sannicolas@gfd.guam.gov
Jessica Cruz	GFD					
Gerard Terlaje	GFD	Oppose		✓		gerardterlaje@yahoo.com
JOHN D. SANTOS	GFD			✓		

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement,
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Tuesday, September 18, 2012
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Public Hearing on Bill No. 507-31 (LS)

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
ED Mandoña						

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement,
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PUBLIC HEARING SIGN-IN SHEET

Monday, September 24, 2012
I Liheslatura • Public Hearing Room • Hagåtña, Guam

Public Hearing on Bill No. 507-31 (LS)

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
MARK G. Calvo	Office of the Governor	Support	- No -	Yes	686-1429	mark.calvo@guam.gov

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
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PUBLIC HEARING SIGN-IN SHEET

Tuesday, September 25, 2012
I Liheslatura • Public Hearing Room • Hagåtña, Guam

Public Hearing on Bill No. 507-31 (LS)

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
Joe T. San Agustin	GGRF	OPPOSE	✓			
Rich Wright	Milliman	OPPOSE	✓			
Maggie Ralbovsky	Wilshire	Oppose	✓			
VINCE CAMACHO	CARLSMITH	Oppose	✓			
Gerry Cruz	GGRF					
PAULA BLAS	GGRF	OPPOSE	✓			

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
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PUBLIC HEARING SIGN-IN SHEET

Wednesday, September 26, 2012
I Liheslatura • Public Hearing Room • Hagåtña, Guam

Public Hearing on Bill No. 507-31 (LS)

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
Jennifer Berry	GDOE	oppose			483-6161	jberry2466@gmail.com
Lisa M. Mosher	GWHS/GDOE	Oppose/loss of priv. leave			483-6442	jlm2_927@yahoo.com
Vince Leon Guerrero	Gov's Office	Support		✓	688-3041	vincent.leonguerrero@guam.gov

COMMITTEE ON RULES

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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

Certification of Waiver of Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **Bill No. 507-31 (LS) – "AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCAAND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA."** – on August 31, 2012. COR hereby certifies that BBMR confirmed receipt of this request on August 31, 2012.

COR further certifies that a response to this request was not received by 5:00 P.M. on September 20, 2012, the fourteenth day after the request was received by BBMR. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 507 to be included in the committee report on said bill, is hereby waived.**

Certified by:

Rory J. Respicio

Senator Rory J. Respicio
Chairperson, Committee on Rules

NOV 19 2012

Date

COMMITTEE ON RULES

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CHAIRPERSON
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MAJORITY
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Senator
vicente c. pangelinan

MINORITY
MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

August 31, 2012

VIA FACSIMILE
(671) 472-2825

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

2012 AUG 31 AM 11:31

RE: Request for Fiscal Note –
Bill No. 507-31 (LS)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Unu 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,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

MESSAGE CONFIRMATION

AUG-31-2012 10:36 AM FRI

FAX NUMBER : 4772240
NAME : GNF

NAME/NUMBER : 4722825
PAGE : 2
START TIME : AUG-31-2012 10:36AM FRI
ELAPSED TIME : 00'22"
MODE : STD ECM
RESULTS : [O.K]

COMMITTEE ON RULES
I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • *www.guamlegislature.com*
E-mail: *ruryjrespicio@gmail.com* • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

MAJORITY MEMBERS:

Speaker
Judith T. Won Pat

Vice Speaker
Benjamin J. F. Cruz

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

August 31, 2012

VIA FACSIMILE
(671) 472-2825

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

RE: Request for Fiscal Note – Bill No. 507-31 (LS)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Unu 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,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

Rec'd by. Analyn
date. 8/31/12
time. 11:23AM

Bill Nos.	Sponsor	Title	Date Introduced	Date Referred	120 Day Deadline	Cmte Referred
507-31 (LS)	Committee on Rules, Natural Resources, and Federal, Foreign & Micronesian Affairs at the request of *I Maga'Lahen Guahan*, in accordance with the Organic Act of Guam	AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCAAND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA.	08/21/12 4:39 p.m.	**8/22/12**		Committee on Youth, Cultural Affairs, Procurement, General Governmental Operations and Public Broadcasting

COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st 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

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vicente c. pangelinan

MINORITY MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

August 22, 2012

MEMORANDUM

To: **Pat Santos**
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. 507-31 (LS)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 507-31 (LS).

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 Unu na Liheslaturan Guåhan.*

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

Si Yu'os Ma'åse!

(1) Attachment

I Mina'Trentai Unu Na Liheslaturan Guahan

Bill Log Sheet

BILL NOS.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
507-31 (LS)	Committee on Rules, Natural Resources, and Federal, Foreign & Micronesian Affairs at the request of *I Maga'Lahen Guahan*, in accordance with the Organic Act of Guam	AN ACT TO AMEND §4107, §4107.1, §4109,§4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCA AND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA.	08/21/12 4:39 p.m.	8/22/2012		Committee on Youth, Cultural Affairs, Procurement, General Governmental Operations and Public Broadcasting			

Gmail by Google

Mike Lidia <mike.lidia@senatorbjcruz.com>

Fwd: Governor Calvo's Proposal to Raid the Retirement Fund

1 message

BJ Cruz <senadotbjcruz@aol.com> Thu, Sep 27, 2012 at 1:42 PM
To: Mike Lidia <mike.lidia@senatorbjcruz.com>, Carlos Pangelinan <carlos.pangelinan@senatorbjcruz.com>, Chris Carillo <chris.carillo@senatorbjcruz.com>, Carlo Branch <carlo.branch@senatorbjcruz.com>

Include in committee report
Sent from Bj Cruz

Begin forwarded message:

> **From:** Juan Fernandez <juanq.fernandez@gmail.com>
> **Date:** September 27, 2012 1:01:27 PM GMT+10:00
> **To:** speaker@judiwonpat.com, senadotbjcruz@aol.com, tinamunabarnes@gmail.com, roryforguam@gmail.com, office@senatorada.org, judiguthertz@gmail.com, senabpalacios@gmail.com, senbenp@guam.net, senatordrodriguez@gmail.com, frankblasjr@gmail.com, aline4families@gmail.com, senatortonyada@guamlegislature.org, duenasenator@gmail.com, senatormana@gmail.com, info@senatormabini.com
> **Subject: Governor Calvo's Proposal to Raid the Retirement Fund**
>
> We are GovGuam retirees and, as such, we would like to weigh in on the governor's proposal to raid the retirement fund to fulfill his need to pay up tax refunds. We urge you to represent us well in discussions regarding this issue and take the recommendations of the retirement fund advisors and consultants over that of Mr. Arthur Clark. We trust the assessments of the retirement fund administrators and consultants more than those of Calvo's advisors. Please look out for our interest as retirees and do everything possible to resist any move the governor takes to bankrupt the retirement fund.
>
> Here's a couple of ways to begin cutting spending in the government:
>
> 1. Mr. Calvo should reduce the number and salaries of his unclassified staff especially those who do not have college degrees and who are earning salaries over $40,000.
>
> 2. Cut unnecessary off-island travel .
>
> 3. Give up annual leave payments for senators.
>
> Juan and Gloria Fernandez

Gmail by Google

Mike Lidia <mike.lidia@senatorbjcruz.com>

Fwd: Personal leave amendment

1 message

BJ Cruz <senator@senatorbjcruz.com> Fri, Sep 28, 2012 at 6:32 PM
To: Mike Lidia <mike.lidia@senatorbjcruz.com>

Sent from my iPhone

Begin forwarded message:

> **From:** Kirk Drygas <mistakrik@yahoo.com>
> **Date:** September 28, 2012 5:14:35 PM GMT+10:00
> **To:** "senator@senatorbjcruz.com" <senator@senatorbjcruz.com>
> **Subject: Personal leave amendment**
>
> No. Do not change the existing language that would result in teachers waiting 4 months for no more than 3 Personal Leave days pay (all we are allowed/allotted). Unused Personal Leave should continue to be paid at the end of the school year. Status quo.
>
> Kirk Drygas
> Teacher Mentor
> Guam DOE
>
> Sent from my Super Magical iPad

Gmail by Google

Mike Lidia <mike.lidia@senatorbjcruz.com>

Fwd: Early Retirement Testimony

1 message

BJ Cruz <senadotbjcruz@gmail.com> Tue, Oct 9, 2012 at 9:41 AM
To: Mike Lidia <mike.lidia@senatorbjcruz.com>

Additional testimony

Sent from my iPhone

Begin forwarded message:

> **From:** Lisa Villanueva <vpagobay@hotmail.com>
> **Date:** October 9, 2012, 3:48:43 AM GMT+10:00
> **To:** senadotbjcruz@gmail.com
> **Cc:** roryforguam@gmail.com, senbenp@guam.net
> **Subject: Early Retirement Testimony**
>
> Dear Mr. Vice Speaker,
>
> I would like this letter to serve as a written testimony in favor of a 'new early retirement plan'. I may be one of the few, if not the only , to provide such a testimony according to the media. However; I have spoken to many GovGuam employees who are willing to take an early retirement if a new plan is drawn up and doesn't put anyone on public assistance. Many of us are your 'top heavy' employees earning over $60,000 a year. We are willing to leave the government to avoid massive layoffs. As I have spoken to these friends and colleagues , many wonder why the town meetings held by the governor are not going to be added to your notes on this issue to reflect that there are others in favor of passing 'a new early retirement plan'.
>
> In closing, when the news circulates on the loss to the retirement fund if 'a new early retirement ' goes through, please provide us with the repercussions to the general fund if it doesn't . Also, have the legislature work with the administration to provide the number of layoffs that may need to occur should this not pass or how it would devastate the general fund. I agree that the government needs to be realigned and maybe even downsized. But through furloughs? Please help your people and remember who put you in office.
>
> Sincerely ,
> Lisa Gogue Villanueva
>
> Lisa G. Villanueva

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam



September 17, 2012

To the firefighters of the Guam Fire Department:

Hafa Adai!

As you know, I am proposing a number of spending cuts so the government can responsibly serve its people, just as you do. Years of bad budgets have resulted in money that was supposed to be used for tax refunds being used to fund operations. In order to end this unfair and immoral practice, this government needs to cut spending more than we already have.

After forums in all of our villages, and many meetings with financial experts, I transmitted a bill to our senators for action. If enacted, this will cut up to $72 million to ensure this government is finally operating responsibly with your tax dollars. I sincerely wish this didn't need to happen, but the alternatives, including furloughs and layoffs, are much worse for our families and our economy than the cuts outlined in this bill.

Fortunately, thanks to the leadership of Fire Chief Joey San Nicolas and Senator Mana Silva Taijeron, the cut that would specifically affect the Guam Fire Department **will no longer be considered.** Senator Silva Taijeron identified an alternative spending cut and already fit this proposal into the fiscal year 2013 budget. She will be making the corresponding motion to amend the spending cuts bill as well. As I have stated publicly for months, my administration is open to alternative cuts should our leaders want to change or replace the provisions outlined in the bill.

I want to thank the Fire Chief and Senator Silva Taijeron for believing in the spirit of cooperative and collaborative leadership. They both came to me with solutions in defense of your livelihood while understanding the limited options we have. Please know any scare tactics being brought to you about an attack on your pay are at its best outdated, and at its worst, a concerted effort to unnecessarily worry you and your families.

Every day you show just how dedicated you are to serving and protecting our island and our families. Thank you for never wavering in your commitment to our people.

Sincerely,

EDDIE BAZA CALVO

Ricardo J. Bordallo Governor's Complex • Adelup, Guam 96910
Tel: (671) 472-8931/6 • Fax: (671) 477-4826 • www.governor.guam.gov

The Honorable Benjamin JF. Cruz
Vice-Speaker
31st Guam Legislature
Chairman of the Committee on Youth, Cultural
Affairs, Procurement, General Governmental
Operations and Public Broadcasting
155 Hesler Street
Hagatna, Guam 96910

Re: Bill 507

Dear Senator Cruz:

My name is Robert H. Kono and I am writing this in my personal capacity. I have been following the issue of early retirement that is in bill 507 with great interest and I understand the concerns raised by the Government of Guam Retirement Fund and the Administration. While I am not an expert in the financial issues that are being raised, I believe that I would like to offer an alternative for your consideration:

The Governor has indicated that there is a severe shortfall that will occur if cuts are not made tot the budget. While he and the legislature have taken the idea of a furlough off the table, it does not change the fact that the governor in an attempt to reduce the budget, may issue notices of a reduction in force. If this happens, the consequence will be more dire for some employees than a furlough for all government employees. The cost to the government, while looking at the direct cost may go down, the indirect costs, food stamp, housing, etc, while federal funded, does not cover what the government will ultimately wind up spending. Furthermore, the Government of Guam Retirement Fund will also suffer dire consequences. Currently, as the Senator is aware, the government contribution rate for those in the Direct Contribution as well as the Direct Benefit is the same rate. The difference that the Direct Benefit that is provided for is used to pay the unfunded liability. A shortage of new employees will have a severe adverse affect in bringing down the unfunded liability portion of the Retirement Fund. Therefore, the early out must be successful in helping reach an achievable goal.

If the option suggested by the government is not enough to reduce the cost, I propose that the following be added to any agreed initial agreement on early out:

Section 2: Intent: If after 6 months, the Retirement Fund reports back to the Legislature that the participation rate was less than 600 employees, then the following provision will be allowed to become into law: OR If after 6 months the Governor reports back that the savings that was anticipated was below the anticipated goal, then the following provision are implemented:

A second round of early retirement is authorized.

Current government of Guam employees who have more than twenty five years of service is authorized to purchase five years of service time without restrictions. The employee who takes advantage of this program will pay the employee's share in full. The government will also pay their portion in full. If an employee who wishes to take advantage of this program is unable to pay in full, they will be authorized to participate if they agree to pay their portion to the Retirement Fund in no less than in 5 years with a seven percent interest. They will not be paid at the rate of the current retirement basis until the full payment is made. The government will pay the same amount as the employee pays ie that if the employee pays in full, the government will pay in full, if the employee pays over time, then the government will pay their amount over the same time period. The employees increment that was withheld shall be release as indicated in the AG"s opinion.

Employees must inform the retirement fund of their decision and must retire by September 30, 2013.

The Governor's request for an extension of the amortization for three years is redefined as follows: The amortization for the first year shall be reduced by 75 percent, the second year 50 percent and the third year by 25 percent. On the fourth year, the amortization will reflect 2011's rate and the fifth year shall reflect the rate of 2012. I believe that with the reduction in force, the cost to the retirement fund for the remaining employees will then not have to be as severe as they indicate.

Further, in an attempt to forgo any challenge by the Retirement Fund as to this legislation, a statement must be in the legislation which states the following:

The Legislature recognizes that the Government of Guam Retirement Fund has acted in due diligence and responsibility in attempting to implement an early retirement by testifying and submitting their suggestions. Therefore they have no authority to bring suit for failing to meet their fiduciary responsibility upon this enactment.

Thank you for the opportunity to comment on this issue.

ROBERT H. KONO

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

I Gobietnon Guahan
CIVIL SERVICE COMMISSION
KUMISION I SETBISION SIBIT
Suite 6A Phase II Complex
777 Route 4, Sinajana, Guam 96910
P.O. Box 2950 Hagatna, Guahan 96932
Tel: (671) 647-1855

Alberto 'Tony' Lamorena V
Director

September 17, 2012

CSC No. 2012-39

September 18, 2012

Office of the Vice Speaker
Benjamin JF Cruz
Rcd. By _____ Date 9/19/12

VIA FACSIMILE: (671) 477-2522

Honorable Benjamin J.F. Cruz
Vice Speaker
31st Guam Legislature
Chair, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting
155 Hessler St., Ste. 107
Hagåtña, Guam 96910

RE: Bill 507-31

Hafa Adai Vice-Speaker Benjamin J. F. Cruz,

Thank you again for the opportunity to discuss Bill 507-31 entitled the "Omnibus Fiscal Reform Action of 2012." Last night I indicated that I needed to confirm, after review, leave available under the Family Medical Leave Act ("FMLA"). Please note that the FMLA provides employees with up to twelve (12) weeks (not twelve months) of leave (which may be unpaid) for the birth and care of a newborn.

Additionally, you asked for information related to maternity and paternity leave for federal employees. Please find enclosed a summary of childbirth leave policies for federal employees from the Office of Personnel Management's website. In the federal government, employees who take leave for the birth and care of a child have that leave charged against annual and/or sick leave.

Si Yu'us Ma'ase,

Alberto A. "Tony" Lamorena
Executive Director

U.S. OFFICE OF PERSONNEL MANAGEMENT

WWW.OPM.GOV

LEAVE AND WORK SCHEDULING FLEXIBILITIES AVAILABLE FOR CHILDBIRTH

The Federal Government offers numerous leave and work scheduling flexibilities to assist employees in meeting their work and family obligations. The administration of these flexibilities typically is addressed in agency internal policies and/or collective bargaining agreements.

SICK LEAVE

A birth mother is entitled to use accrued sick leave for medical appointments, hospitalization, and her period of incapacitation following childbirth. A birth father may use a total of up to 12 weeks of accrued sick leave each year to accompany the mother to prenatal appointments, to be with her during her period of hospitalization, and/or to care for her during her recovery period. (Most doctors certify that the recovery period is about 6 weeks.) An agency may request administratively acceptable evidence of the mother's period of incapacitation for the use of sick leave.

Both parents may use up to 12 weeks of sick leave each year to care for a child with a serious health condition. Both parents may use up to 13 days of that 12-week period to care for a child with a minor illness or to accompany a child to a medical, dental, or optical appointment. An agency may request administratively acceptable evidence of a child's illness or treatment. Parents may not use sick leave to be absent from work to bond with or care for a healthy child.

ANNUAL LEAVE

A mother may use accrued annual leave for pregnancy and childbirth, a father may use accrued annual leave to care for the mother during pregnancy and childbirth, and both parents may use accrued annual leave to be absent from work to bond with or care for a healthy newborn. The use of annual leave is subject to the right of the supervisor to approve a time at which annual leave may be taken.

ADVANCE ANNUAL AND/OR SICK LEAVE

An agency may advance employees annual and/or sick leave for purposes related to childbirth. An agency may advance the amount of annual leave an employee would accrue during the remainder of the leave year. An agency may advance a maximum of 30 days of sick leave to a mother during her period of incapacitation for pregnancy and childbirth or to care for a child who is ill. An agency also may advance up to 30 days of sick leave to a father to care for the mother during her period of incapacitation for pregnancy and childbirth or to care for a child who is ill.

FAMILY AND MEDICAL LEAVE

Each parent is entitled to use a total of up to 12 weeks of leave without pay under the Family and

Medical Leave Act (FMLA) for the birth of a child and care of the newborn. Subject to the supervisor's approval, FMLA leave may be used on an intermittent basis for absences in connection with childbirth and care of the newborn. An employee may elect to substitute annual leave and/or sick leave for any or all of the leave without pay used under the FMLA, consistent with the laws and regulations for using annual and sick leave. (See SICK LEAVE, above, for the limitations on the use of sick leave for family care.) An employee's entitlement to FMLA leave expires 12 months following the date of birth of a child.

DONATED LEAVE UNDER THE VOLUNTARY LEAVE TRANSFER AND LEAVE BANK PROGRAMS

If either the mother or father exhausts her or his sick and/or annual leave, she or he may receive donated annual leave under the employing agency's voluntary leave transfer and/or leave bank programs. These programs allow Federal employees to donate annual leave to assist another Federal employee who has a personal or family medical emergency (including pregnancy and childbirth) and who has exhausted her or his own available paid leave. An employee may receive donated annual leave from both the agency leave transfer and leave bank programs. Donated annual leave may be used only for a medical emergency--e.g., the mother's period of incapacitation or the illness of a child--and may not be used to care for a healthy child.

LEAVE WITHOUT PAY

Subject to supervisory approval, both parents may use leave without pay for pregnancy and childbirth or to be absent from work to bond with or care for a healthy newborn. Supervisors should refer to agency internal policy and negotiated bargaining union agreements prior to approval.

FLEXIBLE WORK SCHEDULES

If the work requirements and agency needs permit, an employee may consider working a flexible work schedule. Flexible work schedules enable employees to select and alter their work schedules to better fit their personal needs and help balance work, personal, and family responsibilities.

TELEWORKING

Under an agency's telework policy, new parents may be permitted to work at home or from a remote telework site. Teleworking can provide employees with valuable additional time to spend with their family members by reducing commuting time. However, teleworkers should not be caring for family members while they are working from their home or alternative worksite.

For more information on the Federal Government's leave and work scheduling flexibilities, please visit the Office of Personnel Management's Web site at www.opm.gov/oca.

REFERENCES

5 U.S.C. chapters 61 and 63
5 CFR parts 610 and 630

- To CPM 2001-11 Report to Congress on Paid Parental Leave

- To Leave Administration Main Page

This page can be found on the web at the following url: *http://www.opm.gov/oca/leave/HTML/childbirthfs.asp*

U.S. Office of Personnel Management
1900 E Street, NW, Washington, DC 20415 | (202) 606-1800 | TTY (202) 606-2532

GUAM FIRE DEPARTMENT
DIPATTAMENTON GUAFI GUAHAN
*Professionalism * Respect * Integrity * Dedication * Empathy*

Eddie Baza Calvo
Governor

RayTenorio
Lt. Governor

Joey C. San Nicolas
Fire Chief

September 18, 2012

Benjamin J.F. Cruz
Vice-Speaker
I Mina' Trentai-Uno na Liheslaturan Guahan
Ste. 201, 155 Hesler Place
Hagatna, Guam 96910

RE: Bill 507-31 (COR) – Removal of GFD Cuts

Buenas Senator Cruz,

I am supportive of the administration in finding ways to do government business better at a lesser cost. The GFD has taken huge steps in a short amount of time to enhance revenues and run a more efficient operation without sacrificing our ability to effectively respond to incidents of life safety and property protection. We look forward to working with you and your colleagues for future projects such as fees and fines increases and increased enforcement authority.

With the above stated and other found alternatives with one of your colleagues, we have been able to present this to the Governor. I write to you with his authority as his representative to firefighters to inform you of his full support of the removal of the provisions affecting firefighters. He urges you to make the amendment within your committee. Attached for your review is a letter sent by the Governor to all our Firefighters which affirms this commitment.

Saina Ma'ase,

JOEY C. SAN NICOLAS
Fire Chief

Building 1617 East Sunset Blvd., Tiyan Guam 96921
Phone: (671) 642-3454 Fax: (671) 642-2012
Mailing Address: P.O. Box 2950, Hagåtña, Guam 96932

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

RECEIVED
SEP 17 2012
GUAM FIRE DEPARTMENT

September 17, 2012

To the firefighters of the Guam Fire Department:

Hafa Adai!

As you know, I am proposing a number of spending cuts so the government can responsibly serve its people, just as you do. Years of bad budgets have resulted in money that was supposed to be used for tax refunds being used to fund operations. In order to end this unfair and immoral practice, this government needs to cut spending more than we already have.

After forums in all of our villages, and many meetings with financial experts, I transmitted a bill to our senators for action. If enacted, this will cut up to $72 million to ensure this government is finally operating responsibly with your tax dollars. I sincerely wish this didn't need to happen, but the alternatives, including furloughs and layoffs, are much worse for our families and our economy than the cuts outlined in this bill.

Fortunately, thanks to the leadership of Fire Chief Joey San Nicolas and Senator Mana Silva Taijeron, the cut that would specifically affect the Guam Fire Department **will no longer be considered.** Senator Silva Taijeron identified an alternative spending cut and already fit this proposal into the fiscal year 2013 budget. She will be making the corresponding motion to amend the spending cuts bill as well. As I have stated publicly for months, my administration is open to alternative cuts should our leaders want to change or replace the provisions outlined in the bill.

I want to thank the Fire Chief and Senator Silva Taijeron for believing in the spirit of cooperative and collaborative leadership. They both came to me with solutions in defense of your livelihood while understanding the limited options we have. Please know any scare tactics being brought to you about an attack on your pay are at its best outdated, and at its worst, a concerted effort to unnecessarily worry you and your families.

Every day you show just how dedicated you are to serving and protecting our island and our families. Thank you for never wavering in your commitment to our people.

Sincerely,

EDDIE BAZA CALVO

Ricardo J. Bordallo Governor's Complex • Adelup, Guam 96910
Tel: (671) 472-8931/6 • Fax: (671) 477-4826 • www.governor.guam.gov

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting
Web Address: www.senatorbjcruz.com

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
The 31st Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

March 23, 2012

SENT VIA HAND DELIVERY

COPY

Ms. Claudia S. Acfalle
Chief Procurement Officer
General Services Agency
Department of Administration
148 Route 1 Marine Drive
Piti, Guam 96915

Re: Procurement Government-wide Telecommunication Services

Dear Ms. Acfalle:

Buenas yan Hafa Adai. My office was provided a copy of a June 2011 report titled *"Assessment of Telecommunication Services in the Government of Guam"* prepared for the Bureau of Information Technology by the University of Hawaii. I am aware that this report helped to develop the General Services Agency's Invitation for Bid (IFB) 064-11 specifications for government-wide telecommunication services. I appreciate your leadership for having initiated this process. Currently, most line agencies individually procure such services through requests for quotations and small purchases.

The report states that the competitive procurement of telecommunication services will save the Government of Guam an estimated $900,000 a year. Furthermore, when GSA opened the bid in December 9, 2011, I understand that the bid prices are estimated to be 40 to 60 percent less than the existing telecommunication costs to the government.

While one protest was submitted on December 23, it was resolved on January 9, 2012. All that is pending is a decision on the bid itself. It is now March and no decision has been made. While I am not privy to the reasons for this delay, I would urge that GSA be proactive, resolve this matter expeditiously, and ensure that the government avails itself of the potential savings that could be realized.

Thank you for your time and kind consideration.

Sincerely,

Benjamin J.F. Cruz

GUAM FIRE DEPARTMENT
DIPATTAMENTON GUAFI GUAHAN

*Professionalism * Respect * Integrity * Dedication * Empathy*

Eddie Baza Calvo
Governor

RayTenorio
Lt. Governor

Joey C. San Nicolas
Fire Chief

September 18, 2012

Benjamin J.F. Cruz
Vice-Speaker
I Mina' Trentai-Uno na Liheslaturan Guahan
Ste. 201, 155 Hesler Place
Hagatna, Guam 96910

RE: Bill 507-31 (COR) – Removal of GFD Cuts

Buenas Senator Cruz,

I am supportive of the administration in finding ways to do government business better at a lesser cost. The GFD has taken huge steps in a short amount of time to enhance revenues and run a more efficient operation without sacrificing our ability to effectively respond to incidents of life safety and property protection. We look forward to working with you and your colleagues for future projects such as fees and fines increases and increased enforcement authority.

With the above stated and other found alternatives with one of your colleagues, we have been able to present this to the Governor. I write to you with his authority as his representative to firefighters to inform you of his full support of the removal of the provisions affecting firefighters. He urges you to make the amendment within your committee. Attached for your review is a letter sent by the Governor to all our Firefighters which affirms this commitment.

Saina Ma'ase,

JOEY C. SAN NICOLAS
Fire Chief

Building 1617 East Sunset Blvd., Tiyan Guam 96921
Phone: (671) 642-3454 Fax: (671) 642-2012
Mailing Address: P.O. Box 2950, Hagåtña, Guam 96932

Proposed spending cuts
As cleared by the Governor to pursue

Early Retirement Program: $15- to $35 Million (estimated) cut in annual spending

The Department of Administration estimates about 500 full-time government of Guam employees in the line agencies (not including the Department of Education, Guam Memorial Hospital, or other semi-autonomous and autonomous agencies) are within five years of retirement eligibility. The final tally of cuts in spending will be known upon the completion of the proposed early retirement program, described below. These are the points of the plan:

1. The legislature should pass this authorization so the program can begin October 1, 2012.
2. Employees who wish to apply for this program may do so beginning October 1, 2012. Qualified employees will have until September 30, 2013 to retire under the guidelines of the program.
3. Only actively employed members of the Defined Benefit Plan who would reach their full service requirement should they opt to participate in the program are eligible.
4. Employees may apply to their respective agency head to participate in the program to purchase up to five years of retirement credit. Agency heads will have approval authority based on operational needs.
5. Employees who are approved to participate in the program will have to pay, in full at the time of retirement, the remaining contributions that would have been paid to the GGRF should they have remained employed. However, employees may have up to five (5) years to pay for those contributions through execution of a promissory note with the GGRF. The term of any such promissory note shall not exceed five (5) years at an interest rate determined by the GGRF.
6. Any employee who retires and purchases additional years of service credit is entitled to the full application of such additional years of service immediately upon their retirement, regardless of when a promissory note is finalized between the Retirement Fund and the retiree. Should the Retirement Fund be unable to have a promissory note effectuated simultaneously to the separation of the employee from government service or their retirement from the government of Guam, the Retirement Fund shall retroactively apply the annuity based on the additional years of service.
7. The government of Guam will continue contributing the employer share of contributions to the Retirement Fund through the period the retiring employee would have remained an employee had he or she continued in the active employment until the retirement threshold.

8. The member retiring will suffer no penalty or diminishing of the amount of annuity to be received on account of the age of the member retiring upon the date of retiring.
9. No retiring employee under this program will be rehired by the government of Guam in any position, whether contractual or otherwise, for at least three years from the effective date of retirement. The exception will be for those exemptions specifically listed, and those determined by the Governor to be critical to the delivery of services. The Retirement Fund will make all individuals who voluntarily apply for early retirement credit aware that their purchase of such credit will be construed as voluntary waiver of their right to re-employment or reinstatement for a period of at least three years.

Amortization of Unfunded Liability by 10 Years to 2041: $28.1 million cut in annual spending (government-wide)

The government of Guam currently is on track to pay down the Unfunded Liability of the Government of Guam Retirement Fund for Defined Benefit members by 2031. The effect of bad investments by the Fund has resulted in that liability growing over the past few years, thus proportionately increasing the rate of contribution to the Fund, now nearly one third of payroll. We recommend extending the amortization period by 10 years to a pay down by 2041. This will have the effect of reducing the rate of contribution by 6.1 percentage points, translating into $28.1 million in annual spending cuts.

Reduction in Holiday Pay: $4,478,367 cut in annual spending

The legislature currently mandates that employees working on designated government of Guam holidays receive 200 percent, or double, their hourly wage for hours worked. This is above industry standard, which is 150 percent, or time-and-a-half, the hourly wage for hours worked. We recommend aligning the GovGuam holiday pay mandate to industry standard at time-and-a-half.

Elimination of GFD Non-productive Pay + Reduction of GFD Overtime to Six Hours (3-platoon system): $1,624,038 + $1,390,725 cut in annual spending

The legislature currently provides beyond all Fair Labor Standards Act 207(k) exemption provisions in granting a 106-hour per pay period requirement at the Guam Fire

Department. The adjustment of this provision to industry standard, along with the fair computation of leave hours is recommended.

Elimination of GFD Incentive Pay: $454,211 cut in annual spending

The legislature currently authorizes EMT A Duty Pay at 15 percent differential for those who are certified EMT-A and assigned to the ambulance unit. We recommend elimination of this differential pay.

Elimination of Annual Leave Cash Out: $1,597,106 cut in annual spending

The legislature currently authorizes employees to accrue annual leave hours and cash out up to 320 hours times the last hourly wage upon separation from the government of Guam. The depletion of cash is especially harsh on the Treasury at the end of every legislative and gubernatorial term, when the bulk of unclassified employees elect to cash out their accrued leave. We recommend elimination of this cash out provision, except for retiring employees.

Reduction of Paternity Leave to Industry Standard: $135,283 cut in annual spending

The legislature currently authorizes government of Guam male employees who become fathers to take 20 work days of paid paternity leave for as many times in the year the individual becomes a father. Industry standard is only 10 days. We recommend reduction to industry standard.

Cap on Leave Sharing to 480 Hours per Occasion, Limit to Medical Reasons: Unknown amount at this time

The current leave sharing program authorized by the legislature has caused massive disruptions in operations due to the ability of employees to share leave for a number of reasons. We recommend reversion of this policy to its original intent: to provide humanitarian relief to those who need medical attention.

<atvfiremedic@gmail.com>; Raf Mesa <romeoalphafoxtrot@yahoo.com>; Capt. Ron Castro <ronaldmcastro@yahoo.com>; Roy Siongco <roysiongco@yahoo.com>; Roderick Meno <rshane@guam.net>; Richard T. Japitana <rtjapitana@hotmail.com>; Jacques Santos <santosjtm@yahoo.com>; Stephen Charfauros <schar4os@hotmail.com>; Capt. P.J.U. Blas <talaya1fishing@guam.net>; Vincent Ray Toves <vincentray671@gmail.com>; Joe DeVera <viper6410@gmail.com>; Joe M. Sablan <cemtsablan@yahoo.com>; AJ Cruz <ajcruz76@yahoo.com>; Captain Al Castro <alcastro01@yahoo.com>; Alan Concepcion <bolis65@yahoo.com>; Alan Torre <alan.torre@us.army.mil>; Al Sgambeluri <alsgamby@hotmail.com>; FFI Angel Llagas <gfde911@islanders.guam.net>; Christine Taimanglo <Christinetaimanglo@hotmail.com>; Cindy Toves <cindy123@guam.net>; Dan Taitano <dyltfm@yahoo.com>; Dean Aguon <jiana_dean@yahoo.com>; "Frank "Bubbles" Babauta" <bubsman2003@yahoo.com>; Captain Fred Blas <fredfblas@yahoo.com>; Jerel Cruz <strangeringuam@hotmail.com>; Capt. John S. Arceo <smp_jb07@hotmail.com>; Richard Manglona <shrica@guam.net>; Capt. Ron Chiguina <rpchiguina@hotmail.com>; Sean P. McCoy <spmccoy69@yahoo.com>; Captain Tom Tedtaotao <t_tedtaotao@hotmail.com>; Jason C. Tyquiengco <jct.rebel@yahoo.com>; Captain Edward H. Poppe III <ayepoppe@yahoo.com>; Peter C Carbullido <p.carbullido@yahoo.com>; Capt. Michael Rosario <myrosario23@gmail.com>; Paul Rolinski <e911fire@yahoo.com>; Ed Artero <edartero@gmail.com>; James Pangelinan <pangelinan_james@hotmail.com>; John Burch <burchjt@yahoo.com>; Phil Reyes <pj.outreyes@gmail.com>; Capt. Ed D. Chaco <edchaco@yahoo.com>; Marvin Cruz <labong_cruz@yahoo.com>; Ron Guimarey <guirms@yahoo.com>; Darren Torres <darrentorres@gmail.com>; Melvin Castro <melals1gu@yahoo.com>; Capt. Peter Charfauros <hayipago@hotmail.com>; Paul Cruz <pn.cruz@yahoo.com>; Ed Duenas <fired71@yahoo.com>; Jerry Barcinas <jerrybarcinas@yahoo.com>; Capt. Ray Garrido <raymond.garrido@yahoo.com>; Jim Torres <jimt75@hotmail.com>; Jesse F. Reyes <scerteza@yahoo.com>; Ricardo Tuncap <ebbtide11@hotmail.com>; Miguel T. Terlaje <mtterlaje@firehousemail.com>; Capt. Roland J. Santos <rojamsan@yahoo.com>; Cherika Lou Chargualaf <Cherika_lou5@yahoo.com>; Mark Snyder <guamsaint@yahoo.com>; F/Spec. Pat G. Tuncap <pgtuncap@gmail.com>; Dean Aigamaua <aigamaua@guam.net>; Greg Uncangco <greg.uncangco@gmail.com>

Sent: Friday, September 14, 2012 12:29 PM

Subject: Invitation to Public Hearing on September 18, 2012

September 14th 2012

Hafa Adai Firefighters,

As you may already know, the administration's "Omnibus Fiscal Reform Act of 2012" may directly affect your pay, benefits, and leave. I would like to personally invite all you to a Public Hearing on Bill No. 507-31 (COR). This hearing will take place on **September 18th 2012 at 5:30 P.M** in the Public Hearing Room at the Guam Legislature.

Our office has been working closely with Chief San Nicolas to find alternatives to these cuts in leave, pay and benefits.

We invite all firefighters, their friends and family to come and testify on, or learn more about the bill. Please feel free to contact my office at 477-2520/1 should you have any questions.

I have attached a copy of Bill 507-31 (LS) for your review.

Senseramente,

Si Senadot BJ Cruz

Gmail by Google

Mike Lidia <mike.lidia@senatorbjcruz.com>

Fwd: Invitation to Public Hearing on September 18, 2012

1 message

Benjamin J.F. Cruz <senator@senatorbjcruz.com> Tue, Sep 18, 2012 at 12:34 AM
To: Carlos Pangelinan <carlos.pangelinan@senatorbjcruz.com>, Carlo Branch <carlo.branch@senatorbjcruz.com>, Chris Carillo <chris.carillo@senatorbjcruz.com>, Mike Lidia <mike.lidia@senatorbjcruz.com>

Sent from Bj Cruz

Begin forwarded message:

From: Mark Snyder <guamsaint@yahoo.com>
Date: September 17, 2012 11:48:43 PM GMT+10:00
To: "Benjamin J.F. Cruz" <senator@senatorbjcruz.com>
Subject: Re: Invitation to Public Hearing on September 18, 2012
Reply-To: Mark Snyder <guamsaint@yahoo.com>

Hello Senator,

I and my fellow co-workers at my station have read Bill No. 507-31. We have discussed all the proposals to the Bill. Here are our conclusions and recommendations.

Money seems to be the heart of the matter as well with everything that our government is facing. It all stated with the words "non-productive hours". Let's clear up that first. As you and your collegues know as stated in DOA Personnel Rules Chapter 7.402 B "any hours worked over 106 is classified as overtime for firefighters".
I understand that the AS400 doesn't recognize or accepts anything over 106 hours, except where it says "non-productive hours" when our payroll clerk inputs our time.
Recommendation: Get rid of 106 hours for firefighters and change it to 120 hours for regular hours worked which will get rid of the overtime pay.
Reconfigure the AS400 to accept 120 hours of regular hours for firefighters and any hours worked there after shall be
considered overtime when inputed in AS400.
Let's work on the leave earned and leave used portion as well. Hour per hour. Give us 24hrs leave and charge us 24hrs. and let
us keep our hours at 120 and not get penalize to 106 when we take leave.

There's talk of hiring additional personnel (15) to augment a three/24hr. shifts or three/24hr. platoons (A,B,C). We feel that this will be costly and in effective to our government and department.
Costs: The government will have to pay each about $30,000 = $450,000 per year.
Purchase additional personnal equipment for each (Fire coat, Pants, Boots, Helmet, Masks for the SCBA and Gloves)

about $15,000 each = $225,000

In effective: Right now we currently have two 24hr. platoons or shifts for fourteen fire stations.

Five-six personnel, per platoon, assigned to a fire station that have a fire truck.

Eight to nine personnel, per platoon, assigned to a fire station that have a fire truck and ambulance.

Eleven to twelve personnel, per platoon, assigned to a fire station that have a fire truck, ambulance and ALS.

Four to five personnel, per platton, assigned to Rescue 1 and 2 station.

These are stations running with very minimum personnel due to all the retirements and deployments. Which more are coming in the very near future.

To add an other platoon or shift you will need at least 64 personnel or more. Not to mention you will need to promote personnel to augment the supervisor and lieutenant positions.

Do we have the money to for all this now?

We are jumping way ahead of ourselves. Let's work at correcting issues were we can save money, before we start tearing down the entire fire department. Let's take care of the firefighters that are here now.

Our firefighters as we speak are working in substandard conditions. Our fire coats, pants, boots, helmets and gloves need to be replaced. If there are moneys out there let's use it for our firefighters.

Please, please...I hope you will not forget about the firefighters that are currently out there saving lives and property.

Thank you,
Mark

From: Benjamin J.F. Cruz <senator@senatorbjcruz.com>
To: Captain Darren Apiag <darren.apiag@us.army.mil>; Captain Dean Soriano <deansoriano@myway.com>; Andy Quinata <deerslayer5671@yahoo.com>; Doug Sherwin <dougsherwin1@guam.net>; Eric J. Castro <ecastro91@gmail.com>; Capt. Ed L. Flores <edward.flores@gfd.guam.gov>; FFII Edward J. Cruz <drawde1080@hotmail.com>; E. R. Blas <erblas77@yahoo.com>; Frank C. Bernardo <feb@gimail.af.mil>; Michael Aguon <firechiefaguon@yahoo.com>; Frank R. Mayo <frmayo6969@yahoo.com>; Captain Gerard Terlaje <gerardterlaje@yahoo.com>; Johnathan Nededog <gfdneddy@yahoo.com>; Captain Darren Burrier <gu_1stlink@hotmail.com>; Dave Flores <guafi33@yahoo.com>; Chief John Wusstig <guafi2@gmail.com>; Mark A. Terlaje <guamsticker@guam.net>; Daniel A. Mendiola <islanstyl@yahoo.com>; Captain Joey A. Manibusan <jamanibusan@firehousemail.com>; James D. Invencion <rubicon671@gmail.com>; Mark Blas <jjmsblas@yahoo.com>; Joey Mesa <joeymesa@hotmail.com>; John Carbullido <john.carbullido@us.army.mil>; John D. Charfauros <john.d.charfauros@us.army.mil>; JDL Santos <jonahraine@gimail.af.mil>; Juan Q. Sanchez <jqsanchez216@hotmail.com>; Jerred Wells <jrwells_19fire@yahoo.com>; Joe T. Rivera <keridu@hotmail.com>; Kevin J. Reilly <kj_reilly@hotmail.com>; Juan P. San Nicolas <kokonut96929@yahoo.com>; Pete Martinez <martinez6@guam.net>; Lance Lord <napusurfer@yahoo.com>; Norman D. Cruz <ndcruz_32@yahoo.com>; Roberto Pitter <pitshoppitter@yahoo.com>; Phil J.E. Camacho <pjecamacho@yahoo.com>; Dave Quichocho <quick368@yahoo.com>; Ray R. Aguon <raguon5@ite.net>; Jesse J. Acfalle <rams671@yahoo.com>; Chief Roy B. Dirige <rbdirige@teleguam.net>; Robert D. Santos

Telecom dispute

FRIDAY, 17 AUG 2012 03:30AM BY MAR-VIC CAGURANGAN | FOR VARIETY HITS: 927

SHARE

OPA, Calvo asked to act on protest



Vice Speaker Benjamin J.F. Cruz

PACIFIC Data Systems (PDS) has withdrawn its request for a hearing on its appeal for the revocation of the General Services Agency's award of certain task orders to GTA Teleguam Holdings, and asked the Office of Public Accountability to rule on the protest based on papers filed.

At the same time, Vice Speaker Benjamin J.F. Cruz asked Gov. Eddie B. Calvo to use his executive authority to lift the block that hampers the implementation of the government of Guam's master telecommunication contract, which was originally scheduled to take effect this month.

The multiple-award contract, which GSA awarded to PDS and GTA on May 3, involves a wholesale procurement package for about 2,500 phone lines, voice data, Internet, broadband, wireless and other telecommunication needs.

The contract is designed to consolidate the solicitations for telecommunication services of all line agencies of GovGuam covered by the GSA procurement system.

Savings

Citing the Bureau of Information and Technology's analysis, Cruz said the current telecom contract costs the government approximately $2.7 million per year. "By comparison, the proposed unified contract – presently mired in protest – would save the government $1.5 million or 55 percent yearly," he added.

"Based on the significant savings we would experience and the specter of dramatic cuts to personnel and their benefits, I urge you to explore the option of raising this contract beyond the present protests through your executive authority," the Vice Speaker said in a letter to Calvo.

In limbo

PDS won a majority of the multiple award contract, while GTA received the task orders for wireless service, cellular phone device, broadband and Internet access. The WiFi service portion was split between GTA and IT&E.

The master agreement, however, remains in limbo pending resolution of PDS' protest filed with the OPA. A hearing at the Public Accountability Office is scheduled for Sept. 6. Docomo Pacific has filed a separate appeal with GSA.

A source within the telecommunications industry said the best solution to the delayed execution of the contract would be for the OPA and GSA "to rule on the protests as submitted, rather than trying to use the executive branch to circumvent the normal protest process, which is there for a reason."

The source expressed doubts the governor has the power to "exercise executive authority" when the protests were based on an allegedly improper bidding award.

"So it's unclear to me what Sen. Cruz means, exactly, by 'use executive authority' to move the contract process forward," the source said. "It's similarly unclear whether that 'authority' would mean in a context where there are formal protests lodged against

the bid award because of alleged defects in GTA's bid forms."

Disqualified

PDS claims GTA should have been disqualified from the bidding because it did not submit a local procurement preference application. "GSA established a past policy and precedent that bidders must submit an application to qualify for local procurement preference," PDS President John Day stated in the protest filed on May 17.

In a separate appeal, Docomo alleged the ownership and commission affidavit that GTA submitted to GSA was "fatally defective."

GTA earlier asked the OPA to dismiss PDS' protest, saying it was lodged past the filing deadline. "A bidder must submit a protest 14 days from when it knows or should know the facts – giving rise to the protest," GTA said in a July 12 motion, noting PDS waited 10 months "to take action."

Guampdn.com
GUAM'S Complete SOURCE

August 17, 2012

Cruz: Unify contracts, set Mental Health fees to save

By Arvin Temkar
Pacific Daily News

The legislative vice speaker is suggesting two ways to save the government millions without affecting the retirement fund or employee benefits.

Vice Speaker Benjamin Cruz, who is running for re-election, yesterday wrote a letter to Gov. Eddie Calvo asking him to use his executive authority to lift a contract out of protest, as well as to help implement a fee schedule for the Department of Mental Health and Substance Abuse.

These two actions could save the government $10.5 million, he said.

Government agencies have different contracts with various telecommunication agencies for services like phone and Internet, said Carlo Branch, the senator's chief policy adviser.

The government paid $2.7 million for these telecommunication contracts this fiscal year, according to the vice speaker's letter.

However, a contract with a single provider for all the government's telecommunication services could save the government $1.6 million, the vice speaker's letter said. His numbers are based on information given to him by the Bureau of Information Technology.

The government put out a bid for a unified contract late last year, but the process was met with protest, Branch said. The senator is asking the governor to find out whether it's possible to proceed with the contract despite the protest, Branch said.

Mental Health

Also, the vice speaker suggested the governor help implement fees at the Department of Mental Health, which could bring in $9 million to $12 million a year in revenue.

The mental health department cannot charge for public and private providers unless it creates a fee schedule, Branch said.

The governor's office is preparing a spending reform bill that could save the government's line agencies between $52.7 million and $72.7 million a year, according to Pacific Daily News files. Much of the savings would come from allowing hundreds of government of Guam employees to retire early and by extending the deadline to pay the Retirement Fund's liability.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
The 31st Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

August 15th, 2012

The Honorable Edward J.B. Calvo
Governor of Guam
Office of the Governor
Ricardo J. Bordallo Governor's Complex
Adelup, Guam 96910

RE: Use Executive Authority to Move Telecom Contract Forward

Dear Governor Calvo,

Yesterday afternoon, I had the opportunity to speak with Ed Cruz, Chief Information Officer with the Bureau of Information Technology. At my request, he provided me with a cost benefit analysis demonstrating the impact of a successfully executed government wide contract for telecommunication services. Based on that analysis, the government may reasonably save about $1.6 million in telecommunication expenses.

Based on the information provided, the total annualized cost of the government's various telecommunication contracts for the current fiscal year is $2,742,532.56. By comparison, the proposed unified contract—presently mired in protest would save the government $1,513,713.84 or 55%.

Based on the significant savings we would experience and the specter of dramatic cuts to personnel and their benefits, I urge you to explore the option of raising this contract beyond the present protests through your executive authority. Given the compelling government interest served by these savings, I believe we must explore any reasonable alternatives at our disposal,

When taken together, these savings along with the $9-12 million in revenue created by approving the Fee Schedule for mental health services at the Department of Mental Health and Substance Abuse combines for at at least $10.5 Million in potential savings. This equates to nearly 25% of the cuts your administration says it requires over the next fiscal year.

Over the past several months I have sent you a series of letters outlining potential cost savings that would not affect either the Retirement Fund or Employee Benefits, and as of yet I have received no response from your office.

That notwithstanding, I hope that you will work to move this contract, and the fee schedule for DMHSA forward. Doing so will lessen the burden on the General Fund and improve our cash flow—two things we both support.

Saina Ma'åse,

Benjamin J.F. Cruz

Cruz Urges Calvo to Act on Fee Schedule & Telcom Contract Saying $10.5M Could Be Saved

Last Updated on Thursday, 16 August 2012 13:55
Written by Kevin Kerrigan
Thursday, 16 August 2012 13:00

Guam News - Guam News

Guam - Vice Speaker B.J. Cruz is urging Governor Calvo to use his executive authority to act on the DMHSA Fee Schedule and sign a unified GovGuam telcom contract which, he says, could save GovGuam $10.5 million dollars.

0 tweets tweet

Cruz points to a recent analysis from the Bureau of Information Technology which found that a unified telcom contract could save GovGuam $1.5 million annually. That contract has been stalled by a procurement protest, but the Vice Speaker suggests there is a way for the Governor to raise *"this contract beyond the present protests through your executive authority."*

READ Senator Cruz's letter to Governor Calvo HERE

In addition Cruz argues that the Governor could speed up the implementation of the proposed Fee Schedule for the Department of Mental health which, he says, could save GovGuam more than $9 million dollars annually. AS PNC News reported last week, that Fee Schedule is currently under review at the Attorney General's office.

READ Senator Cruz's release in FULL below:

Cruz to Calvo: Your Executive Authority Can Save Taxpayers $10.5 million
For Immediate Release

(August 15, 2012- Hagatna) Vice Speaker Benjamin J.F. Cruz wants the government to save at least $1.5 million through a unified government telecommunications contract that is months overdue and the implementation of a fee schedule for the Department of Health and Mental Health Authority. This is why Cruz has asked Governor Eddie Baza Calvo to consider the use of his executive authority to raise the contract beyond its pending protests. In a letter sent to Calvo this morning, Cruz argues that in a time of fiscal austerity, significant savings constitutes a compelling government interest

In a recent conversation with Bureau of Information and Technology Chief Information Officer Ed Cruz, the Vice Speaker requested a cost benefit analysis of the proposed government wide telecommunications contract. The analysis found that the current contract costs the government approximately $2,742,532.56 per year. By comparison, the proposed unified contract—presently mired in protest would save the government $1,513,713.84 or 55% yearly.

"Based on the significant savings we would experience and the specter of dramatic cuts to personnel and their benefits, stated Cruz. "I urge you to explore the option of raising this contract beyond the present protests through your executive authority."

Cruz further asked that the Governor also aid in moving forward with the DMHSA Fee Schedule which would garner between $9-12 Million per year in revenue, saving the Government from fully funding its operations. Senator Cruz estimates the savings for the telecommunications contract and the DMHSA Fee Schedule would be approximately $10.5 Million or 25% of the Governor's $43 million target for cost reductions.

< Prev **Next >**

teacher is compelled to be absent from duty on account of pregnancy, childbirth, illness, injury or because of quarantine of anyone in the teacher's residence. Doctor, dental and/or optical appointments are chargeable to sick leave.

7.C.1.b. Sick leave with pay shall be granted for the following reasons:

i. Illness of the employee's spouse, common law, parents, parents-in-law, grandparents, brothers, sisters, children, grandchildren, any step or adoptive parents, adopted children or grandchildren of both the employee and the spouse, a guardian or person in loco parentis.

ii. Death or doctor-certified critical condition of grandparents, parents, parents-in-law, spouse, brother, sister, child, or legal dependent, grandchildren, sons/daughters-in-law. An additional day shall be allowed when one of the above illnesses is off-island.

7.C.1.c. If a teacher is absent because of illness for four (4) or more consecutive days, the teacher may be required to furnish certification of such illness from a licensed physician. Sick leave for less than four consecutive days shall not require a physician's certification except for specific cases where a teacher's pattern of sick leave indicates possible misuse of leave. In the latter case, a principal may require such individual to provide a physician's certification of illness if the principal has stated in writing to the individual that such certification will be subsequently required and has outlined in writing the pattern upon which this action is based. If the certification required is not furnished, all absences which would have been covered by such certification shall be classified as absent without leave.

7.C.1.d. The Department shall provide each teacher with a statement of accumulated sick leave in September and February, unless such information is included on the employee's biweekly pay statements.

7.C.2. Personal Leave

7.C.2.a. Teachers shall be granted three (3) duty days paid leave each school year for personal reasons or to conduct personal business which cannot be accomplished after school, or on weekends.

7.C.2.b. Except in unforeseen circumstances, personal leave notice must be given a minimum of two (2) full school

days in advance. Leave take to extend holidays requires at least seven (7) calendar days advance notice. The minimum charge of personal leave shall be one (1) hour and additional charges in multiples thereof.

7.C.2.c. Personal leave shall not be used during the first and last week of school year without the expressed written approval of the Superintendent

7.C.2.d. A maximum of four (4) percent or two (2) members, which ever is greater, of the bargaining unit may take personal leave on the same day. In the event that more than the aforementioned maximum requests personal leave on the same day, it will be the sole discretion of the principal to grant leave in excess of that maximum.

7.C.2.e. Once granted Personal leave shall not be revoked unless the Governor declares an official state of emergency.

7.C.2.f. Personal leave shall either be approved or denied within twenty-four hours of the request.

7.C.2.g. Teachers shall be paid for all unused personal leave within one pay period of the end of the school year. If any teacher is paid for personal leave that they actually took, they shall reimburse the Department the amount they were over paid within 30 days of notice of over payment by the Department. Repayment can be made through payroll deduction, cash, or check at the option of said employee.

7.C.3. Maternity/Paternity Leave

Maternity and Paternity leaves shall be in accordance with the Family Leave Act, in addition to any leave which may be given by local law for maternity or paternity leave, to the extent the federal and local law overlap.

7.C.4. Leave Without Pay

7.C.4.a. Teachers may take a leave of absence without pay for up to one (1) year, subject to the approval of the Superintendent, which approval must not be unreasonably withheld. Acceptable reasons for leave without pay are:

i. Military duty in excess of fifteen (15) days in one calendar year (certification required);

ii. Educational leave, including travel, but exclusive of sabbaticals and in-service programs (certification required);

iii. Medical over and above sick leave benefits (certification required);

iv. Matrimony;

v. Emergency purposes or personal requests

Nearly $500K needed to chase unpaid taxes

FRIDAY, 13 JUL 2012 03:30AM BY MAR-VIC CAGURANGAN | FOR VARIETY HITS: 777

SHARE

The Department of Revenue and Taxation has identified 74,600 delinquent tax accounts worth close to $30 million as of the last tax period, but the agency doesn't have the funds and personnel needed to chase the tax evaders.

According to its 2013 budget submittal, the department had missed the 90-day deadline for issuance of notices to delinquent taxpayers "due to budgetary constraints and lack of personnel."



The Department of Revenue and Taxation. Variety file photo

Rev and Tax said the postage cost $426,000 for the required notices, and the amount excluded personnel and supply.

Although collecting delinquent tax dues is one of DRT's key goals for the upcoming fiscal year, the proposed 2013 budget doesn't look promising for the department.

The Governor's Office has requested $9.78 million for DRT, plunging from the current year's level of $10.25 million.

And despite its perennial complaint about manpower shortfalls, DRT is not likely to hire additional staff in 2013. Its proposed allotment for personnel drops from $9.18 million to $8.67 million.

In its 2010 Citizencentric report submitted to the Office of the Public Accountability, DRT said the scarce manpower was compounded by "outdated or limited equipment such as computers and printers, which exacerbate the ever increasing workload of DRT personnel."

But the department said it makes do with a limited staff "to maximize the use of all resources available in an effective and efficient manner."

In an effort to identify missed revenue potential for the government of Guam, DRT is seeking to "identify, establish value and create tax assessment records of all properties (lands and buildings) in Guam."

Last week, DRT began inspecting commercial improvements on real properties. The department's memo said the inspections, which end on Aug. 31, "are designed to ensure the accuracy of property record data and to update existing assessment records."

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Cruz asks Adelup to submit new Bill

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Posted: Sep 17, 2012 10:44 PM
Updated: Sep 17, 2012 10:44 PM

by Sabrina Salas Matanane

Guam - Vice Speaker BJ Cruz recessed Monday's night's public hearing on the Governor's spending cuts bill (Bill 507) until Tuesday evening at 5:30 to hear from the Guam Fire Department on the provisions related to proposed cuts within the agency. Although Department of Administration Director Benita Manglona during Monday night's roundtable said that the GFD provisions would be removed from the bill, the Vice-Speaker said that he would discontinue tomorrow's hearing as well as remaining hearings on the measure as long as the Governor's office submitted a new bill because the current legislation he said was filled with "gaps". Lawmakers throughout the hearing criticized Manglona along with the Administration because the legislation lacked specifics and data to support its many recommendations. Bill 507 aims to cut up to $70 million in government spending. Reacting to Vice Speaker BJ Cruz request for a new bill, Governor's Director of Communications Troy Torres issued the following statement, *"if the Legislature does not like what we are proposing they are well within their authority to change it but they cannot escape the simple fact that in order to pay tax refunds they need to cut operational spending. They need to come to the table with solutions and not with negativity and criticism. We are basically fixing the mess that the legislative leadership created for the past three years. The least they could do is identify where else in the spending pie they would like to cut. They don't have the best fiscal track record and they've certainly been opposed to paying the people what they're owed in tax refunds Senator Respicio even said that he'd rather owe the people than the banks. I would question any other motivations with this spending cuts bill."*

Meanwhile throughout the course of Monday night's roundtable. The Governor's Communications office and the Democratic Party of Guam were sending multiple press releases and updates on their version of the accounts of the hearing.

ADELUP RELEASE #1

5:50 p.m.

Vice Speaker BJ Cruz has called the first hearing on the Governor's spending cuts bill to order. Several senators are present. Human resources managers from throughout the government now are discussing the maternity leave provision in the Governor's bill. The Governor's provision for maternity leave makes it easier for mothers to take leave, and even makes the provision more liberal.Sen. Respicio tried to make a point

that he believes the Governor's bill reduces maternity leave. The HR manager from Guam Community College says that is not so. She recommends more clear language in the bill."We hang our hat on every single word in these documents," Sen. Respicio said."Don't you believe this takes away the 20 days for mothers?" Sen. Respicio said to the HR manager at GCC."No. That's not what I stated. That's not what it does," the GCC HR manager replied.#

ADELUP RELEASE #2

5:57 p.m.

The government's HR managers and senators now are discussing that the Governor's bill makes maternity leave more liberal than paternity leave.This is true.

"Is there an EEOC concern? And how would you interpret the provisions that say no more than six months or three months?" Vice Speaker Cruz asked CSC director Tony Lamorena, after the DOE HR manager suggested her interpretation of the law is that disciplinary action would be taken if a parent took more than six months of leave.Lamorena responded that is not so. "My understanding in the (federal) Family Medical Leave Act, I believe the employee has up to a year. If they exhaust their leave, they have up to a year to return to their position. Now, they may not be paid, but the position will remain," CSC director Tony Lamorena replied."FMLA gives 20 days for maternity leave, and 10 days for paternity leave. This bill is consistent with the federal law," Lamorena added.#

ADELUP RELEASE #3

6:10 p.m.

Senators are now discussing the provision in the Governor's spending cuts bill that broadens the application of maternity leave. They are questioning why we want to make it easier for mothers to take maternity leave."We wanted to make it better for mothers when they take maternity leave, it's that simple," Governor Calvo said. "If senators want to change this provision, they certainly have the authority to do so, but it would not be very compassionate." The GCC HR manager also clarified that federal law prohibits discriminating against pregnant women. She believes the Governor's bill removes a provision in the existing local law that may be discriminatory.#

ADELUP RELEASE #4

6:32 p.m.

Senators now have moved on to the Governor's proposal to eliminate the ability of senators, the Governor & Lt. Governor, the Cabinet, and unclassified employees to cash out accrued annual leave. This provision, if enacted, will allow retiring employees to cash out their lump sum."We are spending a lot of money every year on lump sum leave. There are a lot of employees who would resign and then come back just so they can cash out their leave. This is basically to control, to manage the cash," Director of

Administration Benita Manglona said.Manglona clarifies that this practice happened in the past. Who this bill essentially affects are elected officials and high-level legislature and Cabinet officials. "This is about leadership," Governor Calvo said. "If we're going to cut, we'd better set the example. I took a pay cut, and so did the Lieutenant Governor and our senior staff. The next step is to end the practice of cashing out annual leave."#

DEMOCRATIC PARTY OF GUAM RELEASE #1

6:57PM

In response to what several Government of Guam HRO Professionals called ambiguity regarding the Calvo Administration's proposed changes to maternity leave government wide, DOA Director Benita Manglona said, ***"we will leave it the way it is***." While DOA officials say they intended to clarify existing statute, the changes proposed by the Calvo administration would make maternity leave subject to DOA's personnel rules and regulations. This does two things. First, it ties maternity leave to rules not applicable to entities like GCC and UOG. Second, it creates digression for the granting of maternity leave--something that was an absolute right under existing law. ***In addition, the Calvo administration's linking of paternity leave to personnel rules not changed since the 1990s would have the negative impact of reducing from paternity leave to just five days, even while the administration says it intended to provide ten***. #

ADELUP RELEASE #5

7:08 p.m.

Sen. Respicio has asked the assembled HR managers whether it would be prudent to stop discussions on the spending cuts bill until 'deficiencies' can be corrected.

"If you claim it as a deficiency, then it's something that can be fixed now," Dir. of Administration Benita Manglona said."If we fix it in this forum, then it's the legislature that will be tagged with this bill," Sen. Respicio replied. The administration fervently believes the legislature must act on the spending cuts bill now and not wait. These spending cuts are needed to fully fund tax refunds. Delaying the cut in spending further delays the ability of the government to make good on tax refunds.It was around this time last year when the Rules Chairman did say he'd rather "owe the people, than owe the bank," in reference to his opposition to the Governor's original plan to fully fund all tax refunds up to Tax Year 2011.

Manglona questioned why senators and the administration could not use this current roundtable to make changes to the bill if the legislature believes changes should be made."If this is a working session, then why don't we work together?" Manglona said. "Isn't this why we're here? We're supposed to work together."

"You're not being cautious. You're being reckless," Sen. Respicio "This is why we're here to cut spending to pay tax refunds. Right now we're trying to match cash receipts with cash disbursements. Right now they don't match," Manglona replied.#

DEMOCRATIC PARTY OF GUAM RELEASE #2

7:37PM

While the Calvo administration says it only intended to make the law governing accrued leave for nurses consistent with other Government employees, ***DOA Director Manglona now admits bill 507's repeal of all accrued leave for nurses was unintended***. It appears that in the administration's hurry to submit bill 507(COR), they would have accidentally ended accrued all leave for nurses. The Governor's proposal "accidentally" repeals the entire section of law. The Democratic Party of Guam said: **"In only the 2nd hour of hearings on Governor Calvo's proposed spending cuts, we've been left with ambiguity and confusion in maternity leave, the accidental removal of accrued leave for nurses, and what DOA has admitted is the end of leave sharing for members of the National Guard and Reserve. Sadly, Human Resource Professionals throughout the Government of Guam were not consulted before the bill was presented to the legislature."**

ADELUP RELEASE #6

7:30 p.m.

The legislature is currently analyzing the proposal to end leave sharing unless it is for medical reasons."The leave sharing is to go back to its original intent for medical purposes," Director of Administration Manglona said."It concerns me," Vice Speaker Cruz said.This bill does not take away the 15 days of military leave this government provides our servicemembers. This bill does not take away their job. All it does is restrict the ability of other employees to donate their annual leave, down from 90 to 60 days, which is the federal standard -- and only for medical purposes, which was the original intention of the leave sharing law.

DEMOCRATIC PARTY OF GUAM RELEASE #3

8:09PM

While DOA Director Benita Manglona says the administration never intended to repeal personal leave for teachers, she now admits: ***"That is what it says."*** The Calvo administration's bill 507-31(COR), would repeal in its entirety, the statutorily guaranteed granting of personal leave to public school teachers.

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Mike Lidia <mike.lidia@senatorbjcruz.com>

First Notice of Hearings on Bill No. 507-31 (COR) (Roundtable Discussion)

32 messages

Mike Lidia <mike.lidia@senatorbjcruz.com> Mon, Sep 10, 2012 at 5:00 PM

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Cc: Carlo Branch <carlo.branch@gmail.com>

September 10, 2012

MEMORANDUM

To: All Senators/All Members/Media

From: Vice Speaker Benjamin J.F. Cruz

Re: First Notice of Hearings on Bill No. 507-31 (COR) (Roundtable Discussion)

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will begin a series of hearings on Bill No. 507-31 (COR) with a Roundtable Discussion beginning on **September 17, 2012, at 5:30PM. Other hearings will follow on the 18, 24, 25, and 26, of September, 2012, starting at 5:30PM in *I Liheslatura's Public Hearing Room.*** Vice Speaker Benjamin J.F. Cruz invites representatives from the Calvo Administration, Human Resource Managers, Departmental Directors, Administrative Resource Officers, Civil Service Commission Members, and the Attorney General's office to attend. Specific provisions for discussion on each of the hearing dates are forthcoming:

Bill No. 507-31 (COR) - Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources - An act to amend §4107, §4107.1, §4019, §4109.2 and §4119 of Chapter 4 of Title 4 GCA, to repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, and amend §6219 of Chapter 6 of Title 4 GCA, to repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to amend §8137(b) of Chapter 8 of Title 4 GCA and to add a new section §8174 to Article 1, Chapter 8 of Title 4 GCA.

Please provide written testimonies at least one day prior to the Roundtable Discussion to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, *Hagåtña* Guam 96910. They may be sent via facsimile to 477-2522, or via email to mike.lidia@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special

accommodations, please contact Mike Lidia at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at mike.lidia@senatorbjcruz.com.

Senseramente,

Mike Lidia

Research Analyst

Office of Vice Speaker Cruz
477-2520

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Mon, Sep 10, 2012 at 5:00 PM
To: mike.lidia@senatorbjcruz.com

Delivery to the following recipient failed permanently:

clerks@guamlegisalature.org

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MIME-Version: 1.0
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X-Originating-IP: [202.128.4.44]
Date: Mon, 10 Sep 2012 17:00:39 +1000
Message-ID: <CAFRf6VYvOYSZ5bwYUAeZpXxy48YS6-XU0M+WtHxjLXZjJ252tQ@mail.gmail.com>
Subject: First Notice of Hearings on Bill No. 507-31 (COR) (Roundtable Discussion)
From: Mike Lidia <mike.lidia@senatorbjcruz.com>
To: bmkelman@guampdn.com, clynt@spbguam.com, Janela <janela@mvguam.com>,
Jason Salas <jason@kuam.com>, Kevin Kerrigan <kevin@spbguam.com>, Krystal Paco
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Mike Lidia <mike.lidia@senatorbjcruz.com>

Second Notice of Hearings on Bill No. 507-31 (COR) (Roundtable Discussion) (Attachments Included)

31 messages

Mike Lidia <mike.lidia@senatorbjcruz.com> Wed, Sep 12, 2012 at 2:46 PM
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September 12, 2012

MEMORANDUM

To: All Senators/All Members/Media

From: Vice Speaker Benjamin J.F. Cruz

Re: Second Notice of Hearings on Bill No. 507-31 (COR) (Roundtable Discussion)

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will begin a series of hearings on Bill No. 507-31 (COR) with a Roundtable Discussion beginning on **September 17, 2012, at 5:30PM. Other hearings will follow on the 18, 24, 25, and 26, of September, 2012, starting at 5:30PM in *I Liheslatura's Public Hearing Room.*** Vice Speaker Benjamin J.F. Cruz invites representatives from the Calvo Administration, Human Resource Managers, Departmental Directors, Administrative Resource Officers, Civil Service Commission Members, and the Attorney General's office to attend. Specific provisions for discussion on each of the hearing dates are forthcoming:

Bill No. 507-31 (COR) - Committee on Rules; Federal, Foreign &

Micronesian Affairs; and Human & Natural Resources - An act to amend §4107, §4107.1, §4019, §4109.2 and §4119 of Chapter 4 of Title 4 GCA, to repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, and amend §6219 of Chapter 6 of Title 4 GCA, to repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to amend §8137(b) of Chapter 8 of Title 4 GCA and to add a new section §8174 to Article 1, Chapter 8 of Title 4 GCA.

Please provide written testimonies at least one day prior to the Roundtable Discussion to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, *Hagåtña* Guam 96910. They may be sent via facsimile to 477-2522, or via email to mike.lidia@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Mike Lidia at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at mike.lidia@senatorbjcruz.com.

Senseramente,

Mike Lidia

Research Analyst

Office of Vice Speaker Cruz

477-2520

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2 attachments

09122012 B.J. Cruz Second Notice of Public Hearing for Bill No. 507-31 (COR).docx
146K

09112012 B.J. Cruz Agenda PH for Bill No. 507-31 (COR).docx
145K

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Wed, Sep 12, 2012 at 2:46 PM
To: mike.lidia@senatorbjcruz.com

Delivery to the following recipient failed permanently:

charlyne.guerrero@epa.guam.gov

Technical details of permanent failure:

Gmail by Google

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First Notice of Supplemental Roundtable Discussion for Bill No. 507-31 (COR)

30 messages

Mike Lidia <mike.lidia@senatorbjcruz.com> Fri, Oct 19, 2012 at 8:16 AM
To: bmkelman@guampdn.com, clynt@spbguam.com, Janela <janela@mvguam.com>, Jason Salas <jason@kuam.com>, Kevin Kerrigan <kevin@spbguam.com>, Krystal Paco <krystal@kuam.com>, KUAM <hottips@kuam.com>, Mindy Aguon <mindy@kuam.com>, news@guampdn.com, news@k57.com, Pacific News Center <news@spbguam.com>, parroyo@k57.com, Ray Gibson <rgibson@k57.com>, sabrina@kuam.com, thebigshow@k57.com, therese.hart.writer@gmail.com, Travis Coffman <travis.coffman@gmail.com>, Adonis Mendiola <adonis.mendiola@gmail.com>, AJ Balajada <albert.balajadia@gpd.guam.gov>, aline4families@gmail.com, Amanda Lawson <alawson@visitguam.org>, Andy Arceo <andy.arceo@gmail.com>, Angel Sablan <anghet@hotmail.com>, Anisia Terlaje <anisiaterlaje@hotmail.com>, Annette Donner <annette.donner@fe.navy.mil>, Anthony Tamayo <anthony.tamayo@guam.gov>, Antone Aguon <afaguon@gmail.com>, Art Perez <aperez@gpagwa.com>, Arthur Clark <arthur.clark@guam.gov>, Arthur San Agustin <arthur.sanagustin@dphss.guam.gov>, Barry Mead <bigb@guam.net>, Ben Servino <benito.servino@disid.guam.gov>, Benita Manglona <bmanglonacpa@gmail.com>, Bernadette Artero <bernieartero@yahoo.com>, Bernadette Stern-Meno <bmeno@portguam.com>, Bertha Taijeron <bertha.taijeron@dphss.guam.gov>, Bryan Cruz <bcruz@guamattorneygeneral.com>, Carl Dominguez <carl.dominguez@dpw.guam.gov>, Carlene Okiyama <carlene.okiyama@guam.gov>, Carmelita Santos <carmelita.santos@clb.guam.gov>, Catherine Cruz Norton <catherine.norton@fe.navy.mil>, Cathy Gogue <cathy.gogue@gmail.com>, Charlyne Guerrero <charlyne.guerrero@epa.guam.gov>, Chief Fred Bordallo <fred.bordallo@gpd.guam.gov>, Christine Camacho <christine.camacho@gmail.com>, Chuck Ada <chuck.ada@ghs.guam.gov>, "Col. Ralph Sgambelluri" <rsgamby@yahoo.com>, Coleen Perez <coleen.perez@fe.navy.mil>, CPT Kenneth Ola <kenneth.ola@us.army.mil>, Dave Camacho <davidvcamacho@gmail.com>, David Camacho <ancestrallandsguam@yahoo.com>, Dong Choe <dong.choe@guam.gov>, "Dr. Anita Enriquez" <abe@uguam.uog.edu>, "Dr. Aurelio Espinola" <cme.guam@gmail.com>, "Dr. Helen Whippy" <hwhippy@uguam.uog.edu>, "Dr. Larry Lizama" <larry.lizama@gmha.org>, "Dr. Mary Okada" <mary.okada@guamcc.edu>, "Dr. Paul Pineda" <ppineda.spcs@gmail.com>, "Dr. Robert Underwood" <anacletus2010@gmail.com>, Ed Cruz <ed.cruz@bit.guam.gov>, Ed Ordonez <eduardo.ordonez@clb.guam.gov>, Eric Palacios <eric.palacios@guam.gov>, Evert Arevalo <evert.arevalo@guam.gov>, Felix Pangelinan <frpangelinan@portguam.com>, Ferdinand Soriano <ferdinand.soriano@cqa.guam.gov>, Florence Blas <florencesgro@gmail.com>, Francis Santos <fsantos@staywellguam.com>, Frank Pangelinan <frankpangelinan08@yahoo.com>, Franklin Arriola <franklin.arriola@guam.gov>, Gener Deliquina <gfdeliquina@yahoo.com>, General Benny Paulino <benny.m.paulino@us.army.mil>, Gerald Perez <geap43@yahoo.com>, Geri Castillo <geraldine.castillo@guam.gov>, Gerry Cruz <gerry.cruz@epa.guam.gov>, Heidi Ballendorf <heidi@guamwaterworks.org>, Henry Taitano <henry.taitano@guam.gov>, "Hinson, Carrie K MSgt USAF" <carrie.hinson@andersen.af.mil>, Ivan Quinata <ivan.quinata@epa.guam.gov>, Jack Casey <jackwcasey@yahoo.com>, Jackie Balbas <jacqueline.balbas@caha.guam.gov>, James Canto <james.canto@guam.gov>, James Casey <jimcasey352@yahoo.com>, Jayne Flores <jayne.flores@guamcc.edu>, Jesse Alig <jesse.alig@guam.gov>, Jim McDonald <jim.mcdonald@ghs.guam.gov>, Joann Camacho <fljoann@hotmail.com>, Joanne Brown <j.msbrown@yahoo.com>, Joaquin Flores <jflores@gpagwa.com>, Joe Cameron <jacam57@ite.net>, Joey San Nicolas <joey.sannicolas@gfd.guam.gov>, John Benavente <gpagm@ite.net>, John Camacho <jpcamacho@revtax.gov.gu>, Jose San Agustin <tankaila@hotmail.com>, Joseph Cameron <joseph.cameron@dca.guam.gov>, Josephine Torres <josephine.torres@dpw.guam.gov>, Josette Javelosa <jjavelosa@portguam.com>, judiguthertz@pticom.com, Karl Pangelinan <kpangelinan@guameda.net>, Kelly Basilia <kelly.basilia@guam.gov>, law@guamattorneygeneral.com, Leah Beth Oligario Naholowaa <lbnaholowaa@yahoo.com>, Leila Uong <leila.uong@guam.gov>, Leo Casil <leo.casil@dphss.guam.gov>, Linda DeNorcey <jilinda@teleguam.net>, "Lt Jodie K. Cornell" <jodie.cornell@fe.navy.mil>, LtCol Aisha Bakkar <aisha.bakkar@fe.navy.mil>, LTJG Wade

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Cruz" <senadotbjcruz@gmail.com>, Senator Ben Pangelinan <senbenp@guam.net>, "Senator Frank Blas, Jr." <frank.blasjr@gmail.com>, Senator Rory Respicio <roryforguam@gmail.com>, Senator Sam Mabini <senatorsam@senatormabini.com>, Senator Tina Muna-Barnes <tinamunabarnes@gmail.com>, Senator Tom Ada <tom@senatorada.org>, Senator Tony Ada <senatortonyada@guamlegislature.org>, Sherrill Gardner <sherrill.gardner.ctr@fe.navy.mil>, Simeon Palomo <simeon.palomo@dca.guam.gov>, Siva Kapurran <sivakgu@yahoo.com>, Speaker Judi Won Pat <speaker@judiwonpat.com>, Steve Guerrero <stephen.guerrero@bbmr.guam.gov>, Taryn Walker <taryn.walker@guam.gov>, Telo Taitague <sentelo@gmail.com>, Terry Cuabo <terry.cuabo@bsp.guam.gov>, Thelma Hechanova <Thelma.Hechanova.ctr@fe.navy.mil>, Theresa Cepeda <theresa.cepeda@fe.navy.mil>, Tina Garcia <cgarcia@investguam.com>, Tommy Morrison <morrison671@gmail.com>, Tony Lamorena <alberto.lamorena@csc.guam.gov>, troy.torres@guam.gov, Vice Mayor Allan Ungacta <vicemayor_allan.ungacta@yahoo.com>, Vice Mayor Louise Rivera <tatuhamo@eccomm.com>, Vice Mayor Robert Hoffman <vicemayor@gmail.com>, Vincent Leon Guerrero <vincent.leonguerrero@guam.gov>, Wilfred Aflague <wilfred.aflague@mail.dmhsa.guam.gov>, William Knight <william.knight@fe.navy.mil>, aguon4guam@gmail.com, ahernandez@guamlegislature.org, alerta.jermaine@gmail.com, aokada@guamlegislature.org, ashelton.senatordrodriguez@gmail.com, ataligba@gmail.com, avillaverde@guamlegislature.org, baza.matthew@gmail.com, bdydasco@yahoo.com, "Benjamin J.F. Cruz" <senator@senatorbjcruz.com>, berlene@senatorpalacios.com, bill phillips <phillipsguam@gmail.com>, bruce.lloyd.media@gmail.com, candasofrank@gmail.com, Charissa Tenorio <charissatenorio@gmail.com>, chechsantos@gmail.com, cheerfulcatunao@yahoo.com, cherbert.senatordrodriguez@gmail.com, Chris Duenas <duenasenator@gmail.com>, chris.budasi@guamlegislature.org, cipo@guamlegisalature.org, clerks@guamlegisalature.org, colleen@judiwonpat.com, cyrus@senatorada.org, desori623@hotmail.com, dmanyer05@hotmail.com, doc.wyttenbachsantos@gmail.com, edelynn1130@hotmail.com, edleonguerrero@gmail.com, edpocaigue@judiwonpat.com, edwardglee671@yahoo.com, Elaine Tajalle <etajalle@guamlegislature.org>, elaine@tinamunabarnes.com, evelyn4families@gmail.com, faith.r@senatormabini.com, fbtorres@judiwonpat.com, floterlaje@gmail.com, gavin@tinamunabarnes.com, guamnativesun@yahoo.com, jamespcastro@gmail.com, jane@tinamunabarnes.com, "Jason S. Tedtaotao" <jason@senatorpalacios.com>, jblas@tinamunabarnes.com, jcamacho@senatorada.org, Jean Cordero <jean@tinamunabarnes.com>, Jeff Manibusan <jeff.m@senatormabini.com>, jennifer@senatorpalacios.com, jennifer.lj.dulla@gmail.com, jimespaldon@yahoo.com, jmesngon.senatordrodriguez@gmail.com, john.calvo@noaa.gov, Joshua Tenorio <jtenorio@guamcourts.org>, judiguthertz@gmail.com, leonguerrero.angela@gmail.com, lou4families@gmail.com, louise_atalig@yahoo.com, m.salaila@yahoo.com, Mary Maravilla <marymaravilla19@gmail.com>, maryfejeran@gmail.com, mcarlson@guamlegislature.org, mis@guamlegislature.org, msuarez.senatordrodriguez@gmail.com, mtorres.senatordrodriguez@gmail.com, Myracle Mugol <myracle.m@senatormabini.com>, ncruz.senatordrodriguez@gmail.com,

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Cc: Carlos Pangelinan <carlos.pangelinan@senatorbjcruz.com>, Carlo Branch <carlo.branch@gmail.com>, Chris Carillo <chris.carillo@senatorbjcruz.com>, Lysa Mesa <lysa.mesa@senatorbjcruz.com>

October 19, 2012

MEMORANDUM

To: All Senators/All Members/Media/Invitees

From: Vice Speaker Benjamin J.F. Cruz

Re: First Notice of Supplemental Roundtable Discussion for Bill No. 507-31 (COR)

Hafa Adai! Please be advised that the Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting will hold a Roundtable Discussion to focus on recent cost cutting proposals offered by both sides of Governor Calvo's Omnibus spending cuts legislation, Bill No. 507-31 (LS). **The supplemental Roundtable Discussion will begin at 5:30pm on Monday, October 29, 2012.** Vice Speaker Benjamin J.F. Cruz invites representatives from the Calvo Administration, Human Resource Managers, Departmental Directors, Administrative Resource Officers, Civil Service Commission Members, and the Attorney General's office to attend:

Bill No. 507-31 (COR) - Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources - An act to amend §4107, §4107.1, §4019, §4109.2 and §4119 of Chapter 4 of Title 4 GCA, to repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, and amend §6219 of Chapter 6 of Title 4 GCA, to repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to amend §8137(b) of Chapter 8 of Title 4 GCA and to add a new section §8174 to Article 1, Chapter 8 of Title 4 GCA.

Please provide written testimonies at least one day prior to the Roundtable Discussion to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, *Hagåtña* Guam 96910. They may be sent via facsimile to 477-2522, or via email to carlo.branch@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Carlo Branch at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at carlo.branch@gmail.com.

Senseramente,

Mike Lidia

Research Analyst

Office of Vice Speaker Cruz

477-2520

10182012 B.J. Cruz First Notice of Roundtable Discussion for Bill No. 507-31 (COR).docx
147K

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Fri, Oct 19, 2012 at 8:16 AM
To: mike.lidia@senatorbjcruz.com

Delivery to the following recipient failed permanently:

miki.marks@guam.gov

Technical details of permanent failure:
Google tried to deliver your message, but it was rejected by the recipient domain. We recommend contacting the other email provider for further information about the cause of this error. The error that the other server returned was: 550 550-5.1.1 The email account that you tried to reach does not exist. Please try
550-5.1.1 double-checking the recipient's email address for typos or
550-5.1.1 unnecessary spaces. Learn more at
550 5.1.1 http://support.google.com/mail/bin/answer.py?answer=6596 u8si15593111vev.24 (state 13).

----- Original message -----

X-Google-DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=google.com; s=20120113;
h=mime-version:x-originating-ip:date:message-id:subject:from:to:cc
:content-type:x-gm-message-state;
bh=+sSIGINHSFhC8mKUGzqlHFBoaGCo9lxYTQlWsnfNjxA=;

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
Web Address: www.senatorbjcruz.com

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
The 31st Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

PUBLIC HEARING AGENDA

Monday, August 17, 2012 – 5:30PM
I Liheslatura · Public Hearing Room · *Hagåtña*, Guam

Section by Section Review and Discussion of Bill No. 507-31 (LS)

Bill No. 507-31 (COR) - Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources - An act to amend §4107, §4107.1, §4019, §4109.2 and §4119 of Chapter 4 of Title 4 GCA, to repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, and amend §6219 of Chapter 6 of Title 4 GCA, to repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to amend §8137(b) of Chapter 8 of Title 4 GCA and to add a new section §8174 to Article 1, Chapter 8 of Title 4 GCA.

Please provide written testimonies at least one day prior to the Roundtable Discussion to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, *Hagåtña* Guam 96910. They may be sent via facsimile to 477-2522, or via email to carlo.branch@gmail.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Carlo Branch at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at carlo.branch@gmail.com.

Senseramente,

Mike Lidia

Research Analyst

Office of Vice Speaker Cruz
477-2520

10242012 B.J. Cruz Second Notice of Roundtable Discussion for Bill No. 507-31 (COR).docx
147K

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Wed, Oct 24, 2012 at 9:02 AM
To: mike.lidia@senatorbjcruz.com

Delivery to the following recipient failed permanently:

taryn.walker@guam.gov

Technical details of permanent failure:
Google tried to deliver your message, but it was rejected by the recipient domain. We recommend contacting the other email provider for further information about the cause of this error. The error that the other server returned was: 550 550-5.1.1 The email account that you tried to reach does not exist. Please try
550-5.1.1 double-checking the recipient's email address for typos or
550-5.1.1 unnecessary spaces. Learn more at
550 5.1.1 http://support.google.com/mail/bin/answer.py?answer=6596 ea4si695285vdb.99 (state 13).

----- Original message -----

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h=mime-version:x-originating-ip:date:message-id:subject:from:to
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QodoB1tZebtFn4OrBgbDZxxOU/mbH3yIpyZGAHsePrFngu5Okuc7+9ymFuKyBznTRqx3

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement, General Government Operations, and Public Broadcasting.
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Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

PUBLIC HEARING AGENDA

Monday, August 17, 2012 – 5:30PM
I Liheslatura · Public Hearing Room · *Hagåtña*, Guam

Section by Section Review and Discussion of Bill No. 507-31 (LS)

Bill No. 507-31 (COR) - Committee on Rules; Federal, Foreign & Micronesian Affairs; and Human & Natural Resources - An act to amend §4107, §4107.1, §4019, §4109.2 and §4119 of Chapter 4 of Title 4 GCA, to repeal §4109.1, §4109.5, §4110.1, and §4111 of Chapter 4 of Title 4 GCA, and amend §6219 of Chapter 6 of Title 4 GCA, to repeal §6223 and §6232 of Chapter 6 of Title 4 GCA, to amend §8137(b) of Chapter 8 of Title 4 GCA and to add a new section §8174 to Article 1, Chapter 8 of Title 4 GCA.

I MINA' TRENTA UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 507-31 (LS)

Introduced by:

Committee on Rules; Federal, Foreign & Micronesian Affairs: and Human & Natural Resources.
At the request of the Governor

2012 AUG 21 PM 4:39

AN ACT TO AMEND §4107, §4107.1, §4109, §4109.2 AND §4119 OF CHAPTER 4 OF TITLE 4 GCA, TO REPEAL §4109.1, §4109.5, §4110.1, AND §4111 OF CHAPTER 4 OF TITLE 4 GCA, TO AMEND §6219 OF CHAPTER 6 OF TITLE 4 GCA, TO REPEAL §6223 AND §6232 OF CHAPTER 6 OF TITLE 4 GCA, TO AMEND §8137(b) of CHAPTER 8 OF TITLE 4 GCA AND TO ADD A NEW SECTION §8174 TO ARTICLE 1, CHAPTER 8 OF TITLE 4 GCA.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Findings and Intent. The budget policies of Fiscal Years 2007 and 2008 ended a decade of deficit spending in the government of Guam. Calculations based on conservative methodology and forecasting of revenues were used based on the trending of *actual* revenue collections from Fiscal Years 2004, 2005, and 2006. Appropriations for operational expenditures, debt service payments, reserves for provision for tax refunds, as well as the 2% reserve on appropriations were collectively based on realistic revenue projections.

The austerity measures were initiated by this administration in order to address the General Fund deficit. By Fiscal Year 2007 the accumulated deficit (audited) amounted to $510.1 Million. The mounting deficit was mainly the result of years of optimistic revenue projections, previously "unrecorded" obligations being recorded, and court orders adding to the amount the General Fund owed to

several debtors and for various improvements ordered by the federal government. As had been the practice of the past, when actual revenues were not collected as adopted, the government prioritized the payment of operations and court orders by using funds that should have been set aside for the payment of the ensuing year's tax refunds. Additionally, payments to vendors for goods and services already received by this government as well as payments for other outstanding obligations were not being paid in a timely manner and in many cases, over one year. As a result, government over-expenditures were financed in part by the tax refunds due to tax filers. In order to pay tax refunds from prior years, it became necessary to seek alternate financing through issuance of municipal bonds.

The accumulated deficit was exacerbated by annual deficits created by the government's failure to project realistic revenues for each budget year. This was pointed out by Standard & Poor's in Fiscal Year 2007, when the ratings agency placed GovGuam on "Credit Watch" following the use of bridge financing to float operations at the Department of Education for payroll. This brought to light the burden such a huge and unmanageable accumulated deficit has on the ability of the Executive Branch to manage the cash flow of the government. It also brought to light that the government's habit of deficit spending was systemic. There was, in fact, a structural imbalance in the General Fund, where the deficit will continue growing so long as the expenditure level continuously outpaces actual revenue collections. This burden stopped growing at the end of Fiscal Year 2007, when actual revenue collections exceeded revenue projections. The savings from the difference along with the savings from the two-percent reserve helped to pay down the deficit.

The deficit was once again decelerated by the end of Fiscal Year 2008, when it became clear that actual revenue collections again met the projected levels.

A shift in power occurred in the legislature through Fiscal Year 2008. The chairman of the legislative finance committee had submitted a budget for Fiscal Year 2009; however, that budget was revised and replaced by the new legislative majority. Despite repeated foreshadowing and warnings from the legislative minority members of *I' Liheslaturan Guahån* about the miscalculation of revenues in the revised Fiscal Year 2009 budget, the legislature passed the budget into law.

As a result, at the end of Fiscal Year 2009, deficit spending started again after two fiscal years when deficit spending ended. A cumulative deficit of $526.8 Million would have been recorded based on the deficiency between actual revenue collections and adopted revenue projections had it not been for a deficit financing bond within Fiscal Year 2009. We should note this bond did not figure into the balancing of the revised Fiscal Year 2009 budget.

The adopted revenues for FY 2010 were once again overstated and added $71 Million to the deficit by the end of Fiscal Year 2010. We should note that the deficit financing bond of 2009 brought the accumulated deficit from $415.5 Million at the end of FY 2008, down to $250.2 Million at the end of FY 2009. Because of the deficit of Fiscal Year 2010, the accumulated deficit increased again to $321.3 Million.

Interestingly, in the FY 2011 Budget Bill, the legislature arbitrarily increased the FY 2010 provisions for tax refunds by $32.4 Million toward the end of Fiscal Year 2010 without a corresponding decrease to appropriations which will appear in the books that actual revenue collections did indeed shorten the gap between the adopted levels versus actual collections. Such initiative of offsetting the balance of the budget by crediting the provision for tax refunds against the operational revenues gave the impression of a pledge of more funds for tax refunds without any cash to back it up. The result was a huge liability of cash to debtors, especially those owed tax refunds. The outgoing administration relieved part of

that burden by using almost all of the cash remitted to the government of Guam by the U.S. Internal Revenue Service for the Make Work Pay Tax Credit, and all of the cash remitted by the U.S. Treasury for Section 30 reimbursements in the first quarter of Fiscal Year 2011 alone. Such funds, estimated at $20 Million, must be repaid to the IRS by January 2013.

These unprecedented financial maneuvers culminated when the issues were brought to light in the first week of the new administration, when it was found that millions of dollars in transactions of interfund borrowings were occurring to cover cash shortfall, and that the government was operating without a cash flow model and projection system.

The new administration further found that several departments had underreported millions in past-due obligations, and that by January 2013, a portion of what was spent from the Make Work Pay Tax Credit would have to be paid back to the U.S. IRS. To make matters worse, the compounded cash shortfall by that time was at $2.7 Million and growing because of the deficient budgetary policies that went unchecked.

By the end of Fiscal Year 2011, actual revenue collections were below the adopted revenues by $17.3 Million; and, because of unbudgeted expenditures to include the payments for the Permanent Injunction and the accumulation of unbudgeted income tax refund interest payables, the accumulated deficit grew to $368.2 Million. However, primarily due to the offset of ARRA funds, this deficit level is reduced to $303.1 Million.

To stop the hemorrhaging of the General Fund, the Governor immediately suspended the Hay Study pay increases. He implemented a series of austerity measures, froze increments, and won passage of part of his deficit-financing plan, which placed the fiscal debt of tax refunds owed to taxpayers on the backs of the **bank**, and *not* the people.

As a result of these fiscal policies and communication with the legislature and the public, the administration was able to jump-start the weekly payment of tax refunds that had ended in the month prior to the new administration taking office. More obligations were being paid from the cash savings as well. The financing of part of the accumulated deficit through two series of a bond for tax refunds, overdue COLA judgment obligations, debt to the Retirement Fund, and health insurance obligations, the accumulated deficit is expected to decrease by $318.3 Million.

Fiscal solutions that were initiated beginning in January 2011, were meant to address the accumulated deficit, stop runaway and unchecked spending in the government, and begin to address the root of the problem, the structural imbalance of the General Fund. However, these measures in and of themselves would not suffice as resolution to the structurally imbalanced financial practices of the past and the cumulative impact it has had on how the government manages its financial challenges.

As a result of this structural imbalance and the constant inability of the government to afford its several obligations, the government has not been in a stable position to, at the very least:

a. Pay tax refunds on time
b. Pay vendors for services and resources provided as well as other outstanding obligations
c. Supply students and teachers with learning and teaching materials
d. Purchase school buses
e. Provide adequate police vehicles to the Guam Police Department
f. Increase medical services at the Guam Memorial Hospital
g. Adequately fund disease prevention efforts around a strategic framework

h. Procure a new emergency radio communications system to replace the existing and far-outdated system, which will break at any given time

i. Implement the Hay Study pay raises to adequately compensate the GovGuam workforce

j. Provide the remaining 20 percent increase to base pay for public safety officers to bring the officers closer to market

This is not the correct way to finance government operations. The people contribute enough of their tax dollars for their leaders to implement an efficient system of services. Such efficiency can occur when government leaders truly prioritize the spending of tax dollars. The first step in this action to prioritize is to remove the structural imbalance so that operational expenditures truly meet realistic revenue thresholds each year, with sufficient funding to pay down the deficit.

To balance the structure of the General Fund, this government must reduce its structural (yearly) expenditures. Such reductions are found by reducing the size of the GovGuam workforce and the amount spent yearly to fund certain benefits. Moreover, this government must realize annual savings in the General Fund, which can be reinvested into priority areas and for deficit elimination. This can be accomplished by amortizing the yearly debt to the Unfunded Liability of the Retirement Fund to fully pay down by the year 2041, a 10-year extension.

Section 2. Short Title. This act shall be known, hereinafter, as the Omnibus Fiscal Reform Act of 2012.

Section 3. Clarification of Maternity Leave. §4107 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

§ 4107. Maternity Leave.

~~Maternity~~ Administrative leave, pursuant to the Department of Administration Personnel Rules and Regulations, shall be granted to ~~a~~ all

female employees ~~occupying a permanent position~~ who ~~is~~ are absent from work as a result of childbirth or adoption of a child(ren) five (5) years old or younger. Such maternity leave shall not exceed twenty (20) days, encompassing the date of childbirth or adoption. Any additional leave taken for such childbirth or adoption purpose ~~may~~ *shall* be charged against accumulated sick and/or annual leave to include compensatory time, or may be unpaid leave / leave without pay, at the option of the employee. Total leave, whether maternity, annual leave to include compensatory time, sick or unpaid leave / leave without pay, shall not exceed six (6) months. ~~without approval of the employee's supervisor.~~

Section 4. Reversion of Paternity Leave to Industry Standard. §4107.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4107.1. Paternity Leave.**

~~Paternity~~ Administrative leave, pursuant to the Department of Administration Personnel Rules and Regulations, shall be granted to all male employees ~~occupying a permanent position~~ upon the birth or adoption of his child(ren). Such paternity leave shall not exceed ten (10) days, encompassing the date of childbirth or adoption of a child(ren) five (5) years old or younger. Any ~~additional~~ leave taken for such purpose ~~may~~ *shall* be charged against accumulated annual and sick leave to include compensatory time, or may be unpaid leave / leave without pay, at the option of the employee. Total leave, whether paternity, annual leave to include compensatory time, sick or unpaid leave / leave without pay shall not exceed ~~six~~ three ~~(6)~~ (3) months. ~~without approval of the employee's supervisor~~."

Section 5. Elimination of Annual Leave Lump Sum Cash Out Payment Policy; Implementation of 'Use It or Lose It' Policy. §4109 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4109. Annual Leave.**

(a) Annual leave shall be granted to employees occupying permanent positions, except personnel of the Department of Education, the Guam Community College or the University of Guam, who are employed on a school year basis, and judges and justices of the Judiciary of Guam who are not members of the defined benefits retirement plan of the government of Guam, in accordance with the following schedule:

(1) One-half day (4 hours) for each full bi-weekly pay period in the case of employees with less than five (5) years of service;

(2) Three-fourths day (6 hours) for each bi-weekly pay period in the case of employees with five (5) years of service but less than fifteen (15) years of service.

(3) One (1) day (8 hours) for each full biweekly pay period in the case of employees with fifteen (15) years or more service.

For purposes of this Subsection (a), all elected officials except members of the Guam Education Policy Board, and the Consolidated Commission on Utilities shall be deemed employees occupying permanent positions.

(b) The term years of service shall be deemed to include service with the Naval Government of Guam or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three (3) years of service shall be credited to any individual for purposes of this Section. Years of service shall include one (1) year for each year served as a school employee.

The provisions of this Subsection shall not apply to those employees of the government of Guam hired prior to the date of enactment of this Act,

except that any current employee of the government who has been in the employ of the government for less than three (3) years on the date of enactment and is a former member of the Armed Forces of the United States and is receiving a retirement annuity or pension as result of such military service shall be deemed to have three (3) years of service with the government at the date of enactment of this Subsection for the purposes of accruing annual leave.

(c) Employees entitled to annual leave hereunder may accumulate up to three hundred twenty (320) hours. Any annual leave earned by eligible employees in excess of three hundred twenty (320) hours shall be credited to such employee's accumulated sick leave, provided, that no more than one hundred (100) hours shall be credited to sick leave at the end of each fiscal year. The determination of accumulation of annual leave, and crediting of excess hours sick leave, shall be done at the end of each fiscal year. Notwithstanding the provision of this Section, employees who have accumulated annual leave in excess of three hundred twenty (320) hours as of ~~February 28, 2003~~ October 1, 2012, may carry over their excess and shall use the excess amount of leave by the first pay period following September 30, 2014~~, prior to retirement or termination from service. At the time of retirement or termination of service, that~~. That portion permitted to be credited to sick leave shall be so credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave for any employee, except one who retires. The allowance for lump sum compensation or retirement credit for those employees retiring shall not exceed ~~in excess of~~ three hundred twenty (320) hours.

(d) [Repealed.]

~~(e) Any employee who transfers from one branch of the government of Guam to another, or from one department, agency, instrumentality or corporation of the government of Guam to another department, agency, instrumentality or corporation at his option may accept the cash value of his earned leave at the time of transfer or transfer his accumulated leave to his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and reemployment.~~

(f) Any employee of the government of Guam who shall transfer from one government of Guam department or agency to the Guam Housing and Urban Renewal (GHURA) shall be credited with all prior creditable service to the government of Guam in computing annual leave. This subsection shall be applicable to all former employees of GHURA who shall make specific application for such credit within six (6) months after the date of enactment hereof.

(g) Any employee of the government of Guam who is a participating athlete or coach or administrator in an athletic contingent, recognized by the Guam National Olympic Committee ('GNOC'), representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the GNOC, shall be granted leave by his or her respective department director or appointing authority for the time it takes to complete both competition and any necessary travel, not to exceed fifteen (15) working days; provided, that his or her accumulated annual leave or compensatory time off ('CTO') is charged with the number of hours he or she is absent from duty, and further provided, that the employee requests such leave in writing thirty (30) calendar days prior to the first day of leave. If said employee has exhausted his or her annual leave, or chooses

not to use such, he or she shall be granted leave without pay. Under no circumstances shall any employee of the government of Guam be granted said leave for competition more than three (3) times in one (1) calendar year under this Subsection.

(h) Any employee of the government of Guam who has been qualified as a donor for medical purposes and has received notice that the employee has been determined to be a match shall be granted leave with pay by his or her respective department director or appointing authority for the time it takes to complete the medical procedure involved, not to exceed ten (10) working days."

Section 6. Repeal of Accrued Leave Pay Out. §4109.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 7. Reversion of Leave Sharing Program to Its Original Intended Purpose. §4109.2 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 4109.2. Leave Sharing Program.**

(a) Legislative Statement. From time to time, classified employees in the civil service of the government of Guam have occasion to need leave for medical reasons, but may have already exhausted the leave that they have earned and accrued. ~~At times like these, particularly when the employee needs time off to take care of sick family members or in the case of the military reserves and National Guard members, being called to active duty in excess of fifteen (15) working days, the employee might be forced to take leave without pay. Through the generosity of the other employees, the affected employees could be relieved of the stress of this situation.~~

(b) Voluntary Transfer of Sick Leave or Annual Leave. If a government of Guam employee desires to transfer a number of hours of

earned sick leave and/or annual leave to another employee in any department or agency of the government, the recipient must first exhaust all his/her accrued annual and sick leave and compensatory time for the purposes of a medical emergency or medically related ~~or for personal~~ reasons. Leave transferred from donors whose hourly rates of pay or salaries are lower than the recipient shall be paid at the hourly rate or salary of the donor. Leave transferred from donors whose hourly rates of pay or salaries are higher than the recipient, shall be paid at the hourly rate or salary of the recipient. A formal written request shall be made by the donor employee to that person's payroll supervisor, stating the name of the recipient, the number of hours of leave to be transferred and the type of leave. No transfer may be made by any employee to that person's supervisor, or to any person above that employee in the supervisory chain, or to a member of the supervisor's or such supervisory person's immediate family. If the donor has sufficient hours of leave accrued to cover the donation, the payroll supervisor shall notify the Payroll Division to transfer the approved number of hours to the recipient. Upon receipt of the notice of transfer, the receiving employee may then submit a leave request for the number of hours of leave, sick and/or annual, that the employee needs and the department head ~~shall~~ may ~~then~~ approve the leave request. Leave may not be transferred to another employee if as a recipient that employee intends to use it for credit towards retirement or accumulated leave. This transfer of leave shall be strictly on a voluntary basis. Leave transferred shall be used as leave by the person to whom it is transferred, and if it is not used in its entirety, it may be re-transferred to the person who originally earned it. In no event shall transferred leave be converted to cash or retirement credit by the person to whom it is transferred. Participation in the leave sharing program shall not

exceed ~~ninety~~ sixty ~~(90)~~ (60) working days per fiscal year. ~~shall require a certification from the attending medical doctor that the recipient of the leave needs additional time for medical treatment or recovery from a medical illness and is physically unable to return to work due to the medical illness. An additional ninety (90) working days may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the first ninety (90) day period. A final period of thirty (30) working days may be granted upon an additional certification from the attending medical doctor that additional time is needed for recovery.~~

(1) Employees of the government of Guam shall not transfer their unused annual leave and/or sick leave to another employee in exchange for any money, favors, or items of value. Employees who transfer or receive annual and/or sick leave in violation of this provision shall be guilty of official misconduct pursuant to Title 9 GCA §49.90.

(2) This provision shall apply to all government employees in the classified, appointed, elected, and unclassified positions, and all branches of the government of Guam, including line departments and agencies, autonomous agencies, public corporations, and all other government instrumentalities."

Section 8. Same: Reversion of Leave Sharing Program to Its Original Intended Purpose. §4109.5 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 9. Repeal of Teacher Personal Leave. §4110.1 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 10. Repeal of Lump Sum Payment of Annual Leave Prior to Taking Leave. §4111 of Chapter 4 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

Section 11. Allowance for Use of Compensatory Time Accrued for Military Leave. §4119 of Chapter 4 of Title 4, Guam Code Annotated is hereby *amended* to read:

§ 4119. Military Leaves of Absence: National Guard or Reserves.

All employees of the government of Guam who are members of the reserve components of the Department of Defense or Transportation, including, but not limited to, the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, shall be entitled to leaves of absence from their respective duties with the government of Guam without losses of time or efficiency ratings on all days during which they are engaged in active military duty ordered or authorized under the laws of United States. Such employees shall be entitled to military leave with pay while performing such duty not to exceed fifteen (15) working days per government of Guam fiscal year, and, to the extent not used in a fiscal year, accumulates in the succeeding year until it totals fifteen (15) days at the beginning of a fiscal year. Thereafter, the officers and employees shall elect annual leave, compensatory-time accrued, or leave without pay. The provisions of this Section shall be retroactive to October 01, ~~1994~~ 2012.

Section 12. Reversion of Overtime Compensation for Firefighters to Fair Labor Standards Act Regulations Relative to the 207(k) Exemption. §6219 of Chapter 6 of Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 6219. Firemen: Compensation: Annual and Sick Leave.**

(a) Notwithstanding any other law, rule, or regulation, firefighters within the Guam Fire Department, except the Fire Chief, shall be compensated at the regular hourly rate of pay consistent with all Fair Labor Standards Act (FLSA) regulations relative to the 207(k) exemption. ~~at one hundred six~~

~~(106) hours, and shall be compensated at one and one-half (1½) times the regular hourly rate for hours worked in excess of one hundred six (106) hours per pay period~~. Firefighters who are working administrative duty shall work eighty (80) hours per pay period at their regular rate of pay in the same manner as other government of Guam employees. ~~and at one and one-half (1½) times their regular hourly rate only in the event that they work in excess of one hundred six (106) hours in a pay period~~.

~~(b) All hours of work performed by firefighters during a legal holiday shall be compensated at double the regular hourly rate, irrespective of work shifts, provided, however, that work performed on such a holiday in excess of nine (9) hours shall be compensated at the regular hourly rate.~~

(c) Firefighters shall be charged no more than nine (9) hours annual leave or sick leave for any given day on which such leave is taken.

(d) All other laws, rules, regulations applicable to firefighters not consistent with this Section shall remain in full force and effect."

Section 13. Repeal of Incentive Pay for Firefighters. §6223 of Chapter 6 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

~~**§ 6223. Firefighters - EMT-A Duty.**~~

~~Notwithstanding any law to the contrary, a Firefighter in the Guam Fire Department who performs work as an Emergency Medical Technician-Ambulance (EMT-A) and is a certified EMT-A shall be entitled to differential pay calculated at the rate of his or her regular wage plus fifteen percent (15%) for all periods he or she is assigned as an EMT-A and is a certified EMT-A.~~

Section 14. Repeal of Triennial Review of Positions Requiring Certification. §6232 of Chapter 6 of Title 4, Guam Code Annotated is hereby *repealed* in its entirety.

~~**§ 6232. [Untitled].**~~

~~The Director of Administration shall triennially review all positions requiring certification as either EMT-B, EMT-I, or an EMT-P and recommend salary adjustments based on such qualifications to be competitive with national salary schedules.~~

Section 15. Early Retirement Incentive Plan. A new section §8174 is added to Article 1 of Chapter 8 of Title 4 of the Guam Code Annotated to read:

"**§8174. Early Retirement Incentive Plan.** Notwithstanding any other provision of law or terms and conditions set by the Board of Trustees of the Government of Guam Retirement Fund (GGRF) pursuant to §8130 of Title *4* of the Guam Code Annotated, and for a period between the effective date of this Act and September 30, 2013, any active member of the Defined Benefits Plan of the Government of Guam Retirement Fund who has a minimum of twenty (20) years of creditable service may retire and receive the following additional benefits:

1. Actively employed members of the Defined Benefit Plan who would reach their full service requirement pursuant to Title 4 GCA, Chapter 8, §8120.1 are eligible to apply to purchase up to five (5) years of retirement credit.
2. Actively employed members of the Defined Benefit Plan who are eligible to participate *may* apply for this plan beginning October 1, 2012 until September 30, 2013.
3. Employees who are eligible *may* apply to their respective department / agency heads to participate in the program to purchase up to five (5) years of retirement credit. Department / agency heads will have approval authority based on assessments of their respective agencies' operations.

4. Eligible employees who are approved to participate in the program will have up to one year to train and transition institutional knowledge, policies, and procedures to other remaining staff to ensure continuity of services.
5. The member retiring shall suffer no penalty or diminishing of the amount of annuity to be received on account of the age of the member retiring upon the date of retiring.
6. No employee voluntarily purchasing early retirement credit shall be rehired by the government of Guam in any position, whether contractual or otherwise, for at least five (5) years from the effective date of retirement, except for those specifically determined by the Governor of Guam to be critical to the delivery of services. The Retirement Fund shall make all individuals who voluntarily apply for early retirement credit aware that their purchase of such credit shall be construed as a voluntary waiver of their right to re-employment or reinstatement.
7. Employees who are approved to participate in the program will have to pay, in full at the time of retirement, the remaining contributions that would have been paid to the GGRF should they have remained employed. Except however, employees may have up to five (5) years to pay for those contributions through execution of a promissory note with the GGRF. The term of any such promissory note shall not exceed five (5) years at an interest rate determined by the GGRF.
8. Employees who are approved and purchase additional years of service credit are entitled to the full application of such additional years of service immediately upon their retirement, regardless of when a promissory note is finalized between the Retirement Fund and the

retiree. Should the Retirement Fund be unable to have a promissory note effectuated simultaneously to the separation of the employee from government service or their retirement from the government of Guam, the Retirement Fund shall retroactively apply the annuity based on the additional years of service."

Section 16. Government Unfunded Liability extension of amortization period. §8137(b), Article 1, Chapter 8, Title 4 Guam Code Annotated, is hereby amended to read:

"(b) Government Unfunded, Liability Amortization Cost. An amount resulting from the application of a rate percent of total salaries of all members which will amortize the remaining liability for prior service over a period of ~~eighty~~ ninety (~~80~~ 90) years following May 1, 1951. From July 1, 1955, to August 30, 1972, the rate of contribution shall be not less than one and three hundred seventeen thousandths percent (1.317%) of the total salaries of the members participating in the Fund. From September 1, 1972, the rate of contributions shall be not less than one and four hundred and seven thousandths percent (1.407%) of the total salaries of the members participating in the Fund. From the beginning of the first full pay period following the beginning of the 1992 fiscal year, the rate of contribution shall be equal to thirteen and six hundred sixty-five thousandths percent (13.665%) of the total salaries of the members participating in the Fund. From October 1, 1993, the rate of contribution shall be equal to the Government Unfunded Liability Amortization Cost rate percent determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, subject to the approval by *I Liheslaturan Guåhan* by legislation. From March 1, 2003, until the next completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, the rate of contribution shall be eighteen percent (18%) of the total salaries of the members

Unfunded Liability Amortization Cost rate percent determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, subject to the approval by *I Liheslaturan Guåhan* by legislation. From March 1, 2003, until the next completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board, the rate of contribution shall be eighteen percent (18%) of the total salaries of the members participating in the Fund. Thereafter, the contribution shall be equal to the Government Unfunded Liability Amortization Cost rate percent prepared for the Board of Trustees by the actuary appointed by the Board, subject to approval by *I Liheslaturan Guåhan* by legislation, which will amortize the remaining liability for prior service for the full period authorized herein.

The amount of contributions by the Government shall be determined by applying the applicable percentage rate of contributions as hereinabove prescribed to the total salaries paid to the members during each payroll period, and all such amounts shall be paid into the Fund following the close of each payroll period, concurrently with the contributions made to the Fund by the members. For purposes of this Section, the term total salaries of members shall be interpreted to include Base Pay, as defined in 4 GCA, §8301(l), of members participating in the Government Defined Contribution System."

Section 17. This Act shall be effective upon enactment.

Section 18. Severability. *If* any provisions of this Act or its application to any person or circumstances 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 are severable.