



OFFICE OF THE GOVERNOR
TERRITORY OF GUAM

**Refer to
Legislative Secretary**

MAY 21 1997

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT	
Received By	<u>[Signature]</u>
Time	<u>4:44pm</u>
Date	<u>5-21-97</u>

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 221 (COR), "AN ACT TO AMEND THE BUDGET CORRECTION AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14), RELATIVE TO TECHNICAL CORRECTIONS AND OTHER FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS AND MISCELLANEOUS PROVISIONS; TO ADD A NEW SUBSECTION (q) TO SECTION 3102 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO LINE OF CREDIT FOR DEPARTMENT OF EDUCATION; TO ADD NEW SUBSECTIONS (b) AND (c) TO SECTION 26208 AND AMEND SECTION 26208 AND AMEND SECTION 26209 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE SCHOOL OPERATIONS FUND OF THE DEPARTMENT OF EDUCATION; TO ADD A NEW SUBSECTION (d) TO SECTION 26111 OF CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PENALTY PROVISION FOR GROSS RECEIPT TAX PAYMENTS; TO AMEND SUBSECTION (d) OF SECTION 4 OF PUBLIC LAW 24-14, RELATIVE TO FUNDING SOURCES; AND TO RE-ENACT THE OFF-ISLAND EDUCATION, TRAINING AND CULTURAL ENHANCEMENT FUND.", which was enacted into law without the signature of the Governor. I have designated this legislation as **Public Law No. 24-34.**

Very truly yours,

Madeleine Z. Bordallo
Madeleine Z. Bordallo
Acting Governor of Guam

Attachment 00235

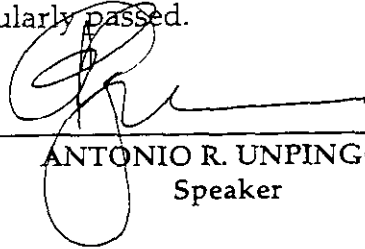
cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 5/21/97
Time: 4:30
Rec'd by: [Signature]
Print Name: Charlene R. Duenas

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

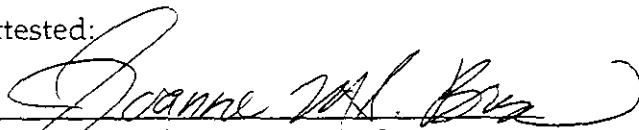
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 221 (COR), "AN ACT TO AMEND THE BUDGET CORRECTION AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14), RELATIVE TO TECHNICAL CORRECTIONS AND OTHER FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS AND MISCELLANEOUS PROVISIONS; TO ADD A NEW SUBSECTION (q) TO SECTION 3102 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO LINE OF CREDIT FOR DEPARTMENT OF EDUCATION; TO ADD NEW SUBSECTIONS (b) AND (c) TO SECTION 26208 AND AMEND SECTION 26209 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE SCHOOL OPERATIONS FUND OF THE DEPARTMENT OF EDUCATION; TO ADD A NEW SUBSECTION (d) TO SECTION 26111 OF CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PENALTY PROVISION FOR GROSS RECEIPT TAX PAYMENTS; TO AMEND SUBSECTION (d) OF SECTION 4 OF PUBLIC LAW 24-14, RELATIVE TO FUNDING SOURCES; AND TO RE-ENACT THE OFF-ISLAND EDUCATION, TRAINING AND CULTURAL ENHANCEMENT FUND," was on the 6th day of May, 1997, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 8th day of May, 1997, at 12:35 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:

Became law without the Governor's signature.

MADELEINE Z. BORDALLO
Acting Governor of Guam

Date: _____
Public Law No. 24-34

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 221(COR)

As substituted by the Committee on
Finance and Taxation, and as further
substituted and amended on the floor.

Introduced by:

A. C. Blaz
F. B. Aguon, Jr.
T. C. Ada
E. Barrett-Anderson
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
L. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. WonPat-Borja

**AN ACT TO AMEND THE BUDGET CORRECTION
AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14),
RELATIVE TO TECHNICAL CORRECTIONS AND
OTHER FISCAL YEAR 1997 SUPPLEMENTAL
APPROPRIATIONS AND MISCELLANEOUS
PROVISIONS; TO ADD A NEW SUBSECTION (q)**

TO SECTION 3102 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO LINE OF CREDIT FOR DEPARTMENT OF EDUCATION; TO ADD NEW SUBSECTIONS (b) AND (c) TO SECTION 26208 AND AMEND SECTION 26209 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE SCHOOL OPERATIONS FUND OF THE DEPARTMENT OF EDUCATION; TO ADD A NEW SUBSECTION (d) TO SECTION 26111 OF CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PENALTY PROVISION FOR GROSS RECEIPT TAX PAYMENTS; TO AMEND SUBSECTION (d) OF SECTION 4 OF PUBLIC LAW 24-14, RELATIVE TO FUNDING SOURCES; AND TO RE-ENACT THE OFF-ISLAND EDUCATION, TRAINING AND CULTURAL ENHANCEMENT FUND.

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

2 **Section 1. Legislative Intent.** The Guam Legislature finds that certain
3 technical changes are necessary to Public Law No. 24-14 relative to the
4 Autonomous Agency Infrastructure Collections Fund as a funding source for
5 fiscal year 1997 appropriations, that supplemental funding needs for the
6 Mayors Council, Department of Administration, Department of Education,
7 Department of Revenue and Taxation and supplemental annuity benefits
8 under the Government of Guam Retirement Fund are justified, that a line of
9 credit together with specific administrative, accounting, financial and record
10 keeping procedures duties, responsibilities and authorities for the
11 Department of Education is necessary to off-set fluctuating collections and
12 subsequent departmental transfers of funds from gross receipts taxes and that

1 provisions penalizing taxpayers for untimely monthly deposits for gross
2 receipts taxes are also necessary.

3 **Section 2. Amendment to Section 6127(b) of the Government Code.**

4 Section 6127(b) of the Government Code of Guam, as amended by Public Law
5 No. 24-14, is repealed and re-enacted to read:

6 **“Section 6127(b).** The A.B. WonPat Guam International Airport
7 Authority, the Guam Power Authority, the Port Authority of Guam and
8 the Guam Telephone Authority are hereby assessed in the aggregate the
9 sum of Three Million Five Hundred Thousand Dollars (\$3,500,000.00) in
10 lieu of taxes and other charges as may normally be assessed against a
11 private company for utility easements, gross receipts taxes, taxes on
12 audited income, government development fees, such as water wells and
13 monetary fees. Notwithstanding any other provision of law, the
14 Governor and the Boards of Directors of the Port Authority of Guam,
15 the Guam Power Authority, the Guam Telephone Authority and the
16 A.B. WonPat Guam International Airport Authority, shall transfer in the
17 aggregate sum of Three Million Five Hundred Thousand Dollars
18 (\$3,500,000.00) from net income and retained earnings in current and
19 prior years generated by these agencies to the Autonomous Agency
20 Infrastructure Collections Fund of the government of Guam by the end
21 of each fiscal year. The proportionate contribution of each of the above
22 agencies, which will in the aggregate make up the Three Million Five
23 Hundred Thousand Dollars (\$3,500,000.00) transferred, shall be
24 determined by the Governor in consultation with the Boards of
25 Directors of the above agencies. In no event shall the method decided

1 upon, or the transfer of sums from the agencies to the Autonomous
2 Agency Infrastructure Collections Fund, violate the terms or conditions
3 of any bond covenant of any of the above agencies that is in effect on the
4 effective date of this Act. Autonomous Agencies shall not increase rates
5 to recover these contributions, but instead shall apply best management
6 efforts to reduce operating costs and expenditures.”

7 **Section 3. Four Hundred Thousand Dollars (\$400,000.00) to the**
8 **Mayors Council.** Four Hundred Thousand Dollars (\$400,000.00) is
9 appropriated from the Autonomous Agency Infrastructure Collections Fund
10 to the Mayors Council for operating expenses as follows:

11 (a) Twenty Thousand Dollars (\$20,000.00) shall be allocated to
12 each of the nineteen (19) village mayor’s budget.

13 (b) Ten Thousand Dollars (\$10,000.00) shall be allocated to the
14 central operations of the Mayors Council and an additional Ten
15 Thousand Dollars (\$10,000.00) shall be allocated to the Dededo Mayor’s
16 budget.

17 **Section 4. One Million Six Hundred Thousand Dollars**
18 **(\$1,600,000.00) to the Government of Guam Retirement Fund.** One Million
19 Six Hundred Thousand Dollars (\$1,600,000.00) is appropriated from the
20 General Fund to the Government of Guam Retirement Fund to cover annuity
21 benefits of retirees residing off-island or on-island, who shall each receive the
22 equivalent of the government’s contribution for medical and dental insurance
23 under the Government of Guam Health Plan.

24 **Section 5. Fifteen Thousand Dollars (\$15,000.00) to the Department**
25 **of Administration.** Fifteen Thousand Dollars (\$15,000.00) is appropriated

1 from the General Fund to the Department of Administration for expenses of
2 the dedication of the Ricardo J. Bordallo Governor's Complex. All funds
3 unexpended therefrom shall be reimbursed to the General Fund. This
4 appropriation is subject to the Governor's fiscal year 1997 reprogramming
5 authority.

6 **Section 6. Forty-five Thousand Dollars (\$45,000.00) to the Department**
7 **of Education.** Forty-five Thousand Dollars (\$45,000.00) is appropriated from
8 the General Fund to the Guam Council of the Arts and Humanities Agency
9 ("CAHA") Off-island Education, Training and Cultural Enhancement Fund
10 (the "Fund") for the following programs:

11 (a) Fifteen Thousand Dollars (\$15,000.00) for off-island travel,
12 tuition, fees and related expenses for Guam's participation in the Junior
13 Statesmen Program.

14 (b) Thirty Thousand Dollars (\$30,000.00) for off-island travel
15 and related expenses for Guam's participation in the National Mock Trial
16 Competition.

17 (c) Notwithstanding the CAHA rules and regulations
18 promulgated by P.L. 22-124, the appropriations in this Section shall not be
19 subject to any requirements except those specified herein.

20 **Section 7. Restatement of Appropriations to the Department of**
21 **Education for Textbooks as Amended.** Notwithstanding any provision of
22 law, appropriation authorization and provisions for the Department of
23 Education to purchase textbook as contained in Section 36, Chapter III,
24 Miscellaneous appropriations, of Public Law No. 23-128 stand, as amended to
25 read:

1 **“Section 36. Appropriation to the Department of Education for**
2 **Textbooks.** The sum of Four Million Dollars (\$4,000,000.00) is hereby
3 appropriated from FY 1998 revenues of the General Fund to the
4 Department of Education to purchase textbooks for the school year
5 1997-1998. Said funds shall be appropriated in advance in preparation
6 for the opening of the 1997-1998 school year. A portion of this sum shall
7 be allocated to the thirty-six (36) school libraries using the formula of Six
8 Thousand Dollars (\$6,000.00) per school or Fifteen Dollars (\$15.00) per
9 student enrolled in the respective school, whichever amount is greater.”

10 **Section 8. Title 17 Guam Code Annotated §3102 Amendment.** With
11 the passage of Bill No. 62, notwithstanding the Governor’s veto, a distinct
12 source has been identified to fund the operations of the Department of
13 Education. The Guam Legislature finds that the varying nature of collections
14 and subsequent transfers of funds from gross receipts taxes (“GRT”) makes it
15 necessary to grant the Department the authority to arrange a line of credit. A
16 new Subsection (q) is added to Title 17 GCA §3102, to read:

17 “(q) Arrange a line of credit not to exceed eighty-eight Percent
18 (88%) of the estimated Gross Receipts Tax to be collected during the
19 fiscal year the loan is consummated with banks or other lending
20 institutions licensed on Guam. All terms of the line of credit agreement
21 shall be negotiated by the Board in the educational interests of the
22 children of Guam. The terms of the line of credit shall include the
23 following:

1 (1) The line of credit shall be used by the Board in cases
2 where a cash shortage is eminent and a strong likelihood exists the
3 shortage could hamper Department operations;

4 (2) Prepaid charges shall not be levied by the bank or the
5 lender for opening the line of credit;

6 (3) The interest rate shall be subject to competitive
7 negotiations between the Board and the lender. Such interest rate shall
8 be computed on a monthly average and based on the actual amounts
9 extended to the Board;

10 (4) Interest derived from the line of credit shall be exempt
11 from taxation by the government of Guam;

12 (5) All terms of the line of credit agreement not
13 specifically defined in the foregoing shall be negotiated by the Board in
14 the best interests of the people of Guam;

15 (6) Any money borrowed shall be repaid within one (1)
16 year. In no case shall any amount borrowed be refinanced permitting
17 repayment more than one (1) year after the loan is made; and

18 (7) As part of any loan agreement the Board shall identify
19 eighty-eight percent (88%) of Gross Receipts Taxes as the source of the
20 repayment and such source shall constitute a trust fund of the
21 Department which shall be used for no purpose other than repayment
22 until the sum borrowed is repaid in full."

23 **Section 9. Title 11 Guam Code Annotated §26208 Amendment.** (a) A
24 new Subsection (b) to Section 26208 of Title 11, Guam Code Annotated, is
25 added to read:

1 “(b) The Fund shall be administered by the Department of
2 Education and shall not be commingled with the General Fund or any
3 other fund of the government of Guam. The fund shall be maintained in
4 a separate bank account and monies deposited therein shall not be
5 subject to the Governor’s transfer authority. The Department of
6 Education is authorized to accept for the Fund gifts, bequests, donations
7 and other kinds of contributions for the purposes of the Fund. The
8 Director of Education or his designated agent, shall receive, and account
9 for all monies in this Fund. He shall disburse monies only upon
10 properly signed warrants. He shall maintain a daily cash blotter in
11 which shall be entered all transactions in detail, showing dates of all
12 receipts and disbursements, names of persons making payments or
13 receiving payments and amounts. This blotter shall be balanced daily.
14 All receipts and warrants shall be turned over daily after recapitulation
15 on control records to the Controller for the Department of Education for
16 audit, verification, necessary ledger entries and filing.”

17 (b) A new Subsection (c) to Section 26208 of Title 11 of the Guam
18 Code Annotated is added to read:

19 “(c) All existing Department of Administration accounts for the
20 Department of Education shall be deposited or transferred to the School
21 Operations Fund for use by the Department of Education in fiscal year
22 1997.”

23 **Section 10. Title 11 Guam Code Annotated §26209 Amendment.**

24 Section 26209 of Title 11 of the Guam Code Annotated is amended to read:

1 “The contents of the School Operations Fund are appropriated to
2 the Department of Education for the operations of the Guam Public
3 School System and for such purposes directly associated with the
4 operation and improvement of the Guam Public School System,
5 inclusive of capital improvements, as may be deemed necessary by the
6 Territorial Board of Education. This appropriation is continuous,
7 contingent on the annual submission of a detailed budget to the Guam
8 Legislature, notwithstanding any other provision of law. Upon the
9 effective date of this Section, all previous appropriations to the
10 Department of Education for fiscal year 1997 are repealed. Nothing
11 herein shall prohibit the Guam Legislature from appropriating any
12 other supplemental amounts to the Department of Education.

13 **Section 11. Five Hundred Sixty-five Thousand Dollars (\$565,000.00) to**
14 **the Department of Revenue and Taxation.** Five Hundred Sixty-five
15 Thousand Dollars (\$565,000.00) is appropriated from the General Fund to the
16 Department of Revenue and Taxation to fund the cost of implementing Public
17 Law No. 24-12. The Governor’s fiscal year 1997 reprogramming authority
18 shall be applied.

19 **Section 12. Amendment to Public Law No. 24-12, “The Dave Santos**
20 **Small Business Enhancement Act”, to Add a Provision Penalizing**
21 **Taxpayers for Failing to Make Timely Monthly Depository Payments to**
22 **Subsection (d) of Section 26111 of Chapter 26, Title 11 of the Guam Code**
23 **Annotated.** A new Subsection (d) is added to §26111 of Title 11 of the Guam
24 Code Annotated to read:

25 **“(d) Late Deposit.**

1 (1) **In General.** In the case of any failure by any person to
2 deposit, as required under §26110.1, on the date prescribed
3 therefor any amount of tax imposed by this Title in such
4 government depository as is authorized by the Tax Commissioner
5 to receive such deposit, unless it is shown that such failure is due
6 to reasonable cause and not due to willful neglect, there shall be
7 imposed upon such person a penalty equal to ten percent (10%) of
8 the amount of the underpayment.

9 (2) **Underpayment.** The term "underpayment" means the
10 excess of the amount of the tax required to be deposited over the
11 amount, if any, thereof deposited on or before the date prescribed
12 therefor."

13 **Section 13.** The Governor is hereby authorized to utilize any of the
14 amount appropriated for Executive Branch operations for fiscal year 1997 for
15 the immediate construction of a barricade around the old Guam Memorial
16 Hospital building.

17 **Section 14. Subsection (d) of Section 4 of Public Law 24-14 is**
18 **amended to read:**

19 “(d) The sum of Twenty-three Million Dollars (\$23,000,000.00) is
20 appropriated from the Autonomous Agency Infrastructure Collections
21 Fund and from the General Fund to meet funding needs in the areas of
22 public health, safety and public works as identified in Public Law 23-
23 128 and this Act. Funding shortfalls due to pending payments as a
24 result of negotiations based on Subsection (a) of this Section shall be off-
25 set from accumulated General Fund reserves generated as a result of

1 compliance with Public Law 23-14:6(b) mandate. This off-set amount is
2 not an appropriation but a financial management transaction which will
3 be reimbursed as negotiated payments are made.”

4 **Section 15. Re-enactment of the Council of the Arts and Humanities**
5 **Off-Island Educational, Training and Cultural Enhancement Fund;**
6 **Appropriation.** One Hundred Thirty Thousand Dollars (\$130,000.00) is
7 hereby appropriated from the General Fund to the Guam Council on the Arts
8 and Humanities Agency (“CAHA”) to be set aside in the Treasury of Guam in
9 a fund hereby established as the ‘Off-Island Educational, Training and
10 Cultural Enhancement Fund (the ‘Fund’). Such appropriation shall be set in a
11 separate account and shall not be considered part of CAHA’s annual budget.
12 The Rules and Regulations established pursuant to P.L. 22-124 by the Guam
13 Council on the Arts and Humanities Agency shall apply to this Section. The
14 Governor ‘s fiscal year 1997 reprogramming authority shall be applied.

15 Thirty Thousand Dollars (\$30,000.00) of the appropriation shall be used
16 to fund for the travel, accommodations and other costs for thirteen (13) high
17 school students being sent on an educational, cultural trip to the United
18 Nations, Smithsonian Institute, Plymouth Rock and Jamestown.”

19 **Section 16.** In the event that any portion of this Act is found contrary
20 to Federal law, all portions of this Act not so found shall remain valid.



OFFICE OF THE GOVERNOR
TERRITORY OF GUAM

Refer to
Legislative Secretary

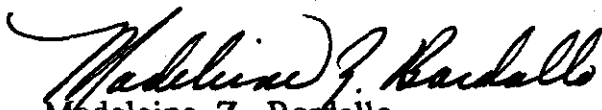
MAY 21 1997

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 221 (COR), "AN ACT TO AMEND THE BUDGET CORRECTION AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14), RELATIVE TO TECHNICAL CORRECTIONS AND OTHER FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS AND MISCELLANEOUS PROVISIONS; TO ADD A NEW SUBSECTION (q) TO SECTION 3102 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO LINE OF CREDIT FOR DEPARTMENT OF EDUCATION; TO ADD NEW SUBSECTIONS (b) AND (c) TO SECTION 26208 AND AMEND SECTION 26208 AND AMEND SECTION 26209 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO THE SCHOOL OPERATIONS FUND OF THE DEPARTMENT OF EDUCATION; TO ADD A NEW SUBSECTION (d) TO SECTION 26111 OF CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PENALTY PROVISION FOR GROSS RECEIPT TAX PAYMENTS; TO AMEND SUBSECTION (d) OF SECTION 4 OF PUBLIC LAW 24-14, RELATIVE TO FUNDING SOURCES; AND TO RE-ENACT THE OFF-ISLAND EDUCATION, TRAINING AND CULTURAL ENHANCEMENT FUND.", which was enacted into law without the signature of the Governor. I have designated this legislation as **Public Law No. 24-34.**

Very truly yours,


Madeleine Z. Bordallo
Acting Governor of Guam

Attachment

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 5/21/97
Time: 1430
Rec'd by: [Signature]
Print Name: Charlene R. Quenas



April 25, 1997

LEGISLATIVE
COMMITTEE
MEMBERSHIP

Chairman
Finance & Taxation

Vice-Chairman
Rules,
Government Reform
& Federal Affairs

Education

Natural Resources

Health &
Human Services

Tourism, Economic
Development & Cultural
Affairs

Judiciary,
Public Safety &
Consumer Protection

Transportation,
Telecommunications, &
Micronesian Affairs

MEMBERSHIP

Guam Finance
Commission

Commission on Self
Determination

The Honorable Speaker Antonio R. Unpingco
24th Guam Legislature
155 Hesler Street
Agana, Guam 96910


Dear Mr. Speaker:

The Committee on Finance and Taxation, to which was referred Bill No. 221: "AN ACT TO AMEND THE BUDGET CORRECTION AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14) RELATIVE TO TECHNICAL CORRECTION AND OTHER FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS," and subsequently substituted by the Committee on Finance & Taxation, reports to the Legislature with the recommendation **TO DO PASS**.

Votes of the committee members are as follows:

- 9 To Pass
- Not To Pass
- To Place in Inactive File
- Abstained
- Off-Island
- Not Available

Sincerely,

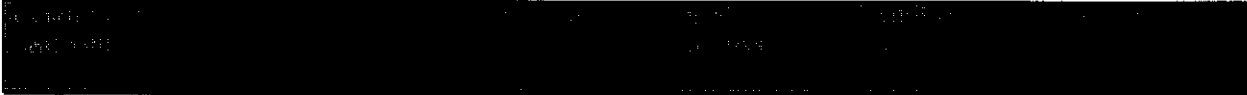

Anthony C. Blaz



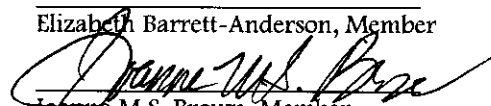

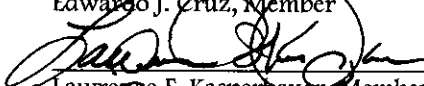

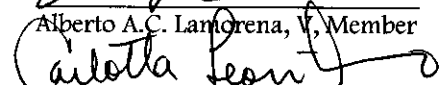
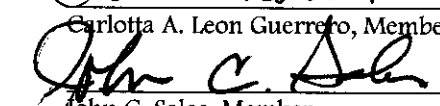
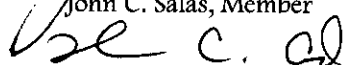
Attachments

Committee on Finance and Taxation

Voting Sheet on Bill No. 221 as substituted by the Committee on Finance & Taxation

AN ACT TO AMEND THE BUDGET CORRECTION AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14) RELATIVE TO TECHNICAL CORRECTION AND OTHER FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS.



	✓			
Anthony C. Blaz, Chairperson				
	✓			
Mark Forbes, Vice Chairperson				
Antonio R. Unpingco, Ex-Officio				
Elizabeth Barrett-Anderson, Member				
	✓			
Joanne M.S. Brown, Member				
	✓			
Edwardo J. Cruz, Member				
	X			
Lawrence F. Kasperbauer, Member				
	✓			
Alberto A.C. Lamorena, V., Member				
	✓			
Carlotta A. Leon Guerrero, Member				
	✓			
John C. Salas, Member				
	✓			
Thomas C. Ada, Member				
Mark C. Charfauros, Member				
William B.S.M. Flores, Member				
Francis E. Santos, Member				

**Committee on Finance and Taxation
Report on Bill No. 221
as substituted by the Committee on Finance & Taxation**

AN ACT TO AMEND THE BUDGET CORRECTION AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14) RELATIVE TO TECHNICAL CORRECTION AND OTHER FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS.

PUBLIC NOTICE:

Pursuant to the requirements of the Standing Rules, notice of the Public Hearing on Bill No. 221 was published in the Pacific Daily News on April 17th and 21st.

PUBLIC HEARING:

The Committee on Finance and Taxation conducted a public hearing on Monday, April 21, 1997 in the Legislative Session Hall to hear testimonies on Bill No. 221.

MEMBERS PRESENT:

The hearing was called to order by the Chairperson of the Committee on Finance and Taxation, Vice Speaker Anthony C. Blaz. Committee members present were:

Senator Elizabeth Barret-Anderson
Senator Edwardo Cruz
Senator Lawrence Kasperbauer
Senator Tom Ada
Senator Mark Charfauros
Senator William B.S.M. Flores
Senator Francis Santos

Other Senators present were:

Senator Vicente C. Pangelinan
Senator Frank B. Aguon, Jr.
Senator Lou Leon Guerrero

Providing Testimony on the Bill:

Mr. Fred Horecky, GPA Legal Counsel
Vincent "Butch" Camacho, GTA General Manager
Mr. Richard Unpingco, GPA, General Manager
Mr. Eloy Bermudes, PAG General Manager

BACKGROUND:

GPA General Manager Ricardo Unpingco: Mr. Unpingco opened his testimony open minded and offered GPA's help relative to P.L. 24-14 technical

corrections through Bill No. 221. He did not dispute that payment or assessment contribution to GovGuam was a violation of GPA covenants pursuant to P.L. 24-14. As long as the assessment was based on a criteria such as an assessment for an annual schedule of easements, cents per linear mile, or per month then GPA can work with such an assessment and not an arbitrary number as specified in P.L. 24-14.

His other concern was the prohibition for raising rates to recover the assessment cost; in order to make payments, GPA must raise its rates to the consumers.

Mr. Fred Horecky, GPA Legal Counsel: Mr. Horecky was of the opinion that for P.L. 24-14 to work the restriction of GPA seeking a rate increase or the PUC granting one violates bond covenants. This restriction interferes with the covenant which requires the PUC to have unlimited authority to grant increases when it believes it is necessary for the operating expenses of GPA. He also agreed that the problem was not assessing the Authority but the methodology; a fair and equitable formula.

GTA General Manager Vincent "Butch" Camacho: Mr. Camacho supported the intent of PL 24-14 and was willing to contribute their fair share toward reimbursing the taxpayers for the cost associated with the operation of GTA. He was also concerned with the present restrictions on rate increases and stated that the restrictions violated existing bond covenants. Mr. Camacho stated that RUS prior approval would be required before an assessment payment can be made to GovGuam. He was also concerned that these payments may be construed by potential private purchasers of GTA as a depletion of assets.

Chairman Tony Blaz questioned GPA on the latest Dougherty and Associates Management Audit done in 1993 that recommended staffing levels should be 512. If indeed the authority is strapped for cash how does this cash crunch justifies the current staff levels of 720.

Mr. Ricardo Unpingco disagreed with the 1993 Management Audit and offered his justifications: the audit team only looked at the GPA operation for four or five days; the performance standard used to evaluate GPA was a mainland standard; since the audit GPA has acquired nine substations including the Piti Power Plant from the Navy; fifty-three Navy personnel were accepted to GPA raising their staffing levels.

Senator Ed Cruz expressed his concerns that even if another audit were done today the results would be the same: over staffing. The Senator qualified his statement and said that over staffing was not unique to GPA and the problem existed in all agencies. He then asked GPA about limited term employees. GPA admitted they did. He asked about past due accounts receivables.

Mr. Horecky then stated for the record that GPA has 660 employees and not 720. He was of the opinion that PUC is the ultimate check and balance in budget reductions. He cited past instances when PUC made reductions in the budget levels because of over staffing.

Senator Ben Pangelinan asked Mr. Unpinco and Mr. Camacho whether the bond holders and the bond counsels do "due diligence" prior to floating these bonds and the covenants of these bonds? His concern was whether in fact the existing laws were researched to determine what impact these laws would have on the bond covenants.

Mr. Camacho admitted that GTA took out a loan from RUS in the early nineties and he was unsure if RUS was aware of P.L. 18-15 requiring GTA to pay their fair share.

Senator Pangelinan then suggested that if they didn't do their job (due diligence) then that constituted negligence on the bond counsel and the underwriters counsels part and would be subject to a lawsuit for their negligence.

Senator Tom Ada questioned the information at the time Bill No. 133 was discussed by the Committee of the Whole. The autonomous agencies were fat with cash and the restriction against raising rates was not an issue. Today the story has changed. There is no cash and rates must be raised. The Senator was concerned about the other side of the equation: reduce operating expenses rather raising rates.

Senator Willy Flores reads the bill to mean that proceeds are to come from net income. And since the autonomous agencies have net income then they should comply with P.L. 24-14. Why raise the rates?

PAG General Manager Eloy Bermudes expressed his concern for the Port's need for capital improvement. He cited the unsafe conditions of having the chassis on bare ground and needed to improve that situation.

Senator Francis Santos asked how the insurance settlement was to be allocated for capital improvement.

Mr. Bermudes responded that of the 20 million in settlement, 14.5 would be dedicated to earthquake damage; the rest to the port expansion project.

FINDINGS:

The Committee's position as in deliberating with Bill 133 Public Law 24-14, remains firm and resolved that the Autonomous Agencies are liable and justifiably assessed in lieu of taxes and other charges as may usually be levied on a private company such as for utility easements, gross receipts taxes, on audited income and government development fees, etc.

The Governor is given wide latitude to negotiable assessments with the Autonomous Agencies despite restrictions to rate increasing. The Governor and the Autonomous Agencies have not shown substantially to date but must show good faith, effort to cost cutting measures and applying such reductions to operating expenses as part of the basis for securing funds (loans or reallocations) to meet outstanding FY 97 fund souring as outlined in Public Law No 24-14.

Rate increase should be a measurer of last resort are not a measure of first resort. As it stands, there are great margins for the Autonomous Agencies to improve efficiency and reduce costs, sufficient to leverage twenty-three million dollars (\$23 Million).

The Committee on Finance and Taxation finds that by the nature and course of existence of the Guam International Airport Authority (GIAA), the Guam Power Authority (GPA), the Guam Telephone Authority (GTA) and the Port Authority of Guam

(PAG), these Autonomous Agencies have had to rely and continue to depend on the resources and influence of the government of Guam. Significant assets, both physical and financial, have been transferred to these agencies from the government of Guam. When these agencies have had financial trouble, the government of Guam, through the General Fund has always stepped in to help and when at risk through misfortune or bad management, the government of Guam has absorbed the cost.

The Autonomous Agencies, all make use of the services of the government to carry out their operations. They use, as any normal business, services such as police, fire, highway, environmental, health and, additionally, because they are owned by the government, administrative (all the efforts to aid then with the Federal administration). They make use of all these services as any private company and pay no taxes. Because of this, the government has in the past and still does, use considerable resources to aid them.

The services of the government of Guam also provide the essential framework and stability for the agencies to be financially successful including services that must be kept available, although only used from time to time (for example, a judicial system), as well as those general social services that enhance the general pleasant climate in Guam. These services make Guam an attractive area for economic activity and thus provide customers for the Autonomous Agencies.

COMMITTEE RECOMMENDATION:

The Committee, having conducted a sufficient hearing, does hereby recommend to the Legislature to do pass Bill 221 as substituted by the Committee on Finance & Taxation- "AN ACT TO AMEND THE BUDGET CORRECTION AND SUPPLEMENT ACT OF 1997 (P.L. NO. 24-14) RELATIVE TO TECHNICAL CORRECTION AND OTHER FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATIONS."