



Office of the Governor of Guam

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Office of the People's Speaker  
vicente (ben) c. pangelinan

SEP 22 2003

TIME: 9:26 (AM) (PM)  
RECEIVED BY: 

Felix Perez Camacho  
Governor

Kaleo Scott Moylan  
Lieutenant Governor

SEP 22 2003

The Honorable Vicente C. Pangelinan  
Speaker  
I Mina'Bente Siete Na Liheslaturan Guahån  
Twenty-Seventh Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No.92 (COR), "AN ACT MAKING APPROPRIATIONS FOR THE OPERATIONS OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF THE GOVERNMENT OF GUAM FOR FISCAL YEAR ENDING SEPTEMBER 30, 2004, AND MAKING OTHER APPROPRIATIONS, AND ESTABLISHING MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS," which I have signed into law on September 19, 2003, as Public Law No. 27-29.

It is with great trepidation and reservation that I have signed Bill 92(COR) into law as Public law 27-29, which I have dubbed the "Blackmail Budget of FY 2004."

The majority leadership of the 27<sup>th</sup> Guam Legislature intentionally placed an urgent and vital piece of legislation as a provision of this budget measure in order to force my hand at signing it into law. During the review of Bill No. 92(COR), it became clear why the leadership of the Legislature held the Airport Bond and the entire island community hostage to the passage of this budget bill. Bill No. 92(COR) was carelessly crafted and contains numerous deficiencies that depict *I Liheslaturan Guahån's* clear intent to ignore the financial realities of our government and to erode my organic powers as Chief Executive to manage critical services to our people and to reorganize this government.

If not for the Airport bond deadline and the threat of a government shutdown, I can assure you that my actions on Bill No. 92(COR) would have been different. It is truly a sad day in a representative democracy when protecting the public interest is held hostage by self-serving politics, whose complacency will only perpetuate the "business as usual" attitude that put this government in financial crisis in the first place.

The annual government budget is the single most important responsibility of the Legislative Branch. The Legislature's budget debacle shows its disregard for the well-being of the people Guam. The irresponsible move to recess from the Committee of the Whole, in the middle of the most critical budget discussions, was devised to push the



timeline for action to the very last minute, forcing me to sign this bill into law or face your threat of a government shutdown, endangering the health and safety of a community that has already suffered too much. This is a blatant disregard of the trust and confidence placed upon the Legislature to address the critical needs of our island.

As for the specific budgetary problems, it starts with the most fundamental principles of budgeting. We are unable to determine the methodology used by the Legislature in deriving the General Fund revenue level of \$409,915,378, in light of reductions due to the Bush tax initiative and Section 30 funds, which amount to nearly \$30 million combined.

I also have some serious concerns on the revenue levels adopted in the Special Funds category. For example, the projected level for the Tourist Attraction Fund is overly optimistic considering we have experienced the largest decline in visitor arrivals this fiscal year. Moreover, hotels will carry forward their excess losses to the next fiscal year. Based on actual visitor arrivals through August 2003, the hotel occupancy tax is expected to reach a low of approximately \$13.1 million or nearly \$4 million less than what this budget reflects.

The Tumon Redevelopment Bond Fund Interest is also of grave concern as the entire \$3.3 million is virtually non-existent; the most optimistic projection of interest earned through the balance of the project (June 2004) is only \$500,000.

On the expenditure side and in relation to the rest of the government of Guam, the Legislature gave a 30% cut to most agencies, while they reduced their budget by only 2.3%. A Democratic member of the Legislature recently said publicly that they considered themselves a critical agency. This blackmail budget clearly shows that the Legislature believes it is more critical than our schools, our public safety and even our health department.

The Legislature also exempted itself from BBMR's management of allotments when they should be setting the example of fiscal discipline. Then the Legislature proceeded to exempt the Attorney General, the Public Auditor, the Mayors' Council and the Department of Education from this same management of allotments. These entities combined make up nearly 60% of the Executive Branch budget, leaving only 40% at my discretion to manage, severely limiting my ability for effective cash management. While these entities will receive their FULL cash allotments, essential agencies will carry the full burden of this government's continuing cash challenges. By this action, the Legislature has effectively stated that they are untouchable or, at least, unwilling to share in the sacrifice that they continue to impose upon the Guam Police Department, the Guam Fire Department, Public Health, Mental Health, DISID and all other agencies.

Adding further weight to the unfair burden placed upon essential agencies, the Legislature appropriated to the Department of Education about \$5 million from phantom sources. I have submitted within my transmittal of the "Blackmail Budget," a proposed

measure correcting the Legislature's debt service provision error and to appropriate to the Department of Education what they short-changed our children.

Instead of alleviating the burden, the Legislature has only hampered fiscal recovery. On three separate occasions this year, I formally requested that the Legislature address legislation that would allow for the reorganization of the government of Guam and the privatization and outsourcing of many of its services. Each time, you and your colleagues refused to act on my request, and instead offered alternatives that only further complicated and delayed the reorganization process.

In this budget, we see that your alternative to our reorganization efforts is to drastically cut the budgets of nearly every government agency, without providing the tools to adjust to those drastic changes. The consequence of this action is that services will be jeopardized and employees are now placed in harms way by this deficient bill.

The leadership of the Legislature wants my Administration to ignore its obligation to address the real issue of the government's debt to the Retirement Fund by shifting the depository for supplemental annuities and its administration to DOA. This flagrant attempt to circumvent a legal responsibility exposes this government to potential legal challenge. The leadership of the Guam Legislature must confront this issue directly and find a reasonable, legal and realistic solution for our retirees. What was proposed in Bill No. 92(COR) is simply not acceptable.

There are many other issues of concern that I have outlined below. Your "Blackmail Budget" is now law. However, in passing this measure, you have crossed the line from establishing policy to dictating through coercion. Rest assured, I will call upon you throughout this Fiscal year 2004 to address the many inadequacies you created by this measure.

Let this be a warning to the leadership of the 27<sup>th</sup> Guam Legislature. I will not allow your approach of policy by extortion to go unchecked. I will not let you endanger the school children, the employees of this government, the retirees and the people of Guam with the failures contained in your "blackmail budget." I will respond with bills and solutions. ***In failing to do your job, it has become evident that I will have to do it for you.*** You have effectively forced me to sign Bill 92(COR) into law in order to prevent a government shutdown and the ensuing havoc on October 1, 2003. Your decision to include the Airport Bond refunding as a provision of the budget, even after I called the Legislature into Special Session to address this urgent issue and even after my request that it be removed and addressed separately from the budget, is incomprehensible.

I want to commend the members of the Legislative Minority for their continued efforts to uphold the integrity and responsibilities of the budget process. You have fought the good fight and the people of Guam thank you for your work. I urge you to continue to hold the legislative leadership accountable by exposing through deliberation their political agendas at the expense of the greater good of our people.

The following are specific areas of this “Blackmail Budget” that we have found to be objectionable and problematic.

I. Chapter IV. Miscellaneous Appropriations

1. Section 9. Appropriation to the Department of Education for Non-Personnel Operating Expenses.

The Department of Education has indicated that approximately \$3.8 to \$4.8 million from the National School Lunch and Breakfast Program and State Administrative Expense Funds is expected annually, however, they have been unable to ascertain this claim nor have they been able to verify the amount of prior year lapses currently available for operations. This emphasizes the need for wholesale restructuring of their financial affairs.

2. Section 10. Appropriation for Textbooks.

Section 10 is in direct conflict with Section 22 of Chapter VI. Section 10 of Chapter IV mandates BBMR to “release such allotments as are required,” however, Section 22 of Chapter VI removes BBMR’s allotment authority over DOE.

3. Section 15. Appropriations to the Department of Administration for Sliding Scale Supplemental Annuity Benefits and to the Government of Guam Retirement Fund for Other Costs.

This action on the part of the Guam Legislature is indicative of their unwillingness to address the real issue of the General Fund’s liability to the Retirement Fund, which contributed to the Retirement Fund’s unfunded liability now over \$1 billion.

On the other hand, I proposed in my original bond bill that we earmark \$42.5 million for payments owed the Retirement Fund as follows: \$17.5 million for the outstanding amounts due from the Guam Memorial Hospital, \$15.8 million due from the Department of Education and \$10.1 million due from the Department of Administration. Public law 27-19 eliminated the payment to the Retirement Fund owed by the Guam Memorial Hospital. In this regard, I urge the Legislature to incorporate my original proposal in its disposition of the bond indenture (Bill No. 152).

4. Section 21. Appropriation for Office Space Rental for Government of Guam Departments and Agencies that Relocated from *Tiyan* and Civil Service Commission.

This appropriation was reduced by \$250,000 from my request of \$600,000 down to \$350,000 and is grossly insufficient to address office space rental requirements. This amount funds only six months of rent and still leaves some critical agencies’ rental needs unaddressed, such as the Guam Fire Department and the Department of Revenue and Taxation.

5. Section 22. Appropriation to the Guam Economic Development and Commerce Authority for *I Sengsong Chamorro* Operations.

The appropriation does not provide for operating expenses at *I Sengsong Chamorro*. Clearly, *I Sengsong Chamorro* will require an operating expense budget and this omission will compromise its mission. I urge the Legislature to revisit this section to provide *I Sengsong Chamorro* with funds for operations.

6. Section 28. Appropriations to GVB.

I have exercised my line item veto authority to reduce the appropriation in this section to \$200,000. As you know, excess interest earned up to June 2003 from the Tumon Redevelopment Bond Fund was recently reverted to the Tourist Attraction Fund and ultimately transferred to the Guam Visitors Bureau to fund current operations. Therefore, the appropriation of \$3,294,000 cannot be supported by the current available balance of \$200,000.

7. Section 30. Appropriation for Government of Guam Annual Single-Audit.

I have exercised my line item veto authority to zero the appropriation in this section. This appropriation to the Department of Administration appears to have been misdirected in that the cost of the Single Audit has always been included in the total operational budget of the Office of the Public Auditor. The OPA's budget was funded \$686,150 in FY 2001, \$967,483 in FY 2002, \$887,859 in FY 2003, and \$868,132 for FY 2004. All of the OPA's prior year budgets included the cost of the single audits. The \$300,000 could be more appropriately spent on the Department of Education.

8. Section 31. Court-Appointed Attorney Fees for Indigent Persons Program.

I have exercised my line item veto authority to zero the appropriation in this section. Historically, the court-appointed attorney fees for indigent persons were funded internally by the courts through their operational budget. Pursuant to 7 G.C.A. § 9502(c), the court is authorized to establish a line of credit in which funds shall be deposited in the Appointed Counsel Trust Fund for fees and expenses related to the defense of indigent persons. Therefore, this provision is an unnecessary burden on the General Fund. Again, this \$700,000 can be more appropriately applied to the Department of Education.

9. Section 34. Appropriation to Guam Memorial Hospital.

I have allowed this provision to take effect with great consternation as it sets back years of progress in supporting full self-sufficiency for the Guam Memorial Hospital. This section proffers to appropriate \$3.8 million to GMH to offset the proposed 5% rate increase by the hospital, which is tantamount to a subsidy to pay for operational expenses. If the Legislature had acted on my version of Bill 83, GMH may not now be faced with having to raise its rates to meet operational needs.

10. Section 35 and 36. Appropriation to the Department of Education from the Territorial Educational Facilities Fund for Operations and Appropriation to Y Kuantan Salappe' Prinsepat (Principal's Fund), respectively.

I have exercised my line item veto authority to zero the appropriation in these sections. As discussed previously in this message, these are appropriations from phantom sources. All real property collections, which by law (P.L. 23-14) are deposited into the TEFF, are pledged for debt service that already exceeds the potential revenue of the TEFF.

12. Section 43(c). Guam Police Department Appropriations from the Village Street Fund to GPD for the purchase of marked equipped vehicles that are standard police cruisers and motorcycles, for use by the Neighborhood Patrol Division.

I have exercised my line item veto authority to zero the appropriation in this section. There are insufficient funds in the *Village Street Fund*. The funds in the VSF come from the Surplus Fund of the Guam Highway Fund. Before funds are placed in the Surplus Fund, the Guam Highway Fund must first pay for debt service on the Highway Bond, the Bond Reserve Fund, the Maintenance Operation Fund, the Maintenance and Operation Reserve Fund. After all these obligations have been accommodated, the balance left in the Surplus Fund, if any, is then deposited by law (5 G.C.A. § 1556(k)) into the Village Streets Fund of which fifty-percent (50%) is given to the Mayors Council of Guam. By our estimates, only \$26,000 will be available after all distributions, therefore, the revenue is insufficient to accommodate the \$700,000 appropriation proposed in this section.

13. Section 45. Appropriation to Department of Public Works from the Abandoned Vehicle and Street Light Fund.

I have exercised my line item veto authority to zero the appropriations in (a) and (b) of this section. These appropriations are unnecessary as 16 G.C.A. § 7161 already provides for the continuing appropriation of ninety percent (90%) of sums collected and deposited into the Abandoned Vehicle and Streetlight Fund to the Guam Power Authority for the payment of public streetlights and ten percent (10%) for the removal of abandoned vehicles. To allow passage of this section constitutes a double appropriation. Furthermore, it places a cap on the authorized amount that may become available for the payment of streetlights.

14. Section 46. University of Guam Capital Improvements Fund.

I have exercised my line item veto authority to zero the appropriation in this section. This appropriation is unnecessary as Public Law 26-48 already provides for the continuing appropriation of \$500,000 to the University of Guam Capital Improvements Fund.

III. Chapter V. Miscellaneous Provisions.

1. Section 4. Revenue Tracking and Deficit Prevention Measures.

Section 4(c) of Chapter V is in direct conflict with other provisions of this bill. Section 4(c) provides that the Bureau of Budget and Management Research shall adjust allotments based on actual cash collections. However, Section 22 of Chapter VI precludes fiscal control from certain “select” departments, namely:

Guam Legislature and the Office of Finance and Budget, Office of Public Auditor, Office of the Attorney General, Mayors Council and the Department of Education.

Combined these departments account for sixty-percent (60%) of the total Executive Branch General Fund appropriations per this bill. Yet, in Section 10 of Chapter IV, which appropriates \$3.5 million for textbooks, the Bureau of Budget and Management Research is mandated to release such allotments. This is in direct conflict with Section 22 of Chapter VI.

2. Section 12. Restrictions on Executive Branch Hiring of Unclassified Employees.

The Department of Administration, Department of Revenue and Taxation, and Public Health & Social Services rely heavily on information technology. Personnel in this field are highly technical in nature and are difficult, if impossible, to replace by classified positions. I request that the Legislature add this cadre of employees to the exemption list.

3. Section 16. Subsection (b) of 4 G.C.A. § 4109.2. The Voluntary Transfer of Sick Leave or Annual Leave.

This section attempts to extend the maximum number of days in which the leave sharing program can be utilized. Presently it is set at 90 working days; this section extends it to 180 working days, translating to 36 weeks, or 70% of the work year. Conceivably, an employee without leave can expect to continue to receive a salary for 18 consecutive pay periods. While we are sensitive to the needs of our employees, the government’s financial condition does not lend itself to such a generous benefit program. Also given the new caps set for maximum accumulation of annual, this section may be subject to abuses.

4. Section 27. Prohibition on Lobbying Contracts.

This provision is a prime example of the Legislative Branch impinging on the Executive Branch because it prevents it from effectively accomplishing its organically assigned functions. The Legislature has the power to appropriate money however the Chief Executive has the authority and responsibility to administer the funds appropriated in order to fulfill his organic duty to faithfully execute the laws. By prohibiting the government from expending its funds to hire lobbyists, the Legislature has clearly violated the doctrine of separation of powers.

5. Section 28. Wireless Communications.

This provision endangers the lives of the people of Guam especially during times of emergency and clearly risks the lives of our first responders who will have to encounter dangerous situations without the use of communication. Recent world events – such as the September 11 attacks – have heightened the need for strong and reliable communication capabilities for our front-line responders. Your provision sends us backwards from the need for high-tech communications to a system based on “Dixie cups and string.” *I Mina’Bente Siete Na Liheslaturan Guåhan* has written a provision that now leaves us vulnerable during times of national emergencies and natural disasters. Rather than restricting communications, we should be enhancing it in order to protect our people and our island. It is crucial that the Legislature revisit this issue in order to avoid a major catastrophe.

IV. Chapter VI. Administrative Provision

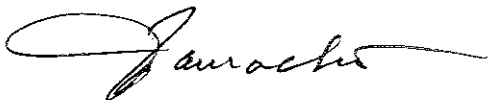
1. Section 21. Department of Education Transfer Authority.

By virtue of the Organic Act of Guam, the executive power of Guam is vested in the Governor of Guam. This power includes supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam. The authority to transfer funds is a tool of supervision and control and is thus inherently an executive function. Since the Department of Education is within the executive branch of the government of Guam, the delegation of transfer authority to the Superintendent of Education, in consultation with the Guam Education Policy Board, is an infringement on the Governor’s organic authority.

2. Section 22. Exemption from BBMR allotment release control.

Again, please refer to my comments regarding Section 4(c) of Chapter V.

Sincerely yours,



FELIX P. CAMACHO  
*I Maga’lahen Guåhan*  
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Tina Rose Muna-Barnes  
Senator and Legislative Secretary