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EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam.

September 11, 2017

Honorable Benjamin J.F. Cruz
Speaker
I Mina 'Trentai Kuattro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Speaker Benjamin J.F. Cruz

RE: Substitute Bill No. 22-34 (COR)

SEP 11 2017

Time: 4:30 () AM (x) PM File No. _____
Received By: [Signature]

Dear Mr. Speaker:

Upon receipt of the Substitute Budget Bill passed on August 30, 2017, I immediately tasked my Fiscal Team to analyze the impact on critical funding requirements of the Government of Guam in an effort to understand whether the measure passed was indeed sufficient to meet your claim of “ensuring critical agencies are adequately funded to sustain operations.”

First of all, I would like to state that your continued use of information, which was subsequently thoroughly discounted, taints this entire budget process. In your press release dated August 30, 2017 you state, “Despite claims from the Administration that critical public service agencies were underfunded by receiving status quo budgets, the Bureau of Budget and Management Research’s (BBMR) own reporting shows that executive agencies are still projected to leave a combined \$8.7M unspent in the current fiscal year.” Mr. Speaker, this statement is at best political and bordering on ignorance. Mr. Arthur Mariano presented a revised 9+3 Expenditure report during the Committee of the Whole on August 18, 2017. Mr. Mariano was very clear in his remarks that “an anomaly” existed in the over reporting of expenditures for the Department of Public Health and Social Services which would reduce the “projected” amount of possible lapses from Executive line departments to approximately \$3.9M. Mr. Mariano explained that there were numerous purchase orders and planned expenditures which were **not** reflected in the report and stressed that the legislature simply could not rely on a “snapshot in time” report as a budgeting tool. For example, the Guam Police Department is currently expected to lapse approximately \$214,000 but the figure presented by the Office of Finance and Budget on August 3, 2017 was \$1.1M.

And while you made several statements during the budget session that you did not rely upon the 9+3 Expenditure report, you cite it in your press release of August 30, 2017. For the record, Mr.

Mariano made these statements in his official capacity that day as the Acting Director of BBMR and under oath as administered by the Legislature's Sergeant of Arms.

Two additional statements to seemingly twist the truth are that Substitute Bill 22-34 **automatically** increases appropriations to the Department of Corrections (DOC), the Guam Police Department (GPD), and the Guam Memorial Hospital Authority (GMH), IF and WHEN additional withholding and business privilege tax revenues are tracking above the amounts adopted by the end of the FY 2018's second quarter. Mr. Speaker, Chapter XII, Miscellaneous Provisions, Section 19(c) clearly reads, "...*No funds shall be authorized for expenditure until ACTUAL withholding taxes, interest, and penalties and business privilege tax revenues are collected in excess of the amounts adopted in Section 2(A), Chapter I of this Act* (emphasis added)." Well, Mr. Speaker.....which one is it? There is a HUGE and very distinct difference in making appropriations available for these critical agencies, all of whom were severely under-funded in Substitute Bill 22-34, and requiring the funds be physically collected first. To put this in perspective, instead of allowing DOC, GPD and GMH to avail themselves of nearly \$6M for critical needs in April of 2018, these agencies must wait until after SEPTEMBER, the very last month in the fiscal year, when the amounts are physically collected to assist them protect and care for our residents and visitors, and which by the way means they were underfunded as these funds expire September 30, 2018.

Another example of your attempted "sleight of hand" manipulation of numbers is your further statement on August 30, 2017 that read, "I don't enjoy saying 'no' but this budget acknowledges that is it better to under-promise and over-deliver," said Cruz. While nearly every agency of the government received a status quo budget when compared to FY 2017, this bill automatically appropriates any revenues above our projections to critical areas in public safety and health." Mr. Speaker, the plain truth of the matter here is that you have OVER PROMISED and UNDER DELIVERED.

Mr. Speaker, a basic tenet of budgeting is a full discussion on revenues, which should have included the convening of the Special Economic Service and the Special Accounting Service, both entities were created within the Office of Finance and Budget to assist in this very exercise. Upon convening and then reaching a consensus with the Special Economic Service on the estimated revenues in the upcoming fiscal year, then and only then, can the "planning" of expenditures be embarked upon. While a united effort between the legislature and my Administration could have been sought by you in the process of formulating the FY 2018 Budget, what transpired was a unilateral approach with no real effort to assist the seven new senators understand this endeavor.

Enacting a provision for "additional" appropriations when "tracking" shows a trend above Adopted Revenues is NOT a budget, it is an ATTEMPT to budget. Annual budgets are adopted based upon the ESTIMATED revenues of a FULL FISCAL YEAR, It is NOT based on "TRACKING" of revenues which happen DURING THE COURSE of a fiscal year. Tracking is a tool for the Executive Branch to adjust planned expenditures. As such, this ATTEMPT should be recognized as just that, "an ATTEMPT."



Further examples of the “smoke and mirror” budgeting Substitute Bill No. 22-34 are as follows:

- FY2018 Executive Budget requested \$37.6M to be appropriated to the Government of Guam Retirement Fund for Medical / Dental / Life insurance for retirees
 - This figure reflects the minimum need for this budget item.
 - Substitute Bill No. 22-34 proposes \$32.4M from the General Fund & \$5.2M from the **Section 2718 Fund** to get to Executive Budget requested level of \$37.6M

Question Mr. Speaker: Based upon what trend or 3-5 year average did you base receipts of \$5.2M from the Section 2718 fund? For the last three years the average has been \$754k annually. You have nothing but speculation to support this projection yet you feel compelled to call out the Executive Branch’s method of forecasting revenues for “lack of clarity”? For the record, the Executive Budget Request for FY 2018 DID NOT seek an appropriation from the Section 2718 fund.

Additionally, the FY 2017 adopted level for Section 2718 is \$5M, of which only \$1M has been received with barely three weeks left in the fiscal year. Again, what forecasting method was utilized here? Could it have been the receipt of Section 2718 funds from FY 2016? Impossible, there were NO funds collected from Section 2718 in FY 2016.

Mr. Speaker, you stated, “If we want a budget that makes sense, we have to adopt revenue projections that don’t make things up.” Well Mr. Speaker with respect to the \$5.2 M projection for Section 2718, we all know who made that up.

CRITICAL AREAS ADVERSELY AFFECTED BY THE PASSAGE OF SUBSTITUTE BILL NO. 22-34:

EDUCATION

- Substitute Bill 22-34 did not fund the *Y Kuantan Salappe Prinsepat* in the amount of \$1M as contained in the Governor’s Executive Budget. The principals of each school depend on these funds to purchase year-round items to address immediate small problems. I again must note for the record that the elimination of the Triennial Real Property Revaluation in this Fiscal Year’s Budget will have a lasting, negative effect on the improvement of our children’s education. The Department of Education relies on the Territorial Education Facilities Fund to fix our schools and serve our children.

Department of Parks and Recreation (DPR)

- \$290K in miscellaneous appropriations was provided to DPR while not addressing known funding deficiencies of approximately \$1M.
- The \$1M shortfall will adversely impact DPR’s ability to fill nineteen (19) vacant positions, and leaves deficient amounts for operations and utilities.



- Limited Gaming Fund appropriation of \$608K is restricted to the repair and construction of facilities and can't be used for personnel and the general operations of DPR.

Mr. Speaker, BBMR has recently returned GG1's for three lifeguards, two grounds workers, one laborer and one administrative aide due to the drastic slash in their operating budget. Under penalty of law, funds simply cannot be certified as available given the funding levels contained in Substitute Bill No. 22-34. Even more concerning to me is the mandate in law for the presence of life guards at Guam's public beaches, with the lack of funding to meet this mandate will this legislative "inaction" cause the closure of popular facilities, enjoyed by our locals and tourists alike, such as Ypao beach, and place them at risk for severe injury or death that could have been avoided? What message are we sending first to our residents amidst a number of drownings this year as well as to our Visitor Industry?

HEALTH

Impact to GMH

- For well over a year GMH has been before the legislature advocating for its need to modernize their aging facilities in order to continue to provide acute, outpatient, long term, urgent care and emergency care services to the people of Guam and our Neighbors in Micronesia. Recently a Business Sustainability Plan was delivered to you at your request as further evidence of the GMH's goal towards, *"Improving patient care at GMH by making necessary capital investments and being provided a steady and predictable source of operating funding is not only a financial consideration, but a necessity if GMH is to fulfill its mission to provide quality care in a safe environment."*
- It is no secret that GMH is in need of a permanent subsidy yet instead of assisting GMH in this need, GMH was lumped in with DoC and GPD in a "if and only if" funding scenario. GMH most certainly would *benefit* from the \$2M "if and only if" appropriation but, like GPD and DOC, may never see a dime of this funding given the restrictions imposed on the Director of Administration as contained in Chapter XII, Section 19 of Substitute Bill 22-34.
- Instead, Substitute Bill No. 22-34 appropriates *an* operational subsidy well short of what is truly needed especially knowing that patient services cannot be refused and annual shortfalls hover between \$25-30M annually.
- Mr. Speaker, you have publicly committed to holding a Public Hearing on Bill's 141 and 142 **after** FY 2018 Budget was passed, the People of Guam eagerly await you keeping your promise on this immediate need.

PUBLIC SAFETY

Impact to GPD

- Overall reduction of \$2.5M from the Executive Budget Request as defended by GPD during several budget hearing and Committee of the Whole appearances will result in the inability to fund uniformed and non-uniformed vacancies including the FY2018 Police Cycle (33 Police Recruits) as well as \$1M for five (5) vacant critically-needed civilian positions & funding for overtime. Instead, Substitute Bill No. 22-34 authorizes the Governor to use his transfer authority of \$1.7M to fund the Police Recruit Cycle. Any



such funds may not be available until the summer of 2018 thus negating the possibility of any new Police recruits in FY 2018.

Mr. Speaker, GPD recently welcomed ten newly promoted lieutenants to management level responsibilities, which effectively takes these officers off the streets. We MUST find a way to fund their replacements who wish to work their way up the ranks to someday attend a similar function in their honor. Our island is in dire need of more of Guam's finest yet we cannot fund a long anticipated police cycle?

Impact to DOC

- Did not fund \$2.6M for Federal Court Order related Consolidated Agreement between DOC and GMHA. This may place DOC under Federal Receivership if not addressed.
- Did not fund \$1.8M for food services contract.
- These shortfalls do not include funding the 27 new Corrections Officer I positions that were hired in FY2017 utilizing federal funds in order to comply with the Federal Court Order DOC was under. Both the Executive Budget request and DOC's testimony during their budget hearing at the legislature emphasized this need to transition personnel funding to the General Fund in FY 2018. This funding requirement is \$1.5M and was part of the FY 2018 Executive Budget Request.

Substitute Bill No. 22-34 would only address \$2.5M of the known operating requirements of DOC, which total \$5.9M and are severely under-funded in Substitute Bill No. 22-34. A contract for food services certified for funding availability in September 2018 does NOTHING to feed the population or provide them with federally mandated health care throughout the entire fiscal year.

Mr. Speaker, the pitfall of a "status quo" budget is that there are funding needs in the following fiscal year that need to be addressed as funding sources change and other requirements set forth in the Federal Court Order, like feeding and providing medical and dental care to the prison population, are not funded under the provisions of Substitute Bill No. 22-34. Your omission of providing funding for the very basic needs of these individuals may place the Government of Guam into Federal Receivership, the very thing the Blue Ribbon Commission, co-chaired by Lt. Governor Tenorio and Attorney General Barrett-Anderson, fought so hard to successfully address. Your blind eye to this need may become come at a much higher cost to deal with down the road.

OTHER CRITICALLY IMPACTED AREAS

Impact to the Department of Revenue and Taxation

- No funding for the mandated Triennial Real Property Revaluation (\$1.9M in FY2018 Budget Request).
- When the last Real Property Revaluation was completed in 2013, the taxes collected were approximately \$21.3M. After resolving disputes and other reconciliations this amount increased to \$28M in 2015.

Mr. Speaker, we can depend on a permanent increase of about \$4.5M annually to Guam's tax base by funding this legislatively mandated study. The Territorial Education Facilities Fund is the primary beneficiary of any increase in Real Property taxes collected, our school children's lives can be greatly impacted positively with a plan for Island wide education improvements, but without the funding to support such an investment in our children's future, this dream remains unfulfilled. I am appalled that the very body that created this Triennial Review will not fund it.

Impact to Guam Regional Transit Authority (GRTA)

- GRTA's Executive Budget Request was reduced by \$2.3M for personnel requirements for two (2) vacant positions (\$100K) and a proposed contract to increase bus services (\$2.2M).

Mr. Speaker, the very people who need the government's assistance the most depend on public transportation. Is this how we treat the least able of us?

Impact to the Guam Visitors Bureau

- Despite tremendous growth in the Tourist Attraction Fund (TAF) in recent years, GVB has yet again not received adequate funding to maintain the growth in Guam's primary industry. We are all very aware of the need to regain the ground we lost in the Japan market as well as market declines in Taiwan and Hong Kong. Fully nurturing the blossoming market from South Korea must also be a prime focus. All of these needs were well known prior to the escalation of tensions from North Korea.

Mr. Speaker, recent reports of cancellations due to the North Korea situation are alarming and must be addressed immediately yet Substitute Bill No. 22-34 takes the nearly \$4.5 M in TAF revenues over the Executive Budget request and DOES NOT increase the funding levels requested by GVB that are necessary to maintain tourist arrival numbers. This is why NOW is the time for more funding to mitigate this impact. A recent statement from GVB notes that:

"Local Safety and maintenance programs at risk. GVB projects positively affect every resident on Guam. For over a decade, GVB has utilized a portion of its budget to maintain Guam's roads, provide community grant funding for cultural groups and sports teams, and implement safety measures through our Visitor Safety Officer Program. This budget does not provide adequate funding to support these efforts. We may have to cut funding for projects like the island wide road maintenance program and the cleaning of Hagatna Bay to address serious safety concerns in Tumon. Pot holes and damaged sidewalks plague the tourist district and only adequate funding can fix these issues for the thousands of local employees, active runners and visitors that roam Pale San Vitores Road. In the age of social media and user-generated reviews, how can we attract new and repeat visits if we can't get the resources needed to deliver the best experience to our visitors?"

Mr. Speaker, you touted Substitute Bill No. 22-34 as being "conservative" with its status quo foundation. And you might have come close to achieving that if you held the line on the issue of



The Honorable Benjamin J.F. Cruz

Bill 22-34

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allowing for the use of Continuing Appropriations. In the first draft of Substitute Bill No. 22-34 only FOUR agencies were afforded the use of Continuing Appropriations, they were: DPHSS (MIP and Medicaid), the Judiciary, the Governor's Office and the Legislature. In the version passed you bent over and allowed FIVE more agencies to be afforded the use of Continuing Appropriations. They are: the University of Guam, the Guam Community College, the Department of Education, the Mayor's Council and the Office of Public Accountability. What part of fiscal conservatism led to this additional burden on "the government's current fiscal reality?"

My Fiscal Team had spent several weeks on the FY 2018 Budget Public Hearings and another two weeks in the Committee of the Whole. They have answered questions with facts and supported figures as well as walked through scenarios and explanations with various Senators. What the People of Guam witnessed was confusion on the floor amongst your colleagues because, unlike the past, opportunity was not given to hold public meetings with the legislature, the Office of Finance and Budget and my Administration. The outcome of all this effort is the passage of an "ATTEMPT" at a budget that does not reflect adequate funding for vitally needed expenditures.

I have noted a number of concerns, which I feel must be addressed in order to face FY 2018 armed with sufficient resources placed within the agencies who provide the public with health, education and safety services. Our visitor industry needs have not been met with the measure before me and this lack of resources concerns me deeply.

I cannot in good conscience allow these issues to go un-challenged therefore I am VETOING Substitute Bill No. 22-34. Jeopardizing the health, education and safety needs of the People of Guam while funding a Chamorro Shrine and the UNESCO Nomination of the Latte. While we all value Historic and Cultural Preservation, how does all of this seem to be as important as more Police Officers, lifeguards, hospital needs and increased public transportation needs? Is it any wonder why both the former Legislative Ways and Means and Finance Committee Chairmen both voted "NO" on this Bill?

Senseramente,



EDDIE BAZA CALVO
Governor of Guam




I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

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

This is to certify that substitute **Bill No. 22-34 (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, 2018, MAKING OTHER APPROPRIATIONS, AND ESTABLISHING MISCELLANEOUS AND ADMINISTRATIVE PROVISIONS," was on the 30 day of August 2017, duly and regularly passed.


Benjamin J.F. Cruz
Speaker

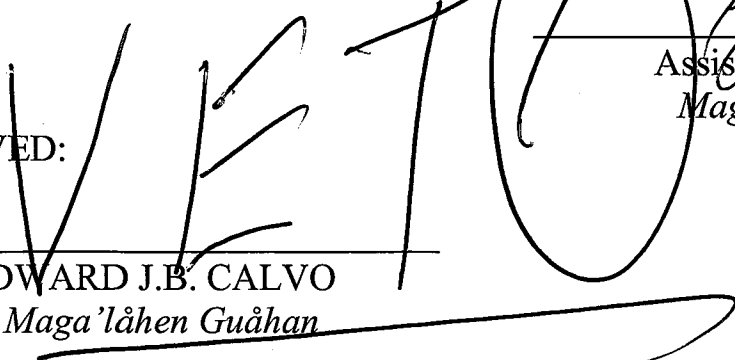
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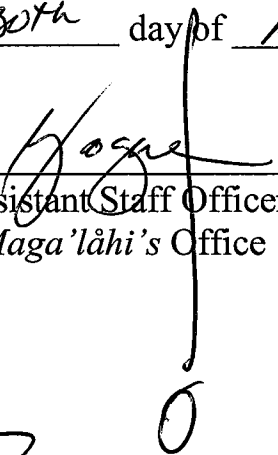
Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 30th day of AUG,
2017, at 4:41 o'clock P.M.

APPROVED:



EDWARD J.B. CALVO
I Maga'låhen Guåhan



Assistant Staff Officer
Maga'låhi's Office

Date: _____

Public Law No. _____