

PUBLIC LAW NO. 19-19

Bill No. 296 (LS)
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Riders: Yes

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AN ACT TO ADD SUBSECTION(s) TO SECTION 12101, TITLE 10, GUAM CODE ANNOTATED, DEFINING INDIVIDUAL, FAMILY AND MARRIAGE THERAPISTS FOR LICENSING, AND FOR OTHER PURPOSES.

- Section 1 ... Adds new 10 GCA §12101(s), defining Individual, Family and Marriage Therapist; provides for licensure.
- Section 2 ... Adds new Chapter 87 to 10 GCA:
Occupational Safety and Health Code
- §87101. Definitions.
 - §87102. Division of Inter-Governmental Occupational Safety & Health created.
 - §87103. Administrator.
 - §87104. Duties of the Division.
 - §87105. Safety Standards to be Recommended to the Legislature.
 - §87106. Review of Safety Standards Prioritized.
 - §87107. Temporary Waiver, Modification, Promulgation, and Enforcement of Standards Authorized.
 - §87108. Safety Inspectors and Other Employees.
 - §87109. Annual Inspections and Report.
 - §87110. Other Inspections Authorized.
 - §87111. Employee Hazard Reporting Program.
 - §87112. Government of Guam to Furnish Information.
 - §87113. 30-Day Citation Issued.
 - §87114. 30-Day Citation Removed.
 - §87115. Standing Citation Issued.
 - §87116. Standing Citation Removed.
 - §87117. Safety Review Board Created.
 - §87118. Safety Review Board Meetings Public.
 - §87119. Duties of Safety Review Board.
 - §87120. Safety Review Board May Make Rules & Establish Fees.
 - §87121. Appeals.

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- §87122. May Compel Witnesses and Furnish Information.
- §87123. Division Priorities.
- §87124. Report to the Governor.
- §87125. Employees Not to be Compelled to Work in Unsafe Conditions.
- §87126. Unauthorized Removal of Citation Prohibited.
- §87127. Safety Training Mandatory.
- §87128. Severability.
- Section 3 ... Relieves government of liability if employee chooses not to wear safety gear.
- Section 4 ... Appointment of Safety Officers; duties.
- Section 5 ... Appropriation to Dept. of Labor for operation of Division of Occupational Safety & Health.
- Section 6 ... Provides that safety program expenses shall be line items in budget submissions for GovGuam agencies.
- Section 7 ... R/R P.L. 19-10 Ch. VIII, Superior Court FY'88 Appropriations.
- Section 8 ... Legislative concurrence with Judicial Council's FHA loan agreement for construction of a new Judicial Building.
- Section 9 ... Effective date of loan agreement, item 8 above.
- Section 10... R/R §81.2, Guam Code of Civil Proc., re judges' resignation or retirement for age.
- Section 11... Advance FY'89 appropriation to DOE for purchase of books for school year 1988-89.
- Section 12... Appropriation to GEDA to allow them to subsidize interest on loans to local farmers.
- Section 13... Adds new 11 GCA §24401(f) exempting certain property used in active farming from real property tax.
- Section 14... Rezones certain lots in Machanao, Dededo, from "A" to "R-1".
- Section 15... Directs the Governor to postpone effective date of Item 14 rezoning until a sewer system is operational.
- Section 16... Appropriation of TAF funds to Guam Council on Arts & Humanities for participation in arts festival in Australia.
- Section 17... Appropriation to Parks & Rec. Dept., Off-Island Sports Fund for Olympic Team travel to Seoul, Korea.
- Section 18... R/R P.L. 19-10:II:XX:E, appropriation to the Guam Visitors Bureau for Special Events Dev. Fund.

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- Section 19... Adds new Section G to P.L. 19-10:II:XX, Grant-In-Aid to GVB for Special Projects Committee.
- Section 20... Appropriation to Dept. of Public Works for improvements to Merizo Public Cemetery.
- Section 21... R/R P.L. 19-14:7 [to be codified as 5 GCA §56207] defining & penalizing illegal use of water billed at agricultural rate.
- Section 22... Appropriation to Legislative Operations Fund to reimburse for state funeral expenses.
- Section 23... R/R 4 GCA §8136(a)(4), GovGuam Retirement Fund credit option for non-base pay.
- Section 24... Appropriation to Guam Economic Devel. Authority for loan to Option 3 claimants in Guam Land Claims cases.
- Section 25... Adds new Article 4.1 to 12 GCA Chapter 2:
Land Claims Rebate
§2450. Limited Qualifying Certificate.
§2451. Same: Eligibility.
§2452. Same: Rescission.
§2453. Same: Application.
§2454. Rebate.
§2455. Same: Claim.
§2456. Rules.
§2457. Fee.
- Section 26... Appropriation to Parks & Rec. Dept. for funding 1988 Guam Youth Football League.
- Section 27... Repeals 12 GCA §§1301-1311 [GC §§62200-62210] establishing Gaming Zone at Guam International Airport.
- Section 28... Repeals GC §47104.1, which permitted importation of slot machines for use in GIAT Gaming Zone.
- Section 29... Repeals GC §§26400-26438, Guam Jai Alai Act.
- Section 30... Repeals 9 GCA §64.55 permitting Jai Alai wagers.
- Section 31... Repeals GC §§62300-62326, Territorial Lottery Act.
- Section 32... Repeals 9 GCA 64.60 permitting wagering under Territorial Lottery Act.
- Section 33... Rezones to commercial Lot 5138-2-3NEW, Dededo.
- Section 34... Appropriation to GVB for repair of Dos Amantes statue.
- Section 35... Authorizes sale of government land, a portion of Old Padre Palomo St., Agana, to Robert DeLodge.
- Section 36... Exempts land sale (item 35 above) from provisions of P.L. 12-61:3.
- Section 37... Legislative approval of item 35 above.
- Section 38... Authorizes lease of submerged land in Piti to Pacific Underwater Observatory, Inc.

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- Section 39... Appropriation to Public Works Dept. for construction of a retaining wall near Friary, Sinajana; and traffic light at Rt. 1 & Macheche Road, Dededo.
- Section 40... Appropriation to Commissioners' Council for purchase of a dump truck.
- Section 41... Reclassifies Bureau of Budget & Mgt. Research Analyst and Supervisor positions.
- Section 42... Provides eligibility criteria for UOG student loan financial assistance award.
- Task Force for Displaced Workers
- Section 43... Creation.
- Section 44... Membership.
- Section 45... Duties & Responsibilities.
- Section 46... Eligibility.
- Section 47... Report to the Legislature.
- Section 48... Authorization to use FY'88 appropriated funds to pay prior years' overtime for Dept. of Corrections.
- Section 49... Rezones lots within Basic Lot 5172, Tamuning, from "R-2" to "H".
- Section 50... Appropriation for operations of Guam Commission on Self-Determination.
- Section 51... Appropriation to Superior Court for swearing-in and reception ceremony costs for new Presiding Judge.
- Section 52... R/R 4 GCA §8113.1, Extension of eligibility for educational credits to graduates of accredited foreign institutions.
- Section 53... Adds new 4 GCA §8113.2 regarding qualification of employees for retirement benefits for education.
- Section 54... R/R 4 GCA 8108(b) to allow retirement credit for certain employee's time in U.S. Armed Forces.
- Section 55... Delineates the terms under which retirement credit will be authorized by this Act.
- Section 56... Adds new GC §47060(f) requiring annual compilation of cost of living index.
- Section 57... Adds new 4 GCA §8137.1 requiring an annual lump sum cost of living adjustment to GovGuam retirees.
- Section 58... Adds new 4 GCA §8137(d) increasing the government's contribution to the Retirement Fund.
- Section 59... Amends 4 GCA §8104(j) definition of the term average annual salary.
- Section 60... R/R 4 GCA §8130, refund of member's Retirement Fund contributions upon separation from govt. service.

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- Section 61... Requires the Retirement Fund to advise, by appropriate means, its members of the provisions of this Act.
- Section 62... R/R 4 GCA §8135(a)(1), annuity rate for surviving spouse of Retirement Fund member.
- Section 63... Provision to maintain group life insurance premium rate payable by retirees and survivors.
- Section 64... Authorizes Guam Memorial Hospital to enter into service contracts concerning (a) GMH's liability insurance; (b) training on HMO standards.
- Section 65... Excludes Guam Memorial Hospital from the FTE restrictions imposed by P.L. 19-10.
- Section 66... R/R GC §6010 [to be codified as 5 GCA §22406] regarding reversion of unused appropriations to the General Fund.
- Section 67... Appropriation to Guam Power Authority for power extension in Municipality of Dededo.
- Section 68... Appropriation to GPA for power extension to portion of Tract 296, Yona.
- Section 69... Appropriation to Dept. of Land Management for Land Survey Revolving Fund; & provision for reimbursement of said fund for Judicial Bldg. costs.

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

Section 1. A new subsection (s) is added to Section 12101, Title 10, Guam Code Annotated, to read:

"(s) 'Individual, Family and Marriage Therapist' means a skilled individual qualified by practical and academic training to provide planned intervention to help the client(s) enlarge competencies and increase problem solving skills and coping abilities. Licensure requirements and scope and procedures of practice for such individuals shall be promulgated by the Board of Allied Health Examiners."

Section 2. WHEREAS, U.S. Public Law 91-596, also known as the "Occupational Safety and Health Act of 1970", was enacted to assure safe and healthy working conditions for private sector employees; and

WHEREAS, standards deriving from U. S. Public Law 91-596 have likewise been made applicable to the federal sector; and

WHEREAS, the government of Guam has no uniform safety and health standards; and

WHEREAS, every government of Guam employee is entitled to safe, healthful working conditions, and the Government has a duty to provide same by the adoption of uniform safety and health standards and the enforcement of same; now, therefore, a new Chapter 87 is hereby added to Title 10 of the Guam Code Annotated to read:

"Chapter 87

OCCUPATIONAL SAFETY AND HEALTH CODE

§87101. Definitions:

(a) *Standards* shall mean those safety and health standards, rules and regulations made applicable to the government of Guam after enactment of same into local law or temporarily promulgated, modified or waived, as provided by Section 87107 of this Act.

(b) *Agency* shall mean the government of Guam or any department, agency, autonomous agency, Authority, Branch or instrumentality thereof.

(c) *Department* shall mean the Department of Labor within the government of Guam.

(d) *Director* shall mean the Chief Officer of the Department.

(e) *Division* shall mean the Division of Occupational Safety and Health within the Department of Labor.

(f) *Administrator* shall mean the Chief Officer of the Division.

(g) *Safety Inspector* shall mean an inspector of the Division.

(h) *Safety Officer* shall mean an employee designated by the Administrator to be responsible for the safety program of an agency.

(i) *Safety Review Board* shall mean the five-member Board which shall hear agency appeals from citations issued by the Division.

(j) *30-day citation* shall mean the written citation issued by the Administrator to an agency.

(k) *Standing citation* shall mean the written citation issued by the Administrator to an agency after hearing and concurrence by the Safety Review Board.

(l) *Effective date* shall mean ninety (90) days after this Act becomes law.

§87102. Division of Inter-governmental Occupational Safety and Health Created. There is within the government of Guam the 'Division of Occupational Safety and Health' which shall be administratively attached to the Department of Labor. 'Administratively attached' shall mean that the Director will have overall authority over the Division's budget, and that concurrence of the Director must be obtained by the Administrator in hiring employees of the Division. The Director shall have no authority or jurisdiction and shall exercise no control over the Administrator or the Division with respect to Sections 87104, 87105, 87106, 87107, 87109, 87110, 87111, 87112, 87113, 87114, 87115, 87116, 87121, 87123, 87124 and 87127 of this Chapter.

§87103. Administrator. There shall be within the Division an Administrator who shall act as the Chief Officer and direct the operations of the Division. The Administrator shall be hired by the Director and shall be in the classified service as established by the Government of Guam's Civil Service Commission. The Administrator shall receive a salary equal to that of the Director.

§87104. Duties of the Division. The general duties of the Division shall be: (1) to continually review and modify safety standards and rules, and to recommend to the Legislature enactment of same; (2) to continually monitor and enforce enacted or temporarily promulgated safety and health standards within the government of Guam; and (3) to continually assess employee safety, training and education programs on an agency basis.

§87105. Safety Standards to be Recommended to the Legislature. Within ninety (90) days from the effective date of this Act, the Division shall recommend to the Legislature enactment of specific safety and health standards for the government of Guam. Such standards to be considered by the Division shall include, but not be limited to, standards deriving from U.S. Public Law 91-596. Thereafter, from time to time, the Division will continue to review standards and make recommendations to the Legislature for revision or expansion.

§87106. Review of Safety Standards Prioritized. In its consideration of standards to be recommended to the Legislature for enactment, the Division shall prioritize same. The first three priorities shall be: (1) toxic, chemical or hazardous substance storage and handling, including, but not limited to, the acquisition and use of protective gear and equipment; (2) electrical and fire safety conditions; and (3) employee education and training with respect to (1) and (2) above.

§87107. Temporary Waiver, Modification, Promulgation and Enforcement of Standards Authorized. The Division is hereby authorized to temporarily waive or modify any locally-enacted standard or rule on an individual agency basis provided compliance of said standard, prior to waiver or modification, may, in the written opinion of both the Chief Officer of the affected agency and Administrator, prove beyond the financial means of said agency. The Division is hereby authorized to temporarily promulgate recognized standards and to enforce same on written order to the Administrator or the Safety Review Board, if, in the opinion of the Administrator or the Safety Review Board, an unsafe condition exists and is likely to cause injury in the affected agency. Enforcement of such modifications, waivers, or

promulgations of safety standards or rules, shall not exceed one (1) year unless enacted into local law.

§87108. Safety Inspectors and Other Employees. In addition to clerical personnel hired by the Administrator with the concurrence of the Director and in accordance with the personnel and compensation laws, the Division shall be staffed by six (6) Safety Inspectors, each representing one of the following safety disciplines: heavy construction, light construction, industrial hygiene, hazardous substance control, electrical and fire engineering. In order to qualify as a Safety Inspector, a person must meet the qualifications established by the Government of Guam's Civil Service Commission. Safety Inspectors shall be selected by the Administrator with the concurrence of the Director and will be classified employees of the government of Guam to be established by the Civil Service Commission.

§87109. Annual Inspections and Report. At least once a year, every agency shall be inspected by the Division. Such inspection shall include, but not be limited to, on-site inspection of every facility, discussion with employees, and assessment of any educational, training and safety programs, including, but not limited to, the administration of same. As each agency is inspected, the Administrator shall cause a report to be written by the Safety Inspector(s): (a) describing any safety and health violations; (b) citing any standards so violated; (c) indicating the hazard rating of each violation; (d) recommending specific corrective action; and (e) the date by which each cited violation must be corrected. This report shall be submitted to the Chief Officer of said agency for comment and action. A follow-up inspection shall take place after the corrective date deadline indicated in the Report, but in no event later than sixty (60) days from said date. The Safety Inspector(s) shall note any positive action taken, as well as the failure of the agency to correct other cited deficiencies. The Safety Inspector(s) shall then include these findings in a report to the Administrator, including, but not limited to, any recommendations to issue citations or give temporary relief to the agency through waiver or modification of specific standards.

§87110. Other Inspections Authorized. In addition to annual and follow-up inspections, the Division may (a) inspect any agency for safety violations upon the written request of any person, organization or group of persons; and (b) conduct 'spot' or 'no notice' inspections for any safety deficiencies without prior notice to the affected agency, at the Division's discretion. The identity of any person, organization or group of persons requesting an inspection of an agency of the government of Guam or reporting an unsafe condition shall be confidential.

§87111. Employee Hazard Reporting Program. The following procedure is set forth for the submission of employee reports of unsafe or unhealthful conditions in the workplace:

(a) All government of Guam employees shall be encouraged to orally report unsafe or unhealthful working conditions to their immediate supervisor who will promptly investigate the situation and take appropriate corrective actions, including, but not limited to, apprising the Safety Officer of the agency. The Safety Officer may contact the Division for assistance as necessary. The Safety Officers shall keep the reporting employee informed of all actions taken.

(b) Any government of Guam employee (or employee representative) may submit a written report of an unsafe or unhealthful working condition directly to the Division. A standard 'hazard report' form for this purpose shall be drafted by the Division and provided by the same to each agency. Such forms shall be placed by each agency in areas convenient to all workplaces. Employees' names shall remain anonymous and the form shall so indicate.

(c) Upon receipt of a 'hazard report' form, a Safety Inspector will contact the originator, if identified, to acknowledge receipt and discuss the seriousness of the reported hazard. The Division shall advise the cognizant supervisor and Safety Officer that a hazard has been reported. Unsigned 'hazard report' forms may be investigated at the discretion of the Division.

(d) The Division shall investigate all signed reports. Alleged imminent danger situations, including, but not limited to, the potential for death or severe injury and/or loss of facility or major property damage, shall be investigated within twenty-four (24) hours. Potentially serious situations shall be investigated within three (3) days. If the reported situation involves a health hazard, as opposed to a safety hazard, the Division will refer the report to the cognizant medical authority for investigation as necessary.

(e) The Division shall provide an interim or complete response in writing to the originator of the report within fifteen (15) working days of receipt. Interim responses will include the expected date for a complete response. If the investigation validates the reported hazard, the complete response shall include a summary of the action taken for abatement. If no significant hazard is found to exist, the reply shall include the basis for that determination.

(f) The complete response shall encourage, but not require, the originator to informally contact the Division if he or she desires additional information or is dissatisfied with the response.

§87112. Government of Guam to Furnish Information. Every agency shall at all times cooperate with the Division in the performance of its functions, and, upon request, furnish the Division all information that it may require respecting any of the matters concerning employee safety, health or working conditions, and shall permit the examination of its personnel, facilities, books, records, contracts, maps and other documents by the Division, or any person authorized by it in writing to make such examination.

§87113. 30-Day Citation Issued. The Administrator shall cause a 30-day citation to be issued to the Chief Officer of the affected agency when: (1) violation(s) have been identified in the annual inspection report and no substantial action to correct same has taken place by the deadline set by Safety Inspectors; (2) on the written order of the Safety Review Board; or (3) on any inspection made by the Division a safety violation is found to exist that if not corrected immediately, poses a serious threat to employee health or safety. This shall include, but not be limited to, 'spot' or 'no notice' inspections authorized by Section 87110 of this Chapter. Notice of a 30-Day Citation shall be provided by the Chief Officer of the agency, the agency's Safety Officer, and posted at each affected worksite in a place(s) where it can be easily read by employees. The 30-Day Citation shall include the following information: (a) a description of the violation and standard violated; (b) the hazard rating of said violation; (c) the telephone contact number of the Division for further information; (d) a statement that no action may be taken against employees for refusing to endanger themselves by working in an unsafe site, and (e) a statement that if an employee is ordered or coerced to work at said unsafe site, he/she is to report same to either the Safety Officer of the agency or the Division.

§87114. 30-Day Citation Removed. A 30-Day Citation may be withdrawn only on the written approval of the Administrator or by written order of the Safety Review Board. If violation(s) cited in a 30-Day Citation are corrected any time within the thirty (30) days specified, the Division shall be informed and an inspection shall be made by same. If the violation has in fact been corrected, the Administrator shall cause the citation to be withdrawn and notice of same shall be provided to the Chief Officer of the agency and the Safety Officer. It shall likewise be posted at each affected worksite at a place where it can be easily read by employees.

§87115. Standing Citation Issued. In the event that an agency of the government of Guam does not take action to correct violations cited in a 30-Day Citation within the thirty

(30) days specified, the Administrator shall recommend issuance of a Standing Citation to the Safety Review Board. In the event the Safety Review Board concurs in this recommendation, Notice of a Standing Citation and the written findings of the Safety Review Board shall be provided to the Chief Officer of the affected agency, its Safety Officer, the Governor, and the Speaker of the Guam Legislature. In addition, such Notice shall be posted at each affected worksite in a place where it can be easily read by employees. The Standing Citation shall include the following information: (a) a description of the violation and standard violated; (b) the hazard rating of said violation; (c) the telephone number of the Division to contact for further information; (d) a statement that no action may be taken against employees for refusing to endanger themselves by working in an unsafe site, and (e) a statement that if an employee is ordered or coerced to work at said unsafe site, he/she is to report same to either the Safety Officer of the agency or the Division.

§87116. Standing Citation Removed. A Standing Citation may be withdrawn only on the written approval of the Administrator or on written order of Safety Review Board. If violation(s) cited in a Standing Citations are corrected at any time after issuance, the Division shall be informed and an inspection shall be made by the same. If the violation has in fact been corrected, the Administrator shall cause the citation to be withdrawn and notice of same shall be provided to the Chief Officer of the agency, the Safety Review Board, the Governor and Speaker of the Guam Legislature. It shall likewise be posted at each affected worksite at a place where it can be easily seen by employees.

§87117. Safety Review Board Created. There is hereby created a Safety Review Board comprised of five (5) members who shall be appointed by the Governor with the advice and consent of the Legislature. One shall be an attorney who has experience in representing accident victims; one shall be an attorney who has experience in representing insurance companies in accident cases; one shall be an employee from a line department; one shall be an employee of an autonomous agency; and one shall be a medical practitioner. The Board shall choose a Chairman from among its members. At least three members must be present for there to be a quorum. All decisions of the Board shall be by a majority vote, there being at least four (4) members voting. The Board may hire an independent safety consultant, a secretary and its own attorney. All decisions rendered by the Board shall be binding on the Government and the Division and shall be in writing.

§87118. Safety Review Board Meetings Public. All meetings, hearings and deliberations of the Board shall be public and minutes kept. The only exception to open and public meetings, hearings and deliberations shall be those concerning personnel matters of the Division. Personnel matters of the Division shall not, however, mean meetings, hearings or deliberations on the evaluation of any agency's safety performance. No meeting, hearing or deliberation of the Board shall take place unless there is notice of same with the purpose stated thereof and the date, time and place at which it will be held. Such notice must have been advertised not less than two (2) times in a newspaper of general circulation in Guam, the first publication being not more than seven (7) days before the scheduled meeting, hearing or deliberation, and the last publication being not less than two (2) days prior to the scheduled meeting, hearing or deliberation. The Board shall inform the Administrator, the Chief Officer of the affected agency and the Safety Officer, who shall inform employees working at the affected site. The Board may use additional media such as radio or television to advise the public if it finds it necessary to do so.

§87119. Duties of Safety Review Board. The Safety Review Board shall meet at least once a month to: (a) hear agency appeals from citations issued by the Division and to make a determination as provided herein; or (b) to act on recommendations from the Division as provided herein.

§87120. Safety Review Board may make Rules and Establish Fees. In the hearings before it, the Board is not bound by the procedures set out in Chapter II of Title XXV of the Government Code, as amended, (§24100 through §24142 of the Government Code) but may establish its own procedures for the conduct of hearings and the admission of evidence. It shall establish its own procedures however, by promulgating rules according to the rule-making procedures set out in Chapter III of Title XXV of the Government Code, as amended, (§24200 through §24211 of the Government Code). The Board shall not be bound by the strict rules of statutory or common law relating to the admission or rejection of evidence, but may exercise its own discretion in these matters with a view to doing substantial justice. However, in making a determination whether to uphold a 30-Day Citation or to issue a Standing Citation, the Safety Review Board shall above all:

(a) Place the burden of proof on the affected agency as to why said citation should not be upheld or issued;

(b) Consider the potential danger to employees, as well as the potential liability to the Government should an accident occur; and

(c) Consider whether the cited violation can be corrected within the financial and personnel means of the affected agency.

All findings of the Safety Review Board shall be in writing and furnished to the Chief Officer of the affected agency, its Safety Officer, and the Administrator. The Board may establish and amend a schedule of reasonable fees and costs for copies of papers and records requested by interested parties or any person or entity, and for the filing and serving of papers and documents required by this Chapter. All such fees and costs charged and collected shall be paid into the Safety Review Board Fund.

§87121. Appeals. The Chief Officer of any agency of the government of Guam may file a notice of appeal with the Safety Review Board from a citation issued by the Division. This Notice of Appeal shall be in writing stating briefly the reason the agency feels the citation is unjustified. A copy of said Notice shall be furnished to the Administrator. On receipt of said notice of appeal, the Chairman of the Safety Review Board shall schedule a hearing and inform both the Chief Officer of the affected agency, the Safety Officer and the Administrator. This appeal shall be timely heard, but in no event not later than sixty (60) days after receipt of said notice. If a citation has not been actually issued, the Division shall not post citation until a determination of the appeal by the Board. In the event the Board concurs with the affected agency, the Administrator shall not issue said citation or shall remove same as provided in §87114 and §87116 of this Chapter. In the event the Board finds with the Division, the Board shall order issuance of the citation as provided in §87113 and §87115 of this Chapter. In the event the Board concurs with the Administrator in the issuance of a Standing Citation, the Standing Citation shall be printed in full and publicized one (1) time a month in a newspaper of general circulation until cited violations are corrected.

§87122. May Compel Witnesses and Furnish Information. In making a determination and in all proceedings before it, the Board shall have the same powers respecting administering oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining witnesses as are possessed by the Superior Court. In case of contempt or disobedience by any person to any order of the Board or any subpoena issued by it, or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, the Superior

Court, on application by the Board, shall compel obedience and punish said person as in the case of disobedience of the requirements of a subpoena issued from the Superior Court or a refusal to testify therein. Nothing herein shall be construed as giving to an agency immunity of any kind except as may already be conferred by law. The fees and traveling expenses of witnesses shall be the same as allowed witnesses in the Superior Court and shall be paid out of any appropriation available for the expenses of the Board.

§87123. Division Priorities. In addition to the priorities outlined in §87105 and §87106 of this Chapter, during its first year of operation, the Division shall conduct its annual, follow-up and 'no notice' investigations of the government of Guam as provided in §87109 and §87110 of this Chapter. However, no citations shall be issued during this time for any violation whose corrective action requires substantial monetary expenditure. Citations will be issued for any safety or health violation not requiring any substantial expenditure of funds. During its first year of operation, the Division shall work with each agency of the government of Guam to (a) explain applicable standards; (b) consider legislation amending or waiving any standards on an agency-by-agency basis; (c) assessing and determining a reasonable employee safety education and training program, including, but not limited to, the minimum number of hours to be spent by every employee in safety training or education; (d) recommending the percentage of each agency's budget which should be earmarked for safety, including, but not limited to, employee education and training; (e) determining the expenditure necessary to correct major life-threatening violations; and (f) reviewing employee accident compensation legislation.

In considering standards, training, education and enforcement of same, the Division shall prioritize same as follows: (1) toxic, chemical or hazardous substance storage and handling, including, but not limited to, the acquisition and use of protective gear and equipment; (2) electrical and fire safety conditions; (3) employee education and training in (1) and (2) above.

At the end of the first year, the Division shall begin issuing citations on all violated standards regardless of monetary expenditure needed to correct same.

§87124. Report to the Governor. Within one (1) year after the effective date of this Act, the Division shall furnish a report to the Governor, recommending on an agency-by-agency basis:

(a) remedial rules and legislation with respect to safety standards; (b) detailing safety and health deficiencies, including, but not limited to, any citations issued, withdrawn, corrected and outstanding; (c) recommending appropriations to correct life-threatening safety deficiencies; (d) recommending appropriations for employee safety education and training; (e) recommending what percentage of each agency's budget should be set aside for safety; and (f) recommending remedial legislation with respect to employee accident compensation. A copy of this Report shall be furnished to the Legislature, together with the Governor's recommendations on same. Thereafter, a similar report shall be made to the Governor on an annual basis with a copy transmitted to the Legislature. Notwithstanding any provisions of Chapter IX of Public Law 19-5, this report shall be considered a public document.

§87125. Employees not to be Compelled to Work in Unsafe Conditions. After citation of an unsafe working condition by the Division, no employee may be compelled or in any way coerced to work in an unsafe working condition. Anyone who compels or coerces an employee to do so shall be guilty of a misdemeanor, and, in addition, shall be held personally liable for actual and punitive damages should an employee suffer injury as a result of said unsafe working condition. Civil actions may be brought against such person without reference to the Government Claims Act. No disciplinary action may be brought against an employee who either refuses to work in an unsafe working condition after citation of same by the Division, or who reports an unsafe working condition to either the Safety Officer or the Division. Refusal to work in an unsafe working condition after citation of same by the Division, or reporting of an unsafe working condition, shall not be considered in evaluating job performance or be considered as a factor in the promotion or demotion or adverse action of said employee.

§87126. Unauthorized Removal of Citation Prohibited. Anyone, other than the Administrator or his designee, who removes a citation issued by the Division shall be guilty of a felony, and, in addition, shall be held personally liable for actual and punitive damages of any employee who suffers injury as a result of removal of said citation. Civil actions may be brought against such person without reference to the Government Claims Act.

§87127. Safety Training Mandatory. Every employee, whether in the classified or unclassified service, shall spend a specified number of hours each year in the safety training of his or her agency to be eligible for promotion and/or cost of living

adjustment. The specified number of hours shall be determined by the Legislature after the Division submits its Report as provided in §87124. The number of hours each employee must spend in minimum safety training may be adjusted from year-to-year by the Legislature.

§87128. Severability. If any of the provisions of this Chapter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of the Chapter are severable."

Section 3. In any case where protective gear is operable and available, and an employee chooses not to use same, the government of Guam shall not be held liable for any damages or injuries preventable by use of such protective devices.

Section 4. On the effective date of this Act, the Chief Officer of every agency shall designate a Safety Officer to be responsible for the safety program of his/her department. Duties shall include, but not be limited to, accepting employee complaints of working conditions and the dissemination to employees of any Division notice of citations or withdrawal of same, as well as notice of any Board hearings and decisions.

Section 5. There is hereby appropriated from the General Fund the sum of Two Hundred and Fifty Thousand Dollars (\$250,000.00) to the Department of Labor for the Division of Occupational Safety and Health for its first year's operations.

Section 6. Safety, including, but not limited to, safety equipment, training, education, and programs for correction of potential or cited deficiencies, shall be a line item in the annual budget submissions of agencies of the government of Guam.

Section 7. Chapter VIII of Public Law 19-10 is hereby repealed and reenacted to read:

"CHAPTER VIII

Superior Court of Guam Fiscal Year 1988 appropriations.

SUPERIOR COURT OF GUAM

	General Fund	Other Fund	Federal Fund	Total
A. For Administration				\$ 510,320
1. Personnel Services	\$ 510,320 (20.0 FTE)			(20.0 FTE) 427,786
2. Operating Expenses	427,786			

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3. Lease of Office Space	128,463	128,463
4. Utilities		
a. Power	104,000	104,000
b. Water/Sewer	4,100	4,100
c. Telephone	31,796	31,796
5. Capital Outlay	70,266	70,266
6. Miscellaneous		
a. Personnel Development	1,818	1,818
b. Contingency Fund	3,500	3,500
TOTAL	\$1,282,049	\$1,282,049
B. For Financial Management		
1. Personnel Services	\$ 243,012	\$ 243,012
	(9.0 FTE)	(9.0 FTE)
2. Operating Expenses	3,527	3,527
3. Capital Outlay	4,426	4,426
4. Miscellaneous		
a. Personnel Development	2,030	2,030
TOTAL	\$ 252,995	\$ 252,995
C. For Courts/Ministerial Offices		
1. Personnel Services	\$1,815,685	\$1,815,685
	(63.0 FTE)	(63.0 FTE)
2. Operating Expenses	66,769	66,679
3. Contingency Fund	10,000	10,000
4. Jury Services	390,000	390,000
5. Court Appointed Legal Service	350,000	350,000
6. Personnel Development	90	90
7. Capital Outlay	29,455	29,455
TOTAL	\$2,661,999	\$2,661,999
D. For Marshal's Office		
1. Personnel Services	\$ 583,389	\$ 583,389
	(23.0 FTE)	(23.0 FTE)
2. Operating Expenses	6,253	6,253
3. Capital Outlay	6,037	6,037
4. Miscellaneous		
a. Personnel Development	675	675
TOTAL	\$ 596,354	\$ 596,354

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E. For Probation Services		\$ 936,359
1. Personnel Services	\$ 936,359 (36.0 FTE)	(36.0 FTE) 22,345
2. Operating Expenses	22,345	
3. Utilities		635
a. Telephone	635	10,247
4. Capital Outlay	10,247	
TOTAL	\$ 969,586	\$ 969,586
F. For Judicial Council		\$ 16,953
1. Operating Expenses	\$ 16,953	
2. For the Stipends of the Judicial Council as required by Section 121 of the Civil Procedure Code of Guam	3,550	3,550
TOTAL	\$ 20,503	\$ 20,503
G. For Board of Law Examiners		\$ 10,730
1. Operating Expenses	\$ 10,730	
2. For the Stipends of the Board of Law Examiners as required by Section 28015 of The Government Code of Guam	2,400	2,400
TOTAL	\$ 13,130	\$ 13,130
GRAND TOTAL SUPERIOR COURT OF GUAM	\$5,796,616	\$5,796,616."

Section 8. Concurrence. The Legislature concurs in the execution by the Judicial Council of a loan agreement with the Farmers Home Administration, United States Department of Agriculture, in the sum of Eleven Million Dollars (\$11,000,000) to build a new Judicial Building, which agreement is embodied in the loan resolution adopted by the Judicial Council on March 17, 1988, pursuant to Section 189.5 of the Code of Civil Procedure.

Section 9. Effective date. The loan agreement referred to in Section 8 of this Act shall also become effective upon the effective date of this Act pursuant to §189.5 of the Code of Civil Procedure.

Section 10. Section 81.2 of the Guam Code of Civil Procedure is repealed and reenacted to read as follows:

"§81.2. Resignation or retirement for age. Any judge or justice who resigns after serving at least twenty (20) years, continuously or otherwise, or after attaining the age of sixty-five (65) years and after serving at least fifteen (15) years, continuously or otherwise, shall continue during the remainder of his life to receive ninety percent (90%) of the salary he received when he relinquished the office, or after attaining the age of seventy (70) years and after serving at least seven (7) years, but less than fifteen (15) years continuously or otherwise, shall continue during the remainder of his life to receive sixty percent (60%) of the salary he received when he relinquished the office."

Section 11. The sum of Three Million Four Hundred Thirty-nine Thousand Dollars (\$3,439,000) is appropriated from the General Fund to the Department of Education as an advance appropriation from the FY'89 budget to procure textbooks, workbooks, and library books from off-island vendors for the School Year 1988-89. The FY'89 budget approved by the Board of Education and transmitted to the Legislature shall include, broken down by school and by subject matter, the amount of the appropriation in this Section within the ceiling set for the Department of Education. The amount approved pursuant to this Section shall be allocated for book purchases not to exceed the following:

Public Schools and Private Schools/School Libraries

Elementary Schools	\$1,446,000
Secondary Schools	1,168,000
Special Education	114,000
Library Books	406,000
Private Schools	305,000

Total	\$3,439,000
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Section 12. The sum of Ninety-Six Thousand Dollars (\$96,000) is appropriated from the General Fund to the Guam Economic Development Authority to subsidize the payment of interest on Federal Fund loans available to local farmers so that the farmers will pay interest at the rate of three percent (3%) to four percent (4%), as set forth by the Guam Economic Development Authority, and the difference between the rate of interest and the interest charged according to Federal Fund Programs will be paid from this appropriation.

Section 13. A new Subsection (f) is added to 11 GCA §24401 to read:

"(f) Property use in active farming for at least eight (8) months in any tax year."

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Section 14. Notwithstanding any other provision of law, all subdivided lots located within Tract 538, and within Lot 10090-2, Tract 534, Municipality of Machanao, Dededo, currently zoned 'A', are rezoned "R-1".

Section 15. The Governor by Executive Order shall postpone the effective date of the provisions of Section 14 of this Act until a sewer system which is adequate to protect the water lens underlying the affected properties is operational, as certified by the Guam Environmental Protection Agency.

Section 16. The sum of Forty-Five Thousand Dollars (\$45,000) is appropriated from the Tourist Attraction Fund to the Guam Council on the Arts and Humanities Agency to fund the participation of Guam in the Fifth Festival of Pacific Arts to be held in Townsville, Australia.

Section 17. The sum of One Hundred Thousand Dollars (\$100,000) is appropriated from the General Fund to the Off-Island Sports Fund of the Department of Parks and Recreation for the purposes of funding off-island travel of the Guam National Olympic Team to Seoul, Korea and for other allowable purposes.

Section 18. Chapter II, Part XX, E of Public Law 19-10 is repealed and reenacted to read as follows:

	General Fund	Other Fund	Federal Fund	Total
"E. Special Events Development Fund				
1. Christmas in Guam '87		\$ 10,000		\$ 10,000
2. Fiestan Guam Celebration		-0-		-0-
3. Jet Ski International		-0-		-0-
4. Off-Roaders International		35,000		35,000
5. Bicycle Inter- national Race		-0-		-0-
6. Guam-Micronesia Island Fair		50,000		50,000
7. International Baseball		25,000		25,000
TOTAL		\$120,000		\$120,000"

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Section 19. A new Section G is added to Chapter II, Part XX of Public Law 19-10 to read as follows:

	General Fund	Other Fund	Federal Fund	Total
"G. Special Projects Committee				
1. Grant-in-aids		\$ 55,000		\$ 55,000
TOTAL		\$ 55,000		\$ 55,000"

Section 20. The sum of One Hundred Thousand Dollars (\$100,000) is appropriated from the General Fund to the Department of Public Works for the necessary improvements of the new Merizo Public Cemetery in accordance with the provisions of P.L. 16-17.

Section 21. Section 7 of P.L. 19-14 is repealed and reenacted to read:

"Section 7. It shall be considered an illegal water hookup to interconnect a residence or a commercial business to a line which is metered for agricultural use. Any person who is receiving water at an agricultural rate may not use such water for residential or commercial purposes, or for any purpose other than agricultural use or livestock watering. On any ranch having a residence or business thereon, there shall be a residential or commercial water meter (as appropriate), in addition to a meter monitoring agricultural use. In addition to all other penalties, violation of this Section shall also result in disconnection of all agricultural water to the offending lot for a period of eighteen (18) months, unless all fines, penalties, and water charges have been paid and proper connections have been made for residential or commercial water use."

Section 22. The sum of Forty-three thousand Eight Hundred Seventy-six Dollars and Twenty-three Cents (\$43,876.23) is appropriated from the General Fund to the Legislative Operations Fund for reimbursement of State Funeral expenses.

Section 23. Subitem (4) of Subsection (a) of Section 8136 of Title 4 of the Guam Code Annotated is repealed and a new Subitem (4) is added to Subsection (a) of said Section 8136 to read as follows:

"(4) At the written option of the member, eight and one-half percent (8.5%) of the following non-base pay of such members: Overtime, bonuses, hazardous duty pay, night differential pay, lump sum annual leave paid upon retirement, summer school pay, extra teaching assignments pay, and other salary for services rendered paid to members by the government. A new

member shall exercise in writing his or her option to contribute for such non-base pay within sixty (60) days of joining the Fund, failing which such member shall be deemed to have permanently waived the right to exercise such option. All current members shall have until October 1, 1988 to exercise such option. After a member exercises such option the contribution of such member shall be based on such member's base and non-base pay. To complete a current member's exercise of such option, such a member shall pay into the Fund such member's share plus regular interest to the date such deposit is completed of the total contribution required for such non-base pay for such period for which such member wishes to make a retroactive contribution up to the effective date of this Subsection, but not to exceed any period prior to October 1, 1983. The Board shall report to the Legislature by November 1, 1988, (i) the number of members who have exercised the option to contribute for their non-base pay, (ii) the amounts paid by such members as their contribution, and (iii) sums necessary to constitute the employer's share of such contribution so as to maintain the integrity of the Fund in order that the necessary amount shall be appropriated, authorization for which is given. A current member exercising his or her option shall have up to thirty-six (36) months in which to pay the contribution required for the non-base pay for which retroactive credit is sought, under such rules and regulations as to such extended payments plans as are promulgated by the Board; provided, however, that all such contributions shall be paid in by a member before such a member's retirement."

Section 24. There is appropriated to the Guam Economic Development Authority, for a loan for the use and benefit of the Option 3 claimants in the Guam Land Claims cases filed pursuant to 48 U.S.C. Section 1424(c) the sum of \$418,272.00, which corresponds to the amount being returned to the General Fund of Guam by reason of settlement of the Option 1 and Option 2 cases and the provision in that settlement for repayment of land claims support loans and appropriations previously made to or on behalf of the land claimants through the Guam Economic Development Authority and the Guam Public Defender Service Corporation. The Guam Economic Development Authority shall administer this appropriation pursuant to the provisions of Public Law 17-52. All funds loaned pursuant to this Section shall be repaid under terms and conditions consistent with Public Law 17-52.

Section 25. A new Article 4.1 is added to Title 12 of Chapter 2 of the GCA to read:

"Article 4.1

Land Claims Rebate

§2450. **Limited Qualifying Certificate.** A Limited Qualifying Certificate is an instrument valid for not more than two (2) years issued by the Chairman of the Board upon recommendation of the Board to a beneficiary who has qualified for a tax rebate under this Article.

§2451. **Same: eligibility.** Any person shall be eligible for a Limited Qualifying Certificate who has received compensation for land takings from the United States pursuant to Omnibus Territories Act of 1977 (the 'Act').

§2452. **Same: rescission.** A Limited Qualifying Certificate may be rescinded for fraud or misrepresentation of any material allegation in the application for such Certificate.

§2453. **Same: application.** Applications for Qualifying Certificates shall be filed on forms prescribed and furnished by the Corporation.

§2454. **Rebate.** Each beneficiary of the Limited Qualifying Certificate shall receive a rebate of one hundred percent (100%) of all income tax paid to the government of Guam on any payment by the United States as compensation for land taking pursuant to the Act.

§2455. **Same: claim.** To claim the rebate, the Beneficiary shall attach a certified true copy of the Limited Qualifying Certificate to his Guam income tax return when filing it. The amount of tax due prior to rebate shall be deposited with the Treasurer of Guam at the time of filing the income tax return. The Director of Revenue and Taxation shall thereafter cause the return to be reviewed and audited, and if the rebate is found in order, shall cause the amount deposited to be returned to the taxpayer within sixty (60) days from the date of the deposit.

§2456. **Rules.** The Director of Revenue and Taxation may issue such rules as are deemed necessary to implement the procedures outlined in this Article.

§2457. **Fee.** An application fee of Five Dollars (\$5) shall accompany each application for a Limited Qualifying Certificate."

Section 26. The sum of Twenty-Five Thousand Dollars (\$25,000) is appropriated from the General Fund to the Department of Parks and Recreation for the purpose of funding the 1988 Guam Youth Football League and for other purposes related to the League.

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Section 27. 12 GCA §§1301-1311, inclusive [Title LXVI, Chapter 3, §62200 through §62210, inclusive, of the Government Code], establishing the Guam International Air Terminal Gaming Zone, is hereby repealed in its entirety.

Section 28. §47104.1 of the Government Code, which exempts from criminal liability the importation or operation of slot machines or any other gambling devices at the Guam International Air Terminal Gaming Zone, is hereby repealed in its entirety.

Section 29. Title XXVII, Chapter IV, §26400 through §26438, inclusive, of the Government Code (the "Guam Jai Alai Act"), is hereby repealed in its entirety.

Section 30. §64.55 of Title 9 GCA, Chapter 64, permitting wagering by persons eighteen years of age or older on the Spanish game known as jai-alai at certain facilities licensed by the Guam Gaming Commission is hereby repealed in its entirety.

Section 31. Title LXVI, Chapter IV, §62300 through §62326, inclusive, of the Government Code (the "Territorial Lottery Act"), is hereby repealed in its entirety.

Section 32. §64.60 of Title 9 GCA, Chapter 64, which exempts from criminal liability any gambling or wagering permitted under the "Territorial Lottery Act" is hereby repealed in its entirety.

Section 33. Notwithstanding any other provision of law, Lot No. 5138-2-3NEW, Municipality of Dededo, Guam, is hereby rezoned Commercial.

Section 34. Twenty-Five Thousand Dollars (\$25,000) are appropriated from the Tourist Attraction Fund to Guam Visitors Bureau for repairing and re-erecting the Dos Amantes Statue.

Section 35. The Governor of Guam is authorized to convey, for a sale price of no less than One Hundred Fifty Dollars (\$150.00) per square meter, a certain parcel of government land, more particularly described as a portion of Old Padre Palomo Street, contiguous to Lot No. 2005 New-1, Agana Village, containing an area of 34.83+/- square meters, (374.92+/- sq. ft.) as delineated on the attached map to Mr. Robert E. DeLodge, current owner of Lot No. 2005 New-1, Agana Village.

NOTE: Said map may be seen at the Office of Compiler of Laws, as an attachment to the "as passed" copy of P.L. 19-19.

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Section 36. The provisions of Section 3 of P.L. 12-61, as amended, shall not apply to the land sale authorized by this Act.

Section 37. Notwithstanding any other provision of law, rule or regulation to the contrary, the sale as authorized in Section 35 is approved by the Legislature.

Section 38. Notwithstanding any provision of law, rule or regulation to the contrary, the Governor of Guam is authorized to lease government owned real property in the Municipality of Piti, described as a portion of submerged land containing an area of approximately 668 square meters, as shown on Sketch No. 1611, to Pacific Underwater Observatory, Inc., for a term not to exceed fifty (50) years. Payment for any such lease shall not be less than Five Hundred Dollars (\$500.00) per month for the first year and One Thousand Dollars (\$1,000.00) per month in the second year, with standard escalation procedures to be followed thereafter.

Section 39. There is hereby appropriated the sum of One Hundred Eighty Thousand Dollars (\$180,000.00) from the General Fund to the Department of Public Works to reconstruct the retaining wall on San Ramon Hill Road and next to the Friary, Municipality of Sinajana, of which One Hundred Thousand Dollars (\$100,000.00) of that amount shall be used for the purpose of installing traffic control signals and devices at the intersection of Route 1, Marine Drive and Macheche Road in the Municipality of Dededo. Any funds which are not expended or encumbered through contract, for actual installation/construction, within one hundred twenty (120) days of this Act's enactment, for the strict purposes expressed in this Act, shall revert to the General Fund.

Section 40. The sum of Sixty-six Thousand Dollars (\$66,000) is appropriated to the Commissioners' Council of Guam for the purpose of purchasing a dump truck with a load capacity of twelve (12) cubic yards. The dump truck is to be used by the commissioners of Guam on a rotating basis, as established by the Council, to serve the needs of village residents. The vehicle shall be under the custody of the Commissioner's Office of Yona, which office has other heavy equipment which complements the use of a dump truck.

Section 41. The following positions in the Bureau of Budget and Management Research are classified as follows:

Position	Existing Pay Range	Reclassified Pay Range
Budget & Management Analyst I	from 30	to 38
Budget & Management Analyst II	from 34	to 42
Budget & Management Analyst III	from 38	to 47

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Budget & Management Analyst IV	from 42	to 53
Budget & Management Program Supervisor	from 45	to 58

The reclassification in this Section shall take effect September 30, 1988. Each Budget and Management Analyst and Budget and Management Program Supervisor shall remain in the same step he or she holds prior to the reclassification but shall have his or her pay range adjusted according to the schedule set forth in this Section.

Section 42. Notwithstanding any other provision of law or other regulations, a student who otherwise would not have qualified for a student loan financial assistance award from the University of Guam for off-island and on-island studies, shall be deemed eligible for such financial assistance award upon satisfactory completion of no less than sixty (60) credit hours at a U.S. recognized and accredited college and/or university with a grade point average of no less than 3.0. All other eligibility criteria have still to be adhered to.

Section 43. Creation of a Task Force. There is hereby established a Task Force on Employment for Displaced Workers to consist of seven (7) members who shall be appointed by the Governor for the purpose of implementing the intent of this Act.

Section 44. Membership. The members of the Task Force shall be selected in a manner that will ensure adequate representation of both public and private sector and one (1) member shall be selected from each of the following: the Department of Labor; the Guam Community College; the Agency for Human Resources and Development; the Guam Visitors Bureau; the Chamber of Commerce; the Guam Employers Council, and the Hotel and Restaurant Owners Association.

The members shall, from among themselves, select a chairman, and other officers as they deem necessary.

Section 45. Duties and Responsibilities. Notwithstanding any other law, rule or regulation, the Task Force shall coordinate, centralize and identify all job announcements and to appropriately inform and solicit employment applications to the respective departments, agencies and instrumentalities, of the government of Guam and to private sector industries.

The Task Force shall also conduct studies for the following purposes to ensure employment of these displaced workers:

- (a) examine alternative ways and means to eventually employ displaced workers; and
- (b) develop a comprehensive plan for public and private sector employment.

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Section 46. Eligibility. To be eligible for the program, the owners or general managers shall submit to the Task Force a certified and complete list of employees terminated as a result of seizure and confiscation of poker machines.

Section 47. Within fifteen (15) days after the enactment of this Act, the Task Force shall report its findings to the Legislature along with any recommendations it may have as to future action.

Section 48. Notwithstanding any other provision of law, the Governor is authorized to utilize funds appropriated in the FY'88 Budget Act, P.L. 19-10, to pay prior years' personnel overtime liabilities of the Department of Corrections.

Section 49. Lot Nos. 5172-3-5A, 5172-3-6A-1, and 5172-3-7A-1, Tamuning, are re-zoned from "R-2" (Multiple Dwelling) to "H" (Hotel).

Section 50. There is appropriated the sum of Two Hundred Twenty-One Thousand Dollars (\$221,000) to the Guam Commission on Self-Determination from the General Fund for Fiscal Year 1988 operations, professional service contracts, and travel. Sums appropriated shall remain available until expended.

Section 51. The sum of Ten Thousand Dollars (\$10,000) is appropriated from the General Fund to the Superior Court of Guam for the purpose of funding the cost of the swearing-in and reception of its new Presiding Judge.

Section 52. 4 GCA §8113.1 is repealed and reenacted to read:
"§8113.1. Extension of Eligibility for Educational Credits.

(a) Any person who is a current member of the Retirement Fund or is a person who has retired on a service retirement annuity, who first joined the fund as a new member on or before January 31, 1987, and who received his graduate or undergraduate degree from an accredited institution offering college or university degrees based upon classroom instruction which is:

1. an institution accredited in the United States which is recognized by the University of Guam or, the Department of Education; or
2. an institution in a foreign country which is
 - a. accredited with the Ministry of Education or its equivalent in the foreign country;
 - b. a member of the International Association of Universities; or
 - c. recognized by the United Nations as a bona fide institution of higher learning; or

d. recognized by the Department of Education, the University of Guam or the Guam Community College; and was employed by the government of Guam while or after obtaining such degree, may claim retirement credit equal to the period of time, including vacations, that a full-time student would normally take to complete the program leading to the degree he received, or any lesser period he may elect to claim, by paying to the Fund the appropriate member's and employer's shares based on the period of credit sought to be obtained and his salary when he began employment with the government of Guam; provided, however, that:

(1) the person is a vested member of the Fund on the effective date of this Act.

(2) the member exercises his or her option to pay in for such educational service within 30 days of the effective date of this Act by paying such amount or signing a promissory note for up to five (5) years for such amount, or filing an application to do the same. The application shall be fully processed within 90 days of the effective date of this Act, which processing time may be extended by the Board of Directors of the Retirement Fund if necessary for an additional 90 days.

(3) payment of the appropriate member's and employer's shares for the period of credit sought to be obtained on or before January 31, 1987 shall include interest at a rate which is one (1) point under the prevailing prime rate charged on Guam on the date the promissory note is signed.

(4) any member who has earned a graduate or undergraduate degree while working for the government of Guam or while on paid leave for educational purposes shall not receive retirement credit for that part of his or her education which was paid for by the government of Guam or which was obtained during a period of paid leave for educational purposes.

(5) any member who qualifies for the provisions of this Act on the basis of obtaining a graduate or undergraduate degree while working for the government of Guam, shall have until 30 days after the enactment of this Act to apply for his or her retirement credit, as herein provided.

(6) any member who has not claimed his or her retirement credit for education within 30 days of the effective date of this Act shall forfeit the right to take such educational credit.

(b) When a person already receiving a service retirement annuity claims educational credit pursuant to Subsection (a) of this Section 8113.1 the annuity shall be adjusted accordingly and the increase in such annuity shall be effective on the date on which the person makes full payment of the appropriate member's

and employer's shares for the period of credit sought to be obtained, including interest that may be due."

Section 53. A new §8113.2 is added to Title 4 of the Guam Code Annotated, to read as follows:

"§8113.2. Notwithstanding §8113.1 of the Guam Code Annotated, for purposes of this Act, a person shall be deemed to have graduated from an accredited institution and shall be eligible for the benefits of this Act if that degree has been recognized for Teaching or Professional licensing or certification by the government of Guam, its agencies or instrumentalities, as a basis for current employment; as satisfying educational requirements for the position held by the employee; or has been used as a qualification for promotion of the employee by the department, agency, or instrumentality of the government of Guam (including autonomous agencies and instrumentalities) which has hired or employed the member."

Section 54. 4 GCA Subsection (b) of §8108 is repealed and reenacted to read:

"(b) Subsequent Service. An employee shall be allowed credit for any active service in the Armed Forces of the United States subsequent to May 1, 1951, not to exceed five (5) years, provided that if the employee entered the Armed Forces while employed by the government of Guam and re-enters its employ within the period of one (1) year following his discharge from said Armed Forces under conditions other than dishonorable, or if upon said discharge, completes his education under the provisions of the various Acts of Congress extending educational benefits to veterans and re-enters its employ within six (6) months after completing such education, such employee may obtain said retirement credit (not to exceed five (5) years) without making contribution to the Fund, provided that the contribution of both the employee and the employer for such service shall be made by the government of Guam or the employer involved.

If the employee was not employed by the government of Guam upon entering the Armed Forces he may obtain said retirement credit (not to exceed three (3) years) only upon making payment to the Fund of two (2) times the appropriate member contribution based on the period of credit sought to be obtained and the average salary paid the employee by the Armed Forces during that period ending with the termination of his military service which is equal to the period of credit sought to be obtained; provided, that while any employee may claim and pay in for such credit, no such credit shall be counted until and unless the employee has actually, subsequently worked for the government of Guam, its autonomous instrumentalities or

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agencies, for whatever time is otherwise required by law for vesting. For purposes of this Section, salary means (1) basic pay, and (2) any special pay which was taxable under federal income tax law."

Section 55. No credit for retirement authorized under this Act shall be recognized for retirement purposes until all employee and employer contributions are fully paid as herein provided. Any employee eligible for retirement credit under this Act shall have such times as herein specified to claim such credit or lose his or her eligibility and be deemed to have waived his or her rights to such eligibility.

As to retirement credit for active duty military service, employees on the effective date of this Act shall have 180 days to apply for retirement credit for military service or lose their eligibility and be deemed to have waived their rights to such eligibility. New members after the effective date of this Act shall have 60 days after commencement of employment to elect to take retirement credit for military service, or be deemed to have waived such right to credit.

Section 56. A new subsection (f) is added to §47060 of the Government Code to read:

"(f) Annually, on or before May 1, to compile a cost of living index based on consumer prices and other related information and to determine a rate of inflation for the previous calendar year, for use by the government of Guam Retirement Fund and the government of Guam in adjusting benefits received under the government of Guam Retirement Fund law and the salaries of employees of the government of Guam. Such cost of living index and rate of inflation shall be forwarded annually, on or before May 10 of each year to the Governor, to the Board of Trustees of the government of Guam Retirement Fund, and to the Speaker of the Legislature."

Section 57. A new 4 GCA §8137.1 is added to read:

"§8137.1. **Annual Cost of Living Allowance.** Annually, on the first retirement payday after July 1 of each year, each person entitled to receive a benefit under this Chapter shall receive, in addition to any other adjustment to which such person may be entitled under this Chapter, an annual lump sum cost of living allowance paid out of the General Fund and administered by the Retirement Fund, to be computed by multiplying the entitled benefit times the rate of inflation based on the cost of living index computed annually by the Department of Commerce pursuant to Subsection (f) of §47060 of the Government Code. The base year used in these computations shall be calendar year 1988. The right to this cost of living

allowance shall be deemed not to be a vested right of the members of the Retirement Fund. The money necessary to fund this section shall be automatically appropriated from the General Fund on an annual basis as required, unless later amended."

Section 58. A new 4 GCA §8137(d) is added to read as follows:

"In addition to all other contributions made by the government to the Retirement Fund pursuant to this chapter, the government shall pay as an additional contribution to the Fund one percent (1%) of the total salaries of all members, effective October 1, 1988. These payments shall be first applied towards any unfunded liability of the Fund, if there be any."

Section 59. 4 GCA §8104(j) is hereby amended by adding after the last sentence the following:

"The term 'average annual salary' shall include contributions paid under 4 GCA §8112."

Section 60. Section 8130 of Title 4 Guam Code Annotated is repealed and reenacted to read:

"§8130. Refund on Separation.

(a) Upon complete separation from service before a member shall have completed at least twenty (20) years of total service, the member shall be entitled to receive a refund of his total contributions, including regular interest, but no payment of interest shall be made in any case in which total service is less than one (1) year. Total contributions shall include all contributions made by a member to obtain various types of credit authorized by this Chapter.

Any member who withdraws after having completed at least five (5) years total service shall have the option of leaving his contributions in the Fund and receiving a service retirement annuity upon attainment of the age of sixty (60) years without choice of any of the optional survivors' benefits hereinunder described.

If such member has less than twenty (20) years of total service, he may elect to receive his contributions, with regular interest, as hereinabove provided, in lieu of the service retirement annuity. If his total service is twenty (20) years or more, the acceptance of such deferred retirement annuity payment beginning at the age of sixty (60) years, shall be mandatory as to such member.

Any member receiving a refund of contributions shall thereby forfeit, waive and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The Board may, in its discretion regardless of cause, withhold payment of a refund for a period not to exceed one (1) year after receipt of an application from a member.

(b) Any member who withdraws his contribution after the effective date of this Act shall lose all service credit earned up to the date of the withdrawal of his contribution, and may not hereafter receive credit for such time, and may not repurchase or pay in for retirement credit for the time withdrawn. As a condition of withdrawing his or her contribution, a member must first sign a statement that he or she understands that the withdrawal is permanent and that the withdrawal cannot hereafter be paid back in and that if the member later re-enters the retirement system, the member shall not receive credit for the previous service. For those members who withdraw their contributions to the Retirement Fund prior to the effective date of this Act, such members shall have one hundred eighty (180) days from the effective date of this Act to make payment of the amount withdrawn including interest for the entire time the amount was withdrawn, at the prevailing bank prime interest rate on loans, and not less than the interest rate charged by the United States Internal Revenue Service on unpaid overdue income tax liability (exclusive of penalties). Members may sign a promissory note and may repay on installment payments of up to five years at said interest rates. Any member who does not claim such credit for prior service within 180 days from the effective date of this Act, shall be deemed to have waived and forfeited the right to do so. If a member pays back the withdrawal pursuant to this paragraph, the member may not retire or count the time for which the withdrawal was made for any purpose until the member actually, subsequent to the withdrawal, works for the government of Guam, its agencies or its instrumentalities, as a full time employee and member of the Retirement Fund for whatever period of time is otherwise required by law for vesting, and

(c) Any member who has withdrawn his or her retirement contribution from the Fund who later has paid back such amounts or who is paying back such amounts pursuant to a repayment agreement or promissory note on the effective date of this Act and who is currently, on the effective date of this Act, a member (whether or not vested) shall be deemed to have reentered the Retirement Fund on the terms and conditions in effect on the date he or she originally became a member of the Fund, subject, however, to the provisions, conditions, and restrictions of this Act.

(d) Prior members who withdrew their contributions and are no longer members may pay back their contributions within 180 days from the effective date of this Act, or shall thereafter be ineligible to claim retirement credit for such periods of prior employment, provided, that the reentry into the retirement system shall be on the following terms:

- (1) The prior member may not retire or count the time for which the withdrawal was made for any purpose until

the prior member actually, subsequently, works for the government of Guam, its agencies or instrumentalities, as a full time employee and member of the Retirement Fund for whatever period of time is otherwise required by law for vesting, and

- (2) The prior employee must be otherwise eligible to reenter the government service as a full time employee, and
- (3) The prior employee pays interest on the amount withdrawn, at the prevailing bank prime interest rate on loans, and not less than the interest rate charged by the United States Internal Revenue Service on unpaid overdue income tax liability (exclusive of penalties).

Any prior member who does not claim such retirement credit for prior employment within 180 days from the effective date of this Act shall be deemed to have waived and forfeited the right to do so."

Section 61. The Retirement Fund shall send a copy of the sections of this Act relative to the Retirement Fund to all members by mail to their last known mail addresses, along with a summary of the provisions and deadlines contained in this Act, and shall advertise the provisions and deadlines of this Act relating to the Retirement Fund in Guam newspapers.

Section 62. Subparagraph (1) of Subsection (a) of §8135 of Title 4 of the Guam Code Annotated is hereby repealed and reenacted to read:

"(1) **Spouse.** The annual annuity shall be equal to fifty percent (50%) of the disability or service retirement annuity earned by the member and accruing to his or her credit or payable to the member at the date of his or her death for the period of his or her total service, whichever is greater. The spouse's annual annuity shall not, in any case, be less than One Thousand Two Hundred Dollars (\$1,200) per year."

Section 63. Notwithstanding any other provision of law, the government shall pay such amounts of the group life insurance premiums for retired employees and survivors of retired employees who are receiving annuities as necessary to maintain their contributions of the premiums, excluding coverage for dependents, at the same rates as are in effect March 1, 1988.

Section 64. Notwithstanding Public Law 19-10 the Guam Memorial Hospital Authority may enter into the following contracts for services:

- (a) One with a risk management firm to assist the hospital in preparing specifications for liability insurance for its real and personal property; and

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(b) One with the Joint Commission on Health Care Organizations to conduct a standards interpretation workshop in pursuit of accreditation.

Section 65. The FTE Restrictions imposed by Public Law 19-10 shall not be applicable to Guam Memorial Hospital for health professionals because of the high number of part-time employees.

Section 66. Section 6010 of the Government Code is hereby repealed and reenacted to read as follows:

"§6010. Notwithstanding any other provision of law, unless work has commenced or ten percent (10%) of the funds have been expended to accomplish the purpose of an appropriation, any appropriation for capital improvements or the acquisition of capital goods and equipment made by the Legislature shall cease to be an appropriation and shall become an authorization for an appropriation five years from the date the appropriation is made and all sums previously appropriated shall revert to the General Fund. The Director of Administration shall identify the sums which are changed from an appropriation to an authorization for an appropriation pursuant to this Section, and their uses, and shall report them to the Legislature within ninety (90) days of the date of the changes. The provisions of this Section shall be effective September 30, 1985 for any appropriation made before September 30, 1984; except that the Director of Administration shall make a report of sums which will be changed from an appropriation to an authorization for an appropriation, and their uses, and also a report in a format which will be submitted to the Committee on Ways and Means on sums which have been appropriated and which will continue to be appropriated for ongoing projects as of September 30, 1985, to the Legislature within ninety (90) days after the effective date of this Act."

Section 67. Twenty-five Thousand Dollars (\$25,000) are appropriated from the General Fund to the Guam Power Authority for power extension in the municipality of Dededo.

Section 68. Eighteen Thousand Dollars (\$18,000) are hereby appropriated from the General Fund to Guam Power Authority for the purpose of providing power extension to Lot No. 3 RI Tract 296 Yona, Guam.

Section 69. One Hundred Thousand Dollars (\$100,000) are appropriated from the General Fund to the Department of Land Management for a land survey revolving fund, to finance the survey and appraisal of government lands identified as available to exchange for lots being acquired for the new Judicial Building. The land acquisition allotment of the Judicial Building Fund shall reimburse the

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land survey revolving fund for costs of surveys and appraisals which have resulted in land exchanges in lieu of direct payments to land-owners for lots acquired through condemnation proceedings.

PUBLIC LAW NO. 19-20

Bill No. 1011 (LS)	Introduced by:	M.K. Hartsock
Date Became Law: Aug. 29, 1988	J.T. San Agustin	F.J.A. Quitugua
Governor's Action: Approved	A.J. Shelton	F.R. Santos
Riders: Yes	P.C. Lujan	F.J. Gutierrez
	D. Parkinson	H.D. Dierking
	E.P. Arriola	M.Z. Bordallo
	E.M. Espaldon	J.M. Rivera
	J.G. Bamba	M.C. Ruth
	J.G. Miles	

AN ACT TO APPROPRIATE THE SUM OF SIX HUNDRED THOUSAND DOLLARS (\$600,000) TO THE DEPARTMENT OF EDUCATION FOR CONSTRUCTION OF NEW CLASSROOMS AND BUILDING RENOVATIONS AT THE SIMON SANCHEZ HIGH SCHOOL, FINEGAYAN ELEMENTARY SCHOOL, TRUMAN ELEMENTARY SCHOOL, AND FOR OTHER PURPOSES.

- Section 1 ... Legislative findings regarding school overcrowding .
- Section 2 ... Appropriation to Department of Education for classroom building and renovation.
- Section 3 ... Department of Education is directed to submit a long range plan for meeting classroom needs.
- Section 4 ... Authorization to DOE to use FY'86, '87 and '88 lapses for school repairs and maintenance; and to report thereon.
- Section 5 ... Appropriation to DOE for study and plan for a new public high school in northern area.
- Section 6 ... Directions for use of staggered hours in public schools.
- Section 7 ... Authorization to DOE to transfer teachers where needed.

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

Section 1. Legislative Findings. There exists an emergency situation of overcrowding at Simon Sanchez High School in Yigo, Finegayan Elementary School in Dededo, and Truman Elementary