

*I Mina'Trentai Kuáttro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
151 -34 (COR)	Michael F.Q. San Nicolas	AN ACT TO AMEND §54102 OF ARTICLE 1, CHAPTER 54, TITLE 5, AND §26503 OF ARTICLE 5, CHAPTER 26, TITLE 11, BOTH OF THE GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THAT THE GUAM PUBLIC ROADS FUND, FORMERLY THE 'GUAM HIGHWAY FUND', FUND THE PROPER MAINTENANCE, CONSTRUCTION, OR REPAIR OF EXISTING HIGHWAYS AND AMENDING LANGUAGE TO REFLECT THE 'GUAM PUBLIC ROADS FUND' AND 'PUBLIC ROADS IMPROVEMENT AUTOMOTIVE SURCHARGE'.	7/13/2017 2:53 p.m.						

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

Bill No. 15134(COR)

Introduced by:

Michael F.Q. San Nicolas 

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**AN ACT TO AMEND §54102 OF ARTICLE 1, CHAPTER 54, TITLE 5, AND §26503 OF ARTICLE 5, CHAPTER 26, TITLE 11, BOTH OF THE GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THAT THE GUAM PUBLIC ROADS FUND, FORMERLY THE ‘GUAM HIGHWAY FUND’, FUND THE PROPER MAINTENANCE, CONSTRUCTION, OR REPAIR OF EXISTING HIGHWAYS AND AMENDING LANGUAGE TO REFLECT THE ‘GUAM PUBLIC ROADS FUND’ AND ‘PUBLIC ROADS IMPROVEMENT AUTOMOTIVE SURCHARGE’.**

2017 JUL 13 PM 2:53



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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the “Territorial Highway Fund”, now the “Guam Highway Fund”, was  
4 established pursuant to Guam Public Law 11-82, signed into law by Governor  
5 Carlos G. Camacho on July 28, 1971. According to Guam Public Law 11-82, the  
6 Guam Highway Fund was originally established, “For the purpose of securing for  
7 the entire Territory proper maintenance and construction of existing highways,  
8 including roads and city and village streets and for implementing all highway-  
9 safety related plans, programs and projects.”

10 *I Liheslatura* finds that under Governor Felix P. Camacho, the Department  
11 of Public Works issued the Village Streets Master Plan on November 30, 2009.  
12 The plan details approximately nine hundred million dollars (\$900,000,000) worth  
13 of proposed improvements to non-routed roadways, to include projects for traffic

1 safety, bus stops, paving, pavement repair, street extension/widening, lighting,  
2 signage, drainage, utilities, guardrail, and other structural improvements. There are  
3 approximately eight hundred sixty (860) miles of non-routed roadways.

4 *I Liheslatura* finds that in the Fiscal Year 2017 budget, nine million seven  
5 hundred eighty-one thousand one hundred seventy-two dollars (\$9,781,172) was  
6 appropriated to the Department of Public Works, three million eight hundred sixty-  
7 one thousand two hundred eighty-five dollars (\$3,861,285) was appropriated to the  
8 Guam Regional Transit Authority, three million two hundred twelve thousand  
9 seventy-seven dollars (\$3,212,077) was appropriated to the Department of  
10 Administration for the operation of public streetlights, five hundred thousand  
11 dollars (\$500,000) was appropriated to the University of Guam Capital  
12 Improvements Fund, two hundred seventy-eight thousand nine hundred twenty-two  
13 dollars (\$278,922) was appropriated to the Guam Community College Capital  
14 Improvements Fund, and twenty thousand dollars (\$20,000) was appropriated to  
15 the Department of Administration for the Fiscal Year 2016 Audit of the Guam  
16 Highway Fund. Not one dollar of the Guam Highway Fund’s nineteen million  
17 seven hundred thirty thousand nine hundred fifty-five dollars (\$19,730,955)  
18 adopted revenue was appropriated unambiguously for the “proper maintenance and  
19 construction of existing highways, including roads and city and village streets.”

20 *I Liheslatura* further finds that government of Guam agency operations  
21 should be funded by the General Fund, with special funds clearly funding their  
22 intended purpose and not serving as General Fund subsidies.

23 *I Liheslatura* finds that Director Glenn Leon Guerrero has stated that an  
24 additional mile of road could be repaved to current standards at a cost of about five  
25 hundred thousand dollars (\$500,000) per mile. Under the provisions of this Act, if  
26 the proposed Fiscal Year 2018 revenues for the Guam Highway Fund and the  
27 Public Transit Fund, totaling eighteen million fifty-seven thousand three hundred

1 thirty-five dollars (\$18,057,535), were to be used exclusively to pave roads without  
2 an increase in the Liquid Fuel Tax, approximately forty and eight-tenths (40.8)  
3 miles could be paved with Fiscal Year 2018 revenues.

4 *I Liheslatura* further finds that prioritizing eighteen million fifty-seven  
5 thousand three hundred thirty-five dollars (\$18,057,535) in existing funds for road  
6 repair will be about four and five tenths times (4.5x) more effective than proposed  
7 increases in the Liquid Fuel Tax, without adding a further burden to taxpayers.

8 It is, therefore, the intent of *I Liheslaturan Guåhan* that the Guam Highway  
9 Fund law be amended to create a Guam Public Roads Fund with stronger measures  
10 to ensure that monies deposited in the Fund are used exclusively:

11 (a) to implement Title 23, United States Code, as it applies to Guam;

12 (b) to maintain, construct, or repair existing public highways, including  
13 public roads and city and village public streets;

14 (c) to implement all public highway-safety related plans, programs and  
15 projects which involve the maintenance, construction, or repair of facilities for  
16 existing public highways, including public roads and city and village public streets;  
17 and

18 (d) to conduct an annual audit of the Fund.

19 **Section 2. Guam Public Roads Fund.** §54102 of Article 1, Chapter 54,  
20 Title 5, Guam Code Annotated, *is hereby amended*, to read:

21 “§ 54102. **Guam Public Roads Territorial Highway Fund.**

22 (a) Creation. There is hereby created, separate and apart from all  
23 other funds of the government of Guam, a fund to be known as the ‘Guam  
24 Public Roads Fund’ (‘Fund’). The Fund shall not be commingled with any  
25 other funds of the government of Guam.

1            (b) Sources of Funding. All monies from the following sources  
2 shall be deposited into the Guam Public Roads Fund and shall be subject to  
3 the provisions of this Section:

4            (1) All monies received under 11 GCA Chapter 26 Article 4;

5            (2) All monies received under 16 GCA §§ 3606(e) and 7160;

6            (3) All monies received under 21 GCA §61542(i);

7            (4) All monies received under 21 GCA §71110 due to  
8 damage to public roadways; and

9            ~~For the purpose of securing the for the entire Territory proper~~  
10 ~~maintenance and construction of existing highways, including roads and city~~  
11 ~~and village streets and for implementing all highway safety related plans,~~  
12 ~~programs and projects, there is hereby established a fund to be known as the~~  
13 ~~Territorial Highway Fund, which fund to be maintained separate and apart~~  
14 ~~from any other funds of the government of Guam, and independent records~~  
15 ~~shall be kept in connection therewith.~~

16            ~~(b) For the period beginning July 1, 1971, all monies received~~  
17 ~~under 11 GCA Finance & Taxation, Chapter 26, Article 4 and 16 GCA §~~  
18 ~~7160 and~~

19            (5) All monies and revenue made available from the Federal  
20 Government for public highway purposes and highway safety related  
21 plans, programs and projects, which shall be administered pursuant to  
22 any federal requirements and this section to the extent it is consistent  
23 with such requirements.

24            (c) Administration. Monies deposited in the Fund shall be kept in a  
25 separate interest-bearing bank account and shall be administered by the  
26 Director of Public Works. ~~shall be deposited with the Territorial Highway~~  
27 ~~Fund, provided further that any increase of tax revenue pursuant to 11 GCA~~

1 Chapter 26, Article 4 shall revert to the General Fund to the extent that the  
2 increase of tax imposed. Accounting procedures for the funds shall be  
3 prescribed by the Director of Administration, in accordance with generally  
4 accepted accounting principles (GAAP), and suitable reserves shall be  
5 maintained for tax drawbacks under 11 GCA Chapter 26 ~~this Article 4~~,  
6 which shall be paid from the Fund.

7 ~~(d)~~(e) Expenditures. Monies deposited in the ~~Territorial Highway~~  
8 Fund shall not be subject to the transfer authority of *I Maga'lahi* and shall be  
9 expended only after appropriation thereof is made by *I Liheslatura* the  
10 ~~Legislature~~ and upon vouchers properly certified by the Director of Public  
11 Works for the purposes of acquisition of right-of-ways, planning, designing,  
12 constructing, reconstructing, improving, repairing, and maintaining of public  
13 highways, including public roads and city and village public streets, as  
14 applicable. The Director of Public Works shall transmit, within twenty (20)  
15 calendar days of the end of each fiscal quarter, quarterly render an  
16 accounting of transactions of the Fund to *I Maga'lahi* the Governor and *I*  
17 *Liheslatura*, the Legislature. ~~Accounting procedures for the Fund shall be~~  
18 ~~prescribed by the Director of Administration.~~

19 (d) Purposes. No part or portion of the monies in the Fund from  
20 whatever source derived shall be used for any other purpose than is  
21 authorized in this Subsection. Monies deposited in the ~~Territorial Highway~~  
22 Fund shall also be used only:

23 (1) to implement Title 23, United States Code, as it applies  
24 to Guam;

25 (2) to maintain, construct, or repair existing public highways,  
26 including public roads and city and village public streets;

1                   (3) to implement all public highway-safety related plans,  
2                   programs and projects which involve the maintenance, construction,  
3                   or repair of facilities for existing public highways, including public  
4                   roads and city and village public streets; and

5                   (4) to conduct an annual audit of the Fund. the provisions of  
6                   P.L. 10-109, Tenth Guam Legislature.

7                   (e) No authorization for the withdrawal or transfer of cash or funds  
8                   shall be made from the Fund created pursuant to subsection (a) of this  
9                   section for purposes other than those enumerated in subsection (d) of this  
10                  section. Any person in violation of this subsection shall be guilty of a third-  
11                  (3<sup>rd</sup>-) degree felony.

12                  ~~No part or portion of the monies in the Territorial Highway Fund or~~  
13                  ~~from whatever source derived shall be used for the maintenance or operation~~  
14                  ~~of a public transit system.~~

15                  ~~(f) Notwithstanding any other provisions of law, One Million Five~~  
16                  ~~Hundred Thousand Dollars (\$1,500,000) is hereby appropriated from the~~  
17                  ~~Territorial Highway Fund to the Department of Public Works for the~~  
18                  ~~following:~~

19                         ~~(1) the repair, including, but not limited to, widening, paving~~  
20                         ~~and side walks, of Clara Street in Toto, leading to J.Q. San Miguel~~  
21                         ~~Elementary School;~~

22                         ~~(2) the widening of Toto-Canada Road to three (3) lanes and~~  
23                         ~~establish a middle lane from Route 4 intersection to the Toto~~  
24                         ~~Community Center;~~

25                         ~~(3) subsequently at the written request of the Mayor or the~~  
26                         ~~Director of the Department of Education, any road leading to any~~  
27                         ~~school that is unsafe or does not meet the highway standards~~

1 established by the Department of Public Works shall also be repaired  
2 under this Act; and

3 (4) ~~monetary compensation or land exchange on a value per~~  
4 ~~value basis to private landowners whose properties are condemned as~~  
5 ~~a result of the provisions of Subsection (f)."~~

6 **Section 3. References to "Territorial Highway Fund" Amended to**  
7 **Read "Guam Public Roads Fund".** References in the Guam Code Annotated to  
8 the "Territorial Highway Fund" are hereby amended to read "Guam Public Roads  
9 Fund", to include references in but not be limited to:

10 (a) 5 GCA §§ 53105(b)(5), 53105(c), 53105(e), 53108, 53110, and  
11 54205;

12 (b) 16 GCA § 3606(e); and

13 (c) 21 GCA §§ 61542(i) and 71110.

14 **Section 4. Public Roads Improvement ~~Mass-Transit Automotive~~**  
15 **Surcharge.** §26503 of Article 5, Chapter 26, Title 11, Guam Code Annotated, *is*  
16 *hereby amended*, to read:

17 "**§ 26503. Public Roads Improvement ~~Mass-Transit Automotive~~**  
18 **Surcharge.**

19 (a) Levy. There is hereby levied a Highway Improvement ~~Mass~~  
20 ~~Transit Automotive Surcharge~~ ('Surcharge') of Four Cents (\$0.04) per  
21 gallon on all liquid fuel taxed pursuant to Subsection (a) of § 26403 of this  
22 Title. This ~~Mass-Transit Automotive Surcharge~~ shall be in addition to the  
23 liquid fuel tax levied pursuant to Subsection (a) of § 26403 of this Title.

24 (b) The proceeds of the ~~Mass-Transit Automotive Surcharge~~ levied  
25 pursuant to Subsection (a) of this Section, as and to the extent released from  
26 the pledge of such proceeds pursuant to Subsection (d) of § 1504 of Title 5  
27 of the Guam Code Annotated, shall be deposited in the Guam Public Roads

1 ~~Fund.~~ are to be placed in a separate fund hereby created and known as the  
2 ~~Public Transit Fund~~ to be administered by the Department of  
3 ~~Administration.~~ For purposes of such pledge and release, the proceeds of the  
4 ~~Mass Transit Automotive Surcharge~~ shall be deemed to be the last revenues  
5 used pursuant to such pledge and the first revenues released from such  
6 pledge.

7 ~~(c) A portion of the revenues in the Public Transit Fund shall be used~~  
8 ~~for the operation of the mass transit system by the Department of~~  
9 ~~Administration.~~

10 ~~(d) The Department of Administration shall report on a monthly basis~~  
11 ~~to the Legislative Committee which has oversight over the Guam Mass~~  
12 ~~Transit Authority on the balance and status of the Public Transit Fund.”~~

13 **Section 5. References to “Mass Transit Automotive Surcharge”**  
14 **Amended to Read “Public Roads Improvement Automotive Surcharge”.** The  
15 references in the 11 GCA § 26501 to the “Mass Transit Automotive Surcharge” are  
16 hereby amended to read “Public Roads Improvement Automotive Surcharge”.

17 **Section 6. Effective Date.** This Act shall be effective October 1, 2017 and  
18 all amendments in this Act shall be applied prospectively and the provisions of this  
19 Act shall apply to the Fiscal Year 2018 Budget Act and all subsequent Budget  
20 Acts.