FILE COPY

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Substitute Bill No. 257-31 (COR), "AN ACT TO APPROPRIATE FUNDS FOR THE OPERATIONS OF THE GUAM DEPARTMENT OF EDUCATION FOR FISCAL YEAR ENDING SEPTEMBER 30, 2012, AND TO PROVIDE FOR THE EFFICIENT OPENING OF ALL SCHOOLS, INCLUDING F.Q. SANCHEZ ELEMENTARY SCHOOL, BY PROVIDING FINANCING FOR WORKING CAPITAL EXPENDITURES FOR THE 2011-2012 SCHOOL YEAR; AND FOR OTHER PURPOSES,"** was on the 3rd day of August 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 3RD day of August, 2011, at 10:00 o'clock P.M.

PONCIANO QUEZON 8/03
Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 257-31 (COR)
As substituted by the Committee on Appropriations,
Taxation, Public Debt, Banking, Insurance, Retirement, and Land;
further substituted on the Floor; and amended in the Committee of the Whole.

Introduced by:

Dennis G. Rodriguez, Jr.
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Duenas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
M. Silva Taijeron
Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO APPROPRIATE FUNDS FOR THE OPERATIONS OF THE GUAM DEPARTMENT OF EDUCATION FOR FISCAL YEAR ENDING SEPTEMBER 30, 2012, AND TO PROVIDE FOR THE EFFICIENT OPENING OF ALL SCHOOLS, INCLUDING F.Q. SANCHEZ ELEMENTARY SCHOOL, BY PROVIDING FINANCING FOR WORKING CAPITAL EXPENDITURES FOR THE 2011-2012 SCHOOL YEAR; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act *shall* be known as the "Guam Department of Education Appropriations Act for Fiscal Year 2012 (School Year 2011-2012)." *Except* as otherwise provided by this Act, the appropriations made by this Act *shall* be available to pay for obligations incurred on or after October 1, 2011, but *no later than* September 30, 2012. The appropriations contained in this Act, with the exception of Sections 10, 17, and 20, shall be funded by Fiscal Year 2012 General Fund, Territorial Education Facilities Fund, Public Library Resources Fund, Indirect Cost Fund, School Lunch/Child Nutrition Meal Reimbursement Fund, and Healthy Futures Fund revenues. If any appropriation in this Act is found contrary to federal law, all other portions of this Act *shall* remain valid.

Section 2. Legislative Findings and Intent. The Fiscal Year 2012 budget for the GDOE in this Act represents a status quo budget with the exception of organic payroll growth and an increase in appropriations for utilities. Therefore, it is the finding of *I Liheslaturan Guåhan* that the GDOE has adequate funding in Fiscal Year 2012 to provide a safe and conducive learning environment at all public schools, including F.Q. Sanchez Elementary School.

Since the FY 2011 authorized operational level includes the fully funding of F.Q. Sanchez Elementary School, *I Liheslaturan Guåhan* finds that presenting the FY 2012 GDOE budget, with appropriation levels consistent with that of FY 2011 authorized levels inclusive of the estimated organic growth in personnel and utility costs, is the most fiscally responsible approach to adopt.

I Liheslaturan Guåhan finds that the Fiscal Year 2012 revenue projections submitted by *I Maga'lahen Guåhan* in the Biennial Budget for Fiscal Years 2012-2013 are sufficient to provide the necessary funding to the GDOE as outlined in this Act. For Fiscal Year 2012, the General Fund and Special Fund revenue

projections are Six Hundred Eighty-One Million Seven Hundred Seven Thousand Three Hundred Ninety-Six Dollars ($681,707,396). The GDOE required appropriations for Fiscal Year 2012 represent thirty-one and six tenths percent (31.6%) of the FY 2012 projected revenues. In Fiscal Year 2011, GDOE appropriations represented thirty percent (30%) of the FY 2011 projected revenues.

The increase in support to the GDOE represents *I Liheslaturan Guåhan's* priority toward education.

I Liheslaturan Guåhan finds that there is a need to address the educational needs of the students of Guam system-wide, and at the same time provide an opportunity for the communities to reflect their commitment to their schools.

I Liheslaturan Guåhan finds that there is strong community support by southern residents of *Umatac*, who have repeatedly stated their strong support for the continuing operation of the historically significant F.Q. Sanchez Elementary School in *Umatac*.

It is, further, the intent of *I Liheslaturan Guåhan* to ensure that the Guam Department of Education (GDOE) continues to have the requisite resources necessary for the proper education of the students, consistent with the intent and mandates of this Act.

I Liheslaturan Guåhan also takes due note that the basis for the closure of F.Q. Sanchez Elementary School was premised in part upon the Seven Hundred Thousand Dollars ($700,000) cost to the GDOE of running the school, combined classes for different grade levels, safety issues, and the 2009 Evergreen Report recommendations, which stated that the closure would save the GDOE the sum of One Hundred Fifty-Seven Thousand Dollars ($157,000). After legislative review by the sponsor of Bill 257-31 of the GDOE FY 2012 budget submission, it appears that at most the only possible savings the Department will realize with the closure of F.Q. Sanchez Elementary School is approximately One Hundred Thousand

Dollars ($100,000). This calculation, however, does *not* take into consideration the additional financial expenses the Department will incur to preserve and maintain an abandoned school facility. This calculation also does *not* take into consideration the additional expenses in busing requirements to transport students from *Umatac* to *Merizo* Elementary School or Marcial Sablan Elementary School, as well as the additional costs to parents for the purchase of new school uniforms.

I Liheslaturan Guåhan finds that F.Q. Sanchez Elementary School is fully funded through September 30, 2011 in accordance with Public Law 30-196, as amended by Public Laws 30-224 and 31-74. As such, *I Liheslaturan Guåhan* finds that addressing an individual school's budget through FY 2012 would *not* be fiscally prudent and responsible without addressing the school system budget in its entirety.

Section 3. Appropriation. Pursuant to §§52101 and 52102 of Chapter 52, Division 2 of Title 11, Guam Code Annotated, the amounts specified in the Summary of Base Operational Appropriation in this Section are appropriated out of the General Fund, Special Funds, and Federal Matching Grants-in-Aid as specified in the Summary of Base Operational Appropriation Funding Source to the GDOE Operations Fund for Fiscal Year 2012. This appropriation *shall* be expended in accordance with the cash disbursement schedules required by §52101(b), and in accordance with the program, department or divisional object class allocations outlined below:

SUMMARY OF BASE OPERATIONAL APPROPRIATION

APPROP. CLASS	OBJ. CLASS	GEN FUND	SPCL FUND	TOTAL
REG SALARIES	111	$121,330,804	$2,280,862	$123,611,666
OT/SP	112	$0	$0	$0
BENEFITS	113	$37,703,856	$660,195	$38,364,051

	TRAVEL/MILE	220	$0	$0	$0
	CONT. SERV.	230	$7,332,437	$11,073,956	$18,406,393
	OFF. RENTAL	233	$0	$0	$0
	SUP. & MAT.	240	$1,454,000	$1,095,091	$2,549,091
	EQUIPMENT	250	$0	$652,440	$652,440
	WORK. COMP.	270	$100,000	$0	$100,000
	DRUG TEST	271	$0	$0	$0
	SUBGRANT	280	$0	$0	$0
	MISC	290	$1,250,395	$0	$1,250,395
	POWER	361	$0	$13,641,896	$13,641,896
	WATER/SEWER	362	$0	$1,804,089	$1,804,089
	PHONE/TOLL	363	$361,561	$0	$361,561
	CAP. OUTLAY	450	$0	$227,324	$227,324
	GRAND TOTAL		$169,533,053	$31,435,853	$200,968,906

School Lunch Program-Federal Sources $10,069,218 (230-$10,069,218)

School Lunch Program Cash Collection $1,095,091 (240-$1,095,091)

Public Library Resources Fund $652,440 (240-$652,440)

Territorial Educational Facilities Fund $19,619,104 (111-$2,280,862; 113-$660,195; 230-$1,004,738; 361-$13,641,896; 362-$1,804,089; 450-$227,324)

SUMMARY OF BASE OPERATIONAL APPROPRIATION FUNDING SOURCE

GENERAL FUND	$169,533,053
FEDERAL MATCHING GRANTS-IN-AID	$0

SPECIAL FUNDS		$31,435,853
TOTAL		$200,968,906

Section 4. Increments and Promotions. The amount below in this Section is appropriated from the General Fund to Object Category 111 to the GDOE and *shall* be used to fund all increments and reclassifications in Fiscal Year 2012 for eligible classified employees funded within this Section for satisfactory performance pursuant to §6202, Chapter 6 of Title 4, Guam Code Annotated.

INCREMENTS AND PROMOTIONS	111 Total	$1,094,173
RECLASSIFICATIONS	111 Total	$987,540

Section 5. The sum of Three Hundred Eighty One Thousand One Hundred Twenty Dollars (**$381,120**) is appropriated from the General Fund to the *Chamoru* Studies Division administered by the GDOE to be expended for personnel salaries and benefits, contractual services, supplies and materials, and equipment for the support and the implementation of the Content Standards and Performance Indicators of the course syllabi for the emphasis of fluency and for the promotion of the proficiency skills in the areas of listening, speaking, reading, and writing in the *Chamoru* language.

Section 6. GDOE Miscellaneous Funding. The following amounts reflect non-base operational funding appropriated to the GDOE:

(a) Interscholastic Sports Fund. (1) The sum of Six Hundred Twelve Thousand Dollars (**$612,000**) is appropriated from the Healthy Futures Fund to the Interscholastic Sports Fund administered by the GDOE to be expended pursuant to §7108, Title 17, Guam Code Annotated. Appropriations made herein *shall* be available to fund the outrigger canoe, rugby, and other sports programs, to include the payment of head coaches, assistant coaches, league fees, and other expenses normally associated with interscholastic sports programs. (2) The sum of Ninety Two Thousand

Dollars (**$92,000**) *shall* be allocated from the appropriation in Section 6(a)(1) specifically for busing services for interscholastic sports programs.

(b) Health and Physical Education Activities. The sum of Two Hundred Seventy Nine Thousand Seven Hundred Fifty Four Dollars (**$279,754**) is appropriated from the Healthy Futures Fund to the GDOE for Health and Physical Education programs, intramural sports, and similar activities.

Section 7. JROTC Funds. The GDOE is hereby authorized to expend funds from the JROTC Fund for the sole purpose of expenditures related to the operations for the JROTC program.

Section 8. Support to Eliminate "High-Risk" Status. The sum of Two Hundred Fifty Thousand Dollars (**$250,000**) is appropriated from the Indirect Cost Fund (ICF) to the GDOE for the sole purpose of removing the GDOE from "high risk" grant status. The funds *shall* be expended in accordance to a statement of *pro forma* expenditures submitted, in writing, by the Deputy Superintendent of Administration and Finance of GDOE to the Speaker of *I Liheslaturan Guåhan.* The statement of *pro forma* expenditures *shall only* include expenditures related to this Section.

Section 9. Summer School. From the Summer School Fund established pursuant to §6119 of Article 1 of Chapter 6 of Division 2 of Title 17, Guam Code Annotated, such sums as are necessary to fund the operations of the 2012 Summer School Program are appropriated to the GDOE. The Superintendent of GDOE *shall* submit a detailed report to *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan* regarding the receipt and expenditure of said funds *no later than* thirty (30) days after the close of summer school and post the same on the GDOE website. Such report *shall* include the following:

(a) Total revenues received, including identification of each revenue source;

(b) Total expenditures and encumbrance by object classification and by school; and

(c) The fund balance.

Section 10. Textbooks and Collateral Materials. The following are appropriations to the GDOE for the purchase of textbooks, e-book readers, and collateral materials, to include software, musical instruments, sheet music, and music books in accordance with the following terms and conditions:

(a) Notwithstanding any other provision of law, the sum of Two Million Dollars (**$2,000,000**) is appropriated from the General Fund from Fiscal Year 2013 revenues to the GDOE for the purchase of textbooks, e-book readers and related classroom instructional materials to include software, musical instruments, sheet music, and music books. The Superintendent of GDOE may, if necessary, through agreements with textbook vendors, defer payment for said materials until after October 1, 2012, but *no later than* December 31, 2012, with the full faith and credit of the government of Guam.

(b) The Superintendent of GDOE *shall* order materials funded by this Section for Fiscal Year 2013 *no later than* March 1, 2012. The Bureau of Budget and Management Research *shall* release such allotments as are necessary to ensure that said materials are ordered by March 1, 2012. The Superintendent of GDOE *shall* receive said materials and distribute them to schools *no later than* thirty (30) days before the start of the school calendar established pursuant to Title 17, Guam Code Annotated, §4111. All funds appropriated for said materials *shall not* be used for any other purpose.

(c) On the first (1st) day of each fiscal quarter of FY 2012, the Superintendent of GDOE *shall* provide to *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan*, and post on the GDOE website, a detailed report regarding all receipts and expenditures for textbooks, e-book readers and collateral classroom instructional materials to include software, musical instruments, sheet music, and music books. Said report *shall* be accompanied by the certified list of textbooks approved by the GEB and a list or copies of all purchase orders issued. The report *shall* summarize:

(1) purchases by allotment account number, unit cost, and the total cost of books charged against an appropriation account, the vendor, quantity, title, copyright date, and ISBN of books ordered, the allocation of such books by school and grade, whether books are for teachers or students, and whether books are textbooks, e-books or workbooks; and

(2) other information that may be useful or that is requested by *I Liheslaturan Guåhan* regarding the funds appropriated and authorized herein.

Section 11. Website Posting. The Superintendent of GDOE *shall* post and maintain on the GDOE website:

(a) All payments for prior year obligations to be paid by current appropriations when authorized, including the funding source to be used.

(b) Salary adjustments by position, effective date of adjustment and the funding source for each, by month.

(c) Mandated Cash Disbursement Schedules.

(d) Number of filled FTEs, costs and funding sources by school and division by month.

Section 12. Reports. The Superintendent of GDOE *shall* electronically report the following to *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan*:

(a) Within fifteen (15) days after the start of Fiscal Year 2012, the Superintendent of GDOE *shall* provide a copy of the GG-1 or contract of employees hired for School Year 2011-2012.

(b) Thirty (30) days after the start of Fiscal Year 2012 and monthly thereafter, the Superintendent of GDOE *shall* provide a copy of the GG-1 or contract of each employee hired to fill any vacancy or new position.

Section 13. Utilities Reduction Incentive. Each School Principal of the GDOE is encouraged to practice energy conservation within their respective schools. Any school whose Principal and staff is able to reduce their annual utility consumption (kilowatts or gallons) by *at least* fifteen percent (15%) of their prior annual billing, measured each quarter for each utility type, *shall* have that dollar value of savings transferred from the utility pool to their respective school to supplement the needs of that school and *shall* be available to be spent to support school activities for students and staff. The savings *shall* be available to the school within thirty (30) days of the close of each quarter.

Section 14. Budgetary Transfer Authority for the Guam Department of Education (GDOE). The Superintendent of the GDOE may transfer funds from the appropriations made to GDOE within object classes, except that *no* funds *shall* be transferred into the Personnel Services category, *except* as otherwise provided herein. The Superintendent of the GDOE *shall not* transfer any appropriation for Increments and Promotions and Reclassifications as provided within Section 4 of this Act to supplement or support salaries. If a surplus in funding exists within the appropriation for Increments and Promotions and Reclassifications, such amount may be used to support payment of prior year obligations.

The Guam Education Board (GEB) may submit, via a duly adopted resolution of the Board, a request to the Education Financial Supervisory Commission (EFSC) to transfer existing appropriations into the Personnel Services category *only* to alleviate a CODE "C" or a CODE "RED"; *provided* that the GEB notifies *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan no later than* fifteen (15) working days before the transfer is made.

The EFSC *shall* vote in the first scheduled meeting after a request to transfer existing appropriations into the Personnel Services category from the GEB. Transfer of any existing appropriations into the Personnel Services category requires a two-thirds vote of EFSC members in which a quorum of voting members is established.

Section 15. §3103(15) of Chapter 3 of Title 17, Guam Code Annotated, is hereby *amended* to read:

"(15) Adequate Public Education Reporting Requirements. The Superintendent of Education *shall* submit a monthly budget status report of all local and federal funds available to the Department, whether or not their resources require appropriations by *I Liheslaturan Guåhan.* The monthly budget status report *shall* be designed by the Educational Financial Supervisory Commission and at a minimum contain all appropriations, transfers and adjustments, revised appropriations, expenditures to date, outstanding encumbrances and unencumbered balances. The data for the monthly budget status report *shall* be provided *no later than* fifteen (15) calendar days after the end of each month, and be used by the Educational Financial Supervisory Commission for its monthly Financial Status Designation Reports. The Educational Financial Supervisory Commission *shall* design an Adequate Public Education Report to reorganize the expenditures in the monthly budget status report to the criteria established in

Title 1, GCA §715, and the status of compliance with the Adequate Education Act. The Monthly Budget Status report and Adequate Public Education reports are to be completed *no later than* twenty five (25) calendar days after the end of each month and *shall* be certified by the Superintendent, acknowledging compliance or non-compliance with Title 1, GCA §715 and in meeting the objectives of §3125 of this Chapter. The reports *shall* be submitted to the Board, the Speaker of *I Liheslaturan Guåhan*, and *I Maga'lahen Guåhan*."

Section 16. Cost Saving Incentive. The Superintendent of the GDOE is encouraged to implement a Cost Savings Plan to include, but *not* be limited to, consolidation of programs and entities, maximizing on student-teacher ratios, and practicing energy conservation. If the Superintendent is able to implement any cost savings within the GDOE authorized appropriations level, the Superintendent *shall* have that dollar value of savings available for payments of prior year obligations and the purchase of supplies and materials.

Section 17. Appropriation for Equipment for Certain GDOE Schools.

(a) **Transfer of Funds from the Autonomous Agency Collections Fund.** Notwithstanding any other provision of law, the sum of Five Hundred Twenty-Five Thousand Dollars (**$525,000**) is hereby transferred from the Autonomous Agency Collections Fund to the Supplemental Appropriations Revenue (SAR) Fund.

(b) **Appropriation to the Guam Department of Education.** The sum of Five Hundred Twenty-Five Thousand Dollars (**$525,000**) is hereby appropriated from the Supplemental Appropriations Revenue (SAR) Fund to the GDOE for the payment of air conditioning equipment and maintenance, and collateral equipment for George Washington High School, and for collateral equipment for Simon Sanchez High School, Southern High School, and Agueda Johnston Middle

School. The funds appropriated in this Section *shall* be allocated to each school as follows:

George Washington High School:	$328,000
Simon Sanchez High School:	$87,000
Southern High School:	$70,000
Agueda Johnston Middle School:	$40,000
Total	$525,000.

(c) **Continuing Appropriation.** The appropriations made in Section 17(b) of this Act *shall not* lapse and *shall* continue until fully expended for the purposes of this Act. However, the funds *shall* be obligated within ninety (90) days of enactment, *not* counting those days that lapse in order to dispose of any valid procurement protest.

Section 18. Notwithstanding any other provision of law, the GEB may authorize the use of shared human resources for school populations below three hundred twenty-five (325) in Fiscal Years 2011 and 2012.

Section 19. Temporary Budgetary Transfer Authority for the Guam Department of Education for FY 2011. Upon enactment of this Act, the Superintendent of the GDOE may transfer funds from the appropriations made to GDOE in Public Law 30-196, as amended by Public Laws 30-224 and 31-74, from Object Classes 220, 230, 233, 240, 250, 270, 271, 280, 290, 361, 362, 363, 450 and the appropriation in Chapter II, Part I, Section 9 (a) of Public Law 30-196 into Object Classes 111 and 113 up to a limit of Six Million Dollars (**$6,000,000**) *only* to cover shortfalls in Object Classes 111 and 113 that the GDOE may have in FY 2011.

Section 20. Reprogramming and Appropriation of Funds for F.Q. Sanchez Elementary School in *Umatac*. Upon enactment of this Act, the sum of One Hundred Thousand Dollars (**$100,000**) is hereby reprogrammed from the

available funds of the 2007 Tobacco Bond Proceeds account, managed by the Guam Economic Development Authority, and appropriated to the GDOE for the *sole* purpose of financing working capital expenditures for F.Q. Sanchez Elementary School in *Umatac*, as has been determined to be necessary so as to provide an offset of the potential financial savings the GDOE might otherwise have realized as a result of shutting down the school.

Section 21. Maintenance of Personnel, Educational Opportunities and Resources. Upon enactment of this Act, the requisite staffing and resources as are necessary for the proper education of the students are made available, and to that end, educational programs and the provision of resources are provided in the annual budget of the GDOE, including F.Q. Sanchez Elementary School, for the duration of the term of the 2011-2012 School Year.

Section 22. Continuing Appropriation. Upon enactment of this Act, the appropriations made pursuant to Section 20 *shall not* lapse and *shall* continue until fully expended.

Section 23. School to Reopen. Notwithstanding any other provision of law, upon enactment of this Act, the GEB *shall* have the authority to explore and implement alternative measures to feasibly maintain the operations of F.Q. Sanchez Elementary School for the School Year 2011-2012. Such measures may include, but *shall not* be limited to, the sharing of human resources between other schools; the transfer, reassignment, recruitment, or retention of personnel; or the contracting of private entities to deliver such services at F.Q. Sanchez Elementary School. As provided for in Section 3 and Section 20 of this Act, *I Liheslaturan Guåhan* hereby provides the necessary funding for the staffing and operations of F.Q. Sanchez Elementary School.

Section 24. *I Maga'lahi* Authorized Keep School Open. If the GEB does not reopen F.Q. Sanchez Elementary School, *I Maga'lahi* is authorized by the

issuance of an Executive Order detailing the conditions, to keep the School open for the School Year 2011-2012.

Section 25. Notwithstanding any other provision of law, the appropriations made in this Act *shall not* be subject to transfer authority by *I Maga'lahi* (the Governor). However, *I Maga'lahi* (the Governor) is authorized to transfer any amounts from FY 2012 executive branch agency appropriations, *not to include* GDOE appropriations, into any non-personnel GDOE object classes.

Section 26. Severability. *If* any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.