DEPARTMENT OF EDUCATION
OFFICE OF THE SUPERINTENDENT

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JON J. P. FERNANDEZ
Superintendent of Education

October 10, 2018

The Honorable Eddie Baza Calvo
Governor of Guam
513 West Marine Corps Drive
Ricardo J. Bordallo Complex
Hagåtña, Guam 96910

2018 OCT 11 PM 2:55

Honorable Therese M. Terlaje
Acting Speaker, Thirty-Fourth Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Honorable Thomas V. Ada
Chairman, Committee on Appropriations and Adjudication
Thirty-Fourth Guam Legislature
Ste. 207 Ada Plaza Ctr.
173 Aspinall Ave.
Hagåtña, Guam 96910

Vice Speaker Therese M. Terlaje
34GL-18-2407
OCT 11 2018
Time: 1:39 pm
Received by:

Honorable Joe S. San Agustin
Chairman, Committee on Education, Finance and Taxation
Thirty-Fourth Guam Legislature
361 S. Marine Corps Drive
Tamuning, Guam 96913

Re: GEB Resolution 2018-19 – Relative to Adopting a Request for Supplemental Funding and Amendments to Fiscal year 2019 Budget Act for the Guam Department of Education

Dear Governor Calvo, Speaker Terlaje, Senator Ada and Senator San Agustin:

Håfa Adai! In compliance with Guam Education Board (GEB) Policy 700, I am transmitting the attached Guam Education Board Resolution 2018-19 as approved by the board in the GEB October special meeting conducted on October 9, 2018. The Guam Education Board has adopted the GDOE Fiscal Year 2019 Budget Plan as outlined in Resolution 2018-16.

Should you have any questions, please contact me at 300-1547.

Senseramente,

JON J. P. FERNANDEZ

Attachments

cc: Chairman and Members, GEB
Deputy Supt., FAS

2407

GUAM EDUCATION BOARD
RESOLUTION NUMBER 2018-19

Introduced by: Guam Education Board Members

RELATIVE TO ADOPTING A REQUEST FOR SUPPLEMENTAL FUNDING AND AMENDMENTS TO FISCAL YEAR 2019 BUDGET ACT FOR THE GUAM DEPARTMENT OF EDUCATION

WHEREAS, Public Law 34-116 (FY2019 Budget Act) appropriates in lump sum, the sum of Two Hundred Thirty Million Three Hundred Sixty-Eight Thousand Nine Hundred Forty One Dollars ($230,368,941) to the GDOE Operations Fund for Fiscal Year 2019; and an additional sum of Twenty Million Four Hundred Two Thousand Seven Hundred Eighty-Seven Dollars ($20,402,787) for debt service and lease payments for John F. Kennedy, Okkodo Expansion, Tiyan high schools and GDOE Central Offices, inclusive of annual maintenance and insurance; and

WHEREAS, Public Law 34-116, Chapter XIII mandates a number of spending control provisions to include: a freeze from October 1, 2018 to September 30, 2019 on increments, promotions, reclassifications, merit bonuses, any other upward pay adjustments; and the suspension of certification pay differential under 4 GCA §§6235 Chapter 6 Article 2; and

WHEREAS, Public Law 34-116 appropriates $114M (excluding charter schools) less than the $334.6M approved and requested by the GEB; represents $17.2M less compared to GDOE's FY18 appropriations ($237M excluding charter schools), and $18.3M less than the department's adjusted FY19 baseline operations budget of $238,280,402; and

WHEREAS, pursuant to 17 GCA §3112(17) the Guam Education Board continues to utilize the 14 points of the Every Child is Entitled to an Adequate Education Act as a basis for spending priorities; and

WHEREAS, while the Guam Education Board (GEB) adopted and approved Resolution No. 2018-16 a spending plan of $219,958,461 (excluding Charter schools), the Guam Education Board has determined the spending control provisions as contained in Chapter XIII of PL 34-116 negate the flexibility afforded by the lump sum appropriation, impair the department's ability to maximize resources and jeopardize its ability to meet and comply with its most basic and essential mandates; and

WHEREAS, beset by perennial cash shortages in its annual appropriations, the GEB has asserted annual lump sum appropriations provide the needed flexibility in prioritizing the department's annual expenditures, but more importantly, in managing its operations by rightsizing and adjusting the costs in operations and personnel to include targeted recruitment of certain positions and reassignments of job duties and responsibilities of existing personnel with minimum adjustments to pay and compensation and generating efficiencies and operational cost savings; and

WHEREAS, the GEB has determined the department will need supplemental funding in the amount of a $15,570,572: comprised of $4,732,772 to address critical personnel needs; $9,100,000 to operational shortfalls in preventive air conditioning, custodial, utilities, local subsidy (food service contract and food commodities) to sustain the Child Nutrition Program, $237,800 to purchase two Special Education Buses as stipulated by US DOE, and $1,500,000 to increase the purchase of textbooks for students; and

WHEREAS, the $4,732,772 request in supplemental personnel funding includes the reclassification of school attendance officers to school resource officers ($42,942), the promotion/creation of several positions within the department's Internal Audit Office ($40,710), recruitment of 16 FTEs ($750,150) associated with the mandated corrective action plan to move GDOE off of its high risk grant status, the increase of on-call substitutes ($1,859,987) to 10% of the number of classroom teachers; payment of teacher reclassifications ($694,154) and increments ($1,344,829); and

WHEREAS, the GEB asserts the supplemental request will ultimately generate and yield efficiencies and cost savings in the reduction/removal of the Third Party Fiduciary, as well as positively support student supervision and discipline, student health and safety, facility maintenance, and improve teacher recruitment and retention;

WHEREAS, $15,662,930 in cash allotments were withheld from GDOE's FY2018 appropriations;

WHEREAS, the Budget Act does not clearly state that amounts not provided to the Charter Schools should be made available to GDOE;

WHEREAS, the Budget Act, while providing for lump sum amounts for operations, continues to identify funding for specific activities and, although transfer authority is provided for, DOA does not recognize that transfers can be made between these accounts;

WHEREAS, GDOE has previously transmitted cost cutting and revenue enhancement initiatives requiring legislation that has not been entertained;

NOW THEREFORE BE IT RESOLVED that pursuant to 17 GCA §3112(17) the Guam Education Board does hereby approved the FY2019 Supplemental Budget request, in the amount of $15,570,572, as outlined below:

	MANDATE	AMOUNT
1	A certified teacher for every class in a ratio established by relevant collective bargaining agreements	1,513,374
2	Certified Professional Administrators	57,251
3	Certified Guidance Counselors	41,198
4	Certified School Health Counselors	31,267
5	Certified Allied Health Professionals	5,754
6	Air-conditioned or properly ventilated classrooms in which the sensible air temperature is no greater than 78° F	4,800,552
7	Potable water sufficient to provide each student a daily ration of drinking and washing water	
8	A reliable supply of electricity	405,278
9	Proper sanitation to include flushable toilets, clean restrooms, clean dining areas, and classrooms	1,402,868
10	Adopted and required textbooks and workbooks issued to each public school student for the classes in which he/she is enrolled	1,500,000
11	Libraries, which meet the standards of the American Association of School Librarians, at each school, operated by certified librarians	20,445
12	A healthy, safe, sanitary learning environment	4,676,459
13	At least one hundred eighty (180) instructional days each school year with school years ending no later than thirty (30) days following the end of the calendared school year; and	876,919
* 14	Regular; timely school bus transportation to and from the school	239,207
	TOTAL	**15,570,572**
	• **Includes funding to procure two (2) Special Education buses**	

BE IT FURTHER RESOLVED that the Guam Education Board fully supports Public Law 28-45, Section 13 which states:

> *"I Liheslaturan Guåhan* shall annually appropriate from the General Fund or any other funds determined to be appropriate by *I Liheslaturan Guåhan* to the Guam Department of Education all amounts necessary to provide an adequate public educational system as required by Section 29(b) of the Organic Act, as amended, and to that end provide an adequate Public Education for all Public School students as those terms are defined in 1 GCA §715."

BE IT FURTHER RESOLVED, that the Guam Education Board hereby requests the Legislature to exempt the department from all spending control provisions as contained in Chapter XIII of PL 34-116 and allow the department to fully utilize the flexibility to prioritize and manage its financial resources;

BE IT FURTHER RESOLVED, that the Guam Education Board further requests the Legislature to allow the use of all special funds appropriated for GDOE in PL 34-116 and any supplemental funding as needed to augment operations;

BE IT FURTHER RESOLVED, that the Guam Education Board requests that the unalloted cash related to FY18 Appropriations be made available to fund this Supplemental Request;

BE IT FURTHER RESOLVED, that the Guam Education Board requests that the Charter School remittances be based on actual monthly enrollments not authorized enrollments and that any amounts not provided to the Charter Schools be made available to GDOE;

BE IT FURTHER RESOLVED, that the Guam Education Board requests that the Legislature consider the previously submitted cost cutting and revenue enhancements provided by GDOE;

BE IT FURTHER RESOLVED, that a copy of this Resolution be transmitted to the Honorable Interim Speaker Therese M. Terlaje, *I Mina' Trentai Kuåttro Na Liheslaturan Guåhan*, the Honorable Thomas V. Ada, Chairman of the 34th Guam Legislative Committee on Appropriations and Adjudication, the Honorable Joe S. San Agustin, Chairman of the 34th Guam Legislative Committee on Education, Finance and Taxation, the Honorable Governor Edward Baza Calvo, *I Magá låhen Guåhan* and all schools and divisions.

DULY AND REGULARLY ADOPTED THIS 9th DAY OF OCTOBER, 2018.

MARK B. MENDIOLA
Chairman, Guam Education Board

JON J.P. FERNANDEZ
Executive Secretary

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

2018 (SECOND) Regular Session

Bill No. _____

Introduced by: _____

AN ACT TO PROVIDE SUPPLEMENTAL FUNDING TO THE GUAM DEPARTMENT OF EDUCATION (GDOE) FOR FISCAL YEAR 2019 OPERATIONS AND AMENDMENTS TO FISCAL YEAR 2019 BUDGET ACT.

BE IT ENACTED ENACTED BY THE PEOPLE OF GUAM:

Section 1. Findings and Intent. *I Liheslaturan Guahan* finds the intent in providing annual appropriations in *lump sum* to the Guam Department of Education (GDOE) was to empower the department to exercise flexibility in managing its financial and human resources in the operations of forty-one schools, its divisions, and program offices. The Guam Education Board (Resolution No. 2018-19) has expressed concerns spending control provisions as contained in Chapter XIII Part I of PL 34-116 (Fiscal Year 2019 Budget) adversely impair and curtail GDOE's ability to make necessary adjustments in its personnel and operating expenditures as intended by the annual *lump sum* appropriation. These provisions include: a freeze from October 1, 2018 to September 30, 2019 on increments, promotions, reclassifications, merit bonuses, any other upward pay adjustments, and the suspension of certification pay differential under 4 GCA §§6235 Chapter 6 Article 2.

I Liheslaturan Guahan finds exempting GDOE from these administrative provisions is warranted and in line with the purpose and spirit of allowing them to operate within its annual *lump sum* appropriations. In this same spirit, allowing the Superintendent of Education transfer authority between program funds and reverting any unused authorized Charter School appropriation balances to GDOE makes sound financial sense.

I Liheslaturan Guahan finds it necessary to provide supplemental funding to GDOE for its FY2019 operations to mitigate projected shortfalls in its FY2019 Budget.

Section 2. FY2019 Budget Act Exemption. The Guam Department of Education is hereby exempted from all spending control provisions as contained in Chapter XIII Part I – Spending Controls Administrative Provisions of Public Law 34-116 'The Fiscal Year 2019 Budget Act.'

Section 3. FY2019 Supplemental Funding. The sum of Fifteen Million Five Hundred Seventy Thousand Five Hundred and Seventy-Two Dollars ($15,570,572) in supplemental funding is hereby appropriated from the General Fund to the Guam Department of Education for its Fiscal Year 2019 operations.

Section 4. Continuing Appropriation. Notwithstanding any other provision of law, the allotted but unexpended balances of all funds, to include cash balances, appropriated to GDOE for Fiscal Year 2018

shall not lapse and *shall* continue to be available and disbursed until fully expended. The funds may be used to support the supplemental funding authorized in Section 3 of this Act.

Section 5. Section 17 of Chapter II Part I of PL 34-116 is hereby amended to read:

"Section 17. Budgetary Transfer Authority for GDOE. The Superintendent of GDOE may transfer funds from appropriations made to GDOE among object categories and between programs for the purposes of offsetting operational expenditures. If a surplus in funding exists within the appropriation for increments and promotions and reclassifications, such amount may be used to support the payment of prior year obligations."

Section 6. Charter School Remittances and Appropriations. Remittances of Charter School appropriations as authorized under Section 2 of chapter II Part I of the FY2019 Budget Act shall be based on actual monthly enrollments or authorized enrollment caps, whichever is the less. Any unexpended balances of appropriations to the Charter Schools shall revert and be made available to GDOE for operations expenditures.

Section 7. Effective Date. Provisions in this Act *shall* take effect immediately upon enactment.

Section 8. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.