

I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) REGULAR SESSION

Bill No. 317-30(COR)

Introduced by:

v.c. pangelinan

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**AN ACT TO REPROGRAM AND APPROPRIATE FUNDS FOR
VARIOUS PROGRAMS AND PROJECTS AND OTHER
PURPOSES FOR FISCAL YEAR 2010.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Statement and Intent.

I Liheslaturan Guåhan intends to ensure that there is continuity of service in the operations of the government of Guam in the Fiscal Year 2010 and as such, hereby authorize the appropriations of funding for various programs and projects to be started and completed in FY 2010 by the Mayors of Guam, certain government of Guam department and agencies and the Department of Education.

In light of the important nature and benefits of the programs and projects identified in this Act to be enjoyed by all our people and the anticipated improvement in the quality of life for island residents in communities throughout Guam, *I Liheslaturan Guåhan* further intends to ensure that these programs and projects receive the utmost attention of *I Liheslaturan Guåhan* throughout the

1 process of deliberation and ultimately, passage of the provisions contained in this
2 Act.

3 In June 2009, the Government of Guam successfully sold \$246 million
4 dollars of bonds also known as Deficit Bonds to pay for outstanding unfunded
5 court ordered COLA obligations. After disbursement of the bond proceeds, there
6 are remaining balances due to the *Superior Court No. SP0206-93 Rios v.*
7 Camacho, claimants from interest that accrued prior to the full payment of
8 principal.

9 *I Liheslaturan Guåhan* further finds that seventy-two (72) retirees who were
10 eligible to be part of the COLA class in the case, *Superior Court No. SP0206-93*
11 Rios v. Camacho were elderly and not fully conversant with the consequences of
12 signing documents issued at the time the class was being formed, signed the
13 documents opting out of the court case.

14 *I Liheslaturan Guåhan* finds that all government of Guam retirees are owed
15 gratitude and respect for their years of service and dedication and thus should be
16 compensated promptly and without further delay.

17 **Section 2. Short Title.** This Act shall be referred to as the “*Supplemental*
18 *Budget Act of 2010*”.

19 **Section 3. A new subsection (d) is added to Section 2 of Public Law 30-**
20 **38:**

1 “(d) All unexpended and unencumbered funds as of the effective date of
2 this Act shall fund village projects and other priorities in order of priority outlined
3 below:

4 i. ***Twenty-Six Thousand Dollars (\$26,000)*** to the Office of
5 the Mayor of Piti to repair lighting at the Piti Baseball Field.

6 ii. ***Thirteen Thousand Dollars (\$13,000)*** to the Guam
7 Youth Football League for the purpose of purchasing a photo voltaic
8 lighting system at the Eagle Football Field at the village of Mangilao.

9 iii. ***Fifty Thousand Dollars (\$50,000)*** to the Inarajan
10 Mayor’s Office for the repair of the Inarajan sport facilities’ electrical
11 system and light fixtures at the Malojloj multi-purpose court, the
12 Inarajan volleyball court and the Inarajan basketball court.

13 iv. ***Seventy-three Thousand Six Hundred Dollars (\$73,600)***
14 to the Mayor’s Office of Talofoto to repair lighting and electrical
15 system of the Talofoto Baseball Field.”

16 v. ***Eighty-Five Thousand Dollars (\$85,000)*** to the Mayor’s
17 Office of Agana Heights for the purposes of making necessary repairs
18 to the Agana Heights Gymnasium and Baseball Field.

1 vi. ***One Hundred Thousand Dollars (\$100,000)*** to the
2 Dededo Mayor’s Office for the repair and maintenance of the Hal’s
3 Angels Football Field.”

4 **Section 4.** Notwithstanding any other provision of law, *I Liheslaturan*
5 *Guahan* hereby appropriates the total sum of ***Four Million Six Hundred Fifty***
6 ***Thousand Dollars (\$4,650,000)*** from the unreserved fund balance of the
7 Territorial Education Facilities Fund (TEFF) to the Department of Education to be
8 apportioned as follows;

- 9 (a) \$2,800,000 – CIP Reimbursement;
- 10 (b) \$1,600,000 – Textbooks;
- 11 (c) \$150,000 – Vehicles for DOE Maintenance;
- 12 (d) \$100,000 – Vehicles for DOE Warehouse.

13 **Section 5.** The sum of ***Six Hundred Thousand Dollars (\$600,000)*** is
14 appropriated from the unreserved fund balance of the Healthy Futures Fund (HFF)
15 to the Medical Referral Office for Contractual Services (Object Class 230).

16 **Section 6.** The sum of ***Five Hundred Thousand Dollars (\$400,000)*** is
17 appropriated from the unreserved fund balance of the Healthy Futures Fund (HFF)
18 for reimbursements to the Government of Guam Retirement Fund prior year,
19 current and future expenditures as follows:

1 (1) *Eight Thousand Dollars (\$8,000)* shall be reimbursed to the
2 Retirement Fund for Medicare premium reimbursements for Fiscal Year
3 2007.

4 (2) *Ninety-Two Thousand Dollars (\$92,000)* shall be reimbursed
5 to the Retirement Fund for Medicare Premium reimbursements for Fiscal
6 Year 2008.

7 (3) *Three Hundred Thousand Dollars (\$300,000)* to the
8 Retirement Fund for current and future Fiscal Year Medicare premium
9 reimbursements.

10 **Section 7.** The sum of *Five Hundred Thousand Dollars (\$500,000)* is
11 appropriated from the unreserved fund balance of the Healthy Futures Fund (HFF)
12 to the Guam Memorial Hospital for prior or current year vendor payables due in
13 excess of One Hundred Eighty days (180).

14 **Section 8. Authorization to make payments of prior year obligations.**

15 Notwithstanding any other provision of law, the Mayor's Council of Guam
16 (MCOG) is authorized to utilize unexpended funds appropriated to the MCOG for
17 Fiscal Year 2009 and carried over to Fiscal Year 2010 as mandated in Public Law
18 30-55, Chapter VIII, Section 10, to pay for obligations incurred in FY 2009 and to
19 carry over any remaining unencumbered Fiscal Year 2009 funds appropriated to
20 the MCOG.

1 **Section 9. Authorization to Reallocate Funds.** Notwithstanding any

2 other provision of Law, the Mayor’s Council of Guam (MCOG) is authorized to
3 reallocate funds appropriated in Fiscal Year 2010 Miscellaneous (Object Category
4 290) into other categories within its Base Operational Appropriations and to the
5 MCOG Central Cost Accounts administered by the Department of Administration,
6 for the purpose of ensuring any shortfalls within other specified Object Categories
7 are both funded and authorized for payment.

8 **Section 10. Appropriations to the Veterans Affairs Office.**

9 Notwithstanding any other provision of the law, the sum of *One Hundred Fifty*
10 *Thousand Dollars (\$150,000)* is reprogrammed from the Guam Highway Fund to
11 the Guam Veterans Affairs Office for the following use:

12 (1) Purchase material to sustain cemetery maintenance
13 efforts for Fiscal Year 2010,

14 (2) Procure service to address the deficiencies which were
15 identified in the August 2009 Department of Veterans Affairs
16 National Cemetery Administration's Triennial Report on the Guam
17 Veterans Cemetery.

18 **Section 11. Reprogramming of Appropriations within the Guam**

19 **Veterans Affairs for Fiscal Year 2010 Operations Budget.** Notwithstanding
20 any other provision of the law, the sum of *Forty-Thousand Dollars (\$40,000)* is

1 hereby transferred from Capital Outlay (Object Class 450) to Miscellaneous
2 (Object Class 290) Appropriations Category for the normal operations and
3 maintenance of the Guam Veterans Cemetery pursuant to and in accordance with
4 the August 2009 Department of Veterans Affairs National Cemetery
5 Administration's Triennial Report.

6 **Section 12.** Section 8, Chapter 13 of P.L. 30-55 is hereby amended to read
7 as follows:

8 **“Section 8. Special Fund Transfer.** Unless specified in this Act, *I*
9 *Maga'lahaen Guåhan* is authorized to transfer to the General Fund any cash
10 available from any appropriated Special Fund *or* Revolving Fund to fund the
11 appropriations authorized by this Act.

12 All cash from Special Funds *or* Revolving Funds transferred to cover
13 the appropriations authorized by this Act *shall* be promptly reimbursed to
14 the Special *or* Revolving Fund from which it was withdrawn as cash
15 becomes available.

16 *I Maga'lahaen Guåhan shall* submit a report to the Speaker of *I*
17 *Liheslaturan Guåhan* on the fifth (5th) day of every month on all transfers
18 made pursuant to this Section. Said report *shall* enumerate the amount of
19 each transfer, identify the funds to and from which the transfer was made
20 and state the purpose of each transfer.

1 Unless otherwise restricted or specifically allowed by this Act, for FY
2 2010 I Maga'lahañ Guåhan is authorized to transfer up to fifteen percent
3 (15%) between object categories within an agency Fiscal Year 2010 Special
4 Fund base operational (except the utility funds) appropriations contained in
5 Chapter V and in Parts II, III and IV of Chapter III of this Act; provided that
6 notice of each transfer and justification therefore are delivered within fifteen
7 (15) working days after the transfer is made to the Speaker of I Liheslaturan
8 Guåhan and the Office of Finance and Budget."

9 **Section 13. Section 77305, Title 12, Guam Code Annotated, Chapter 77,**
10 **Article 3, is hereby amended to read as follows:**

11 "§77305. Cap on GRT Credits for Design and Construction of the
12 Soccer Stadium and Facilities. The total amount of credits against Gross
13 Receipts Taxes for the design and construction of the soccer stadium and
14 facilities authorized herein shall not exceed One Million Two Hundred
15 Thousand Dollars (\$1,200,000)."

16 **Section 14. Section (d)(3)(C) is hereby added to Chapter 5 of P.L. 30-55**
17 **as follows:**

18 (d)(3)(C) The sum of **One Hundred Thousand Dollars**
19 **(\$100,000)** is appropriated from the Indirect Cost Fund to the Bureau
20 of Budget and Management Research for Payment of Overtime for

1 training of Department of Education personnel at the Financial
2 Services Division and Personnel Services Division specifically to
3 address deficiencies in personnel management and the financial
4 administration of all funds under the purview of the Department of
5 Education, activity related to the American Recovery and
6 Reinvestment Act of 2009 and any other operational costs.

7 **Section 15. Mandating the reimbursement of COLA payments made in**
8 **Fiscal Years 2007, 2008 and 2009.**

9 In June 2009, the Government of Guam successfully sold \$246
10 million dollars of bonds also known as Deficit Bonds to pay for *I*
11 *Liheslaturan Guåhan* wishes to ensure the timely resolution of the payment
12 of remaining unfunded court ordered COLA obligations.

13 *I Liheslaturan Guåhan* further finds seventy-two (72) retirees who
14 were eligible to be part of the class action suit, *Superior Court No. SP0206-*
15 *93, Rios v. Camacho*. These retirees who rendered the same services and
16 worked the same number of years in loyal service to the people of Guam are
17 excluded from any payments resulting from the settlement. These retirees
18 believed that the government would treat them fairly and pay them what is
19 due to them without having to take the government to court. In recognition
20 of these factors and given the small number of retirees who opted out of the

1 court case, and the reasons cited by these retirees, *I Liheslaturan Guåhan*
2 wishes to exercise fairness and include these retirees in the court settlement.

3 Furthermore, *I Liheslaturan Guåhan* finds that the some Autonomous
4 Agencies were not included in the list of agencies which were required to
5 reimburse the General Fund for the payment of the annual lump sum COLA
6 by the General Fund to their respective retirees. Autonomous Agencies are
7 independent component units of the government of Guam that are self-
8 funded through operations. Each Autonomous Agency except the Guam
9 Memorial Hospital has the capacity to fund the annual cost of living
10 adjustments of its retired employees.

11 *I Liheslaturan Guåhan* further finds that after the successful sale of
12 deficit bonds and disbursement of the proceeds in June 2009, a balance of
13 Seventeen Million One Hundred Sixty-one Thousand One Hundred Eighteen
14 Dollars (\$17,161,118) of interest is still owed to qualified retirees based on
15 the judgment rendered in, *Superior Court No. SP0206-93, Rios v. Camacho*
16 and continues to accrue interest at a rate of seven percent.

17 Therefore, it is the intent of *I Liheslaturan Guåhan* to mandate the
18 Government of Guam Retirement Fund (GGRF), Guam International Airport
19 Authority (GIAA), Guam Visitors Bureau (GVB), Guam Economic
20 Development and Commerce Authority (GEDA), Guam Housing

1 Corporation (GHC), University of Guam (UOG), Guam Community College
 2 (GCC), Guam Power Authority (GPA), Guam Waterworks Authority
 3 (GWA) and the Port Authority of Guam (PAG) reimburse the General Fund
 4 for COLA payments made in Fiscal Year 2007, 2008 and 2009 to fund the
 5 principal and interest still owed to eligible retirees based on the following
 6 table:

7	Agency	2007	2008	2009	Total
8	GGRF	\$28,600	\$0	\$0	\$28,600
9	GIAA	\$80,300	\$0	\$0	\$80,300
10	GVB	\$8,800	\$8,800	\$9,900	\$27,500
11	GEDA	\$9,900	\$0	\$0	\$9,900
12	GHC	\$17,600	\$0	\$0	\$17,600
13	UOG	\$369,600	\$382,800	\$399,300	\$1,151,700
14	GCC	\$183,700	\$194,700	\$195,800	\$574,200
15	GPA	\$382,800	\$392,700	\$402,600	\$1,178,100
16	GWA	\$292,600	\$310,200	\$295,900	\$898,700
17	PAG	<u>\$341,000</u>	<u>\$345,400</u>	<u>\$339,900</u>	<u>\$1,026,300</u>
18	Total	\$1,714,900	\$1,634,600	\$1,643,400	\$4,992,900

19 **Section 16. Mandate of Reimbursements.** The GGRF has determined that
 20 the total amount of Fiscal Year 2007, 2008 and 2009 COLA payments issued to

1 retirees by the General Fund on behalf of Autonomous Agencies not required to
2 reimburse the General Fund is **Four Million Nine Hundred Nine-two Thousand**
3 **Nine Hundred Dollars (\$4,992,900).**

4 (a) The GGRF shall reimburse the General Fund for COLA
5 payments made to retirees of the GGRF as follows:

6 (1) from Fiscal Year 2007 the amount of *Twenty-eight*
7 *Thousand Six Hundred Dollars (\$28,600);*

8 (b) The GIAA shall reimburse the General Fund for COLA
9 payments made to retirees of the GIAA as follows:

10 (1) from Fiscal Year 2007 the amount of *Eighty Thousand*
11 *Three Hundred Dollars (\$80,300);*

12 (c) The GVB shall reimburse the General Fund for COLA
13 payments made to retirees of the GVB as follows:

14 (1) from Fiscal Year 2007 the amount of *Eight Thousand*
15 *Eight Hundred Dollars (\$8,800);*

16 (2) from Fiscal Year 2008 the amount of *Eight Thousand*
17 *Eight Hundred Dollars (\$8,800);*

18 (3) from Fiscal Year 2009 the amount of *Nine Thousand Nine*
19 *Hundred Dollars (\$9,900);*

1 (d) The GEDA shall reimburse the General Fund for COLA
2 payments made to retirees of the GEDA as follows:

3 (1) from Fiscal Year 2007 the amount of *Nine Thousand Nine*
4 *Hundred Dollars (\$9,900)*;

5 (e) The GHC shall reimburse the General Fund for COLA
6 payments made to retirees of the GHC as follows:

7 (1) from Fiscal Year 2007 the amount of *Seventeen Thousand*
8 *Six Hundred Dollars (\$17,600)*;

9 (f) The UOG shall reimburse the General Fund for COLA
10 payments made to retirees of the UOG as follows:

11 (1) from Fiscal Year 2007 the amount of *Three Hundred*
12 *Sixty-nine Thousand Six Hundred Dollars (\$369,600)*;

13 (2) from Fiscal Year 2008 the amount of *Three Hundred*
14 *Eighty-two Thousand Eight Hundred Dollars (\$382,800)*;

15 (3) from Fiscal Year 2009 the amount of *Three Hundred*
16 *Ninety-nine Thousand Three Hundred Dollars (\$399,300)*;

17 (g) The GCC shall reimburse the General Fund for COLA
18 payments made to retirees of the GCC as follows:

19 (1) from Fiscal Year 2007 the amount of *One Hundred*
20 *Eighty-three Thousand Seven Hundred Dollars (\$183,700)*;

1 (2) from Fiscal Year 2008 the amount of *One Hundred*
2 *Ninety-four Thousand Seven Hundred Dollars (\$194,700);*

3 (3) from Fiscal Year 2009 the amount of *One Hundred*
4 *Ninety-five Thousand Eight Hundred Dollars (\$195,800);*

5 (h) The GPA shall reimburse the General Fund for COLA
6 payments made to retirees of the GPA as follows:

7 (1) from Fiscal Year 2007 the amount of *Three Hundred*
8 *Eighty-two Thousand Eight Hundred Dollars (\$382,800);*

9 (2) from Fiscal Year 2008 the amount of *Three Hundred*
10 *Ninety-two Thousand Seven Hundred Dollars (\$392,700);*

11 (3) from Fiscal Year 2009 the amount of *Four Hundred Two*
12 *Thousand Six Hundred Dollars (\$402,600);*

13 (i) The GWA shall reimburse the General Fund for COLA
14 payments made to retirees of the GWA as follows:

15 (1) from Fiscal Year 2007 the amount of *Two Hundred*
16 *Ninety-two Thousand Six Hundred Dollars (\$292,600);*

17 (2) from Fiscal Year 2008 the amount of *Three Hundred Ten*
18 *Thousand Two Hundred Dollars (\$310,200);*

19 (3) from Fiscal Year 2009 the amount of *Two Hundred*
20 *Ninety-Five Thousand Nine Hundred Dollars (\$295,900);*

1 (j) The PAG shall reimburse the General Fund for COLA
2 payments made to retirees of the PAG as follows:

3 (1) from Fiscal Year 2007 the amount of *Three Hundred*
4 *Forty-one Thousand Dollars (\$341,000)*;

5 (2) from Fiscal Year 2008 the amount of *Three Hundred*
6 *Forty-five Thousand Four Hundred Dollars (\$345,400)*;

7 (3) from Fiscal Year 2009 the amount of *Three Hundred*
8 *Thirty-Nine Thousand Nine Hundred Dollars (\$339,900)*;

9 The Autonomous Agencies in this section *shall* reimburse the General Fund
10 for the cost of funding the annual COLA paid to their respective retirees by
11 September 30, 2010. Any Autonomous Agencies mandated in this section that
12 have already reimbursed or already paid COLA for any amounts in the specified
13 fiscal years are not required to repay said amount. The Government of Guam
14 Retirement Fund and Department of Administration *shall* prepare an official report
15 no later than thirty (30) days of enactment of this act that details the funding source
16 of payments to Autonomous Agency retirees during Fiscal Years 2007, 2008 and
17 2009.

18 **Section 17. Authorization to use excess COLA appropriations.** Upon
19 the conclusion of COLA case, *Superior Court No. SP0206-93, Rios v. Camacho*
20 the GGRF performed audits of the individual accounts which resulted in payments

1 due of One Hundred Twenty-one Million Five Hundred Forty-three Thousand
 2 Eight Hundred and Two Dollars (\$121,543,802) to the COLA class. The GGRF is
 3 hereby authorized to use the excess appropriations of **One Million Four Hundred**
 4 **Fifty-six Thousand One Hundred Ninety-eight Dollars (\$1,456,198)** from
 5 appropriations made in Public Laws 29-04, 29-19, 28-151, 30-7 less COLA
 6 payments for obligations listed in Section 19(b) of this Act.

Appropriations	Total
P.L. 29-04	\$8,000,000
P.L. 29-19	\$14,000,000
P.L. 28-151	\$9,000,000
P.L. 30-07	<u>\$92,000,000</u>
TOTAL	\$123,000,000
Payments	<u>(\$121,543,802)</u>
Excess Appropriation	\$1,456,198

15 **Section 18. A total of Four Million Nine Hundred Nine-two Thousand**
 16 **Nine Hundred Dollars (\$4,992,900)** from the reimbursements referred to in
 17 Section 16 of this Act is hereby appropriated to claimants set forth in Title 5 Guam
 18 Code Annotated, Chapter 6, Article 4, subsections 6404(d)(1) and subsection
 19 6404(d)(2) and Section 6 of this Act.

20 **Section 19. Priority of Disbursements.**

1 The priority of appropriation and excess appropriations disbursements in
2 Section 4 of this Act are as follows:

3 a) Payments authorized in Section 20 of this Act

4 b) Interest from principal owed to claimants set forth in Title 5 Guam
5 Code Annotated, Chapter 6, Article 4, subsections 6404(d)(1) starting
6 with the claimant with the lowest initial award from the class
7 settlement, followed by the next lowest initial award and repeating
8 this disbursement methodology until all the funds appropriated and
9 authorized are exhausted.

10 **Section 20. Inclusion of Retirees in COLA Settlement.**

11 Notwithstanding any other provision of law, *I Liheslaturan Guåhan* hereby
12 find that those retirees who initially opted out and are not covered by the
13 settlement agreement in *Superior Court No. SP0206-93, Rios v. Camacho*, are
14 eligible for payment under the same terms and conditions as the certified class.
15 Interest shall *not* accrue from any payments due to retirees who opted out.

16 The GGRF shall determine the amount of award due to the retirees who
17 opted out and reduce the amount by ten percent (10%) to promote parity by
18 accounting for attorney fees awarded in, *Superior Court No. SP0206-9, Rios v.*
19 *Camacho*.

1 All retirees who opted out prior to receipt of any payment as authorized in
2 this Section shall sign a waiver with the GGRF of all future rights and interest to
3 payments due or may be due pursuant to *Superior Court No. SP0206-9 Rios v.*
4 Camacho.

5 **Section 21. Effective Date.** This Act shall become effective upon
6 enactment.

7 **Section 22. Severability.** If any provisions of this Act or the application
8 thereof to any person or circumstance is held invalid, such invalidity shall not
9 affect any other provision or application of this Act which can be given effect
10 without the invalid provision or application, and to this end the provisions of this
11 Act are severable.