

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Resolution No. 310-34 (COR)

Speaker Antonio R. Unpingco Legislative Session Hall

As amended on the Floor.

May 23, 2018

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. ADA	✓					
Senator FRANK B. AGUON, JR.		✓				
Senator William M. CASTRO		I ✓				
Speaker Benjamin J.F. CRUZ	✓					
Senator James V. ESPALDON	✓					
Senator Fernando Barcinas ESTEVES		✓				
Senator Régine Biscoe LEE		✓				
Senator Tommy MORRISON		✓				
Senator Louise B. MUÑA		✓				
Senator Telen Cruz NELSON					✓	✓
Senator Dennis G. RODRIGUEZ, JR.		✓				
Senator Joe S. SAN AGUSTIN		✓				
Senator Michael F.Q. SAN NICOLAS	✓					
Vice Speaker Therese M. TERLAJE		✓				
Senator Mary Camacho TORRES		III ✓				

TOTAL:	4	10			1	1
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass

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

Resolution No. 310-34 (COR)

As amended on the Floor.

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Introduced by:

Michael F.Q. San Nicolas

Relative to respectfully petitioning the United States Congress, pursuant to 48 USC § 1423k, to enact legislation amending the Organic Act of Guam to include a provision of Guam Public Law 26-74 for the Government of Guam to deposit a required percentage of tax collections into the Guam Income Tax Refund Efficient Payment Trust Fund for the payment of income tax refunds.

1 **BE IT RESOLVED BY I MINA'TRENTAI KUÅTTRO NA**
2 ***LIHESLATURAN GUÅHAN:***

3 **WHEREAS**, in the Twenty-sixth (26th) Guam Legislature, Senator Vicente C.
4 Pangelinan introduced Bill No. 247 (COR), which was enacted as Public Law 26-74 on
5 March 7, 2002, that establishes the Income Tax Refund Efficient Payment Trust Fund
6 and requires that the Government of Guam directly deposit percentages of the payroll
7 withholding tax collections, self-employed payroll withholding tax collections, and
8 income tax collections into the Trust Fund within ten (10) days at the end of each month
9 or quarter (Exhibit 1); and

10 **WHEREAS**, Public Law 26-74 recognizes the Government of Guam's
11 responsibility to promptly process income tax returns and pay income tax refunds to
12 Guam's taxpayers, seeking to remedy a long history of deficit spending and bond

1 borrowing that has negatively compromised the fiscal stability of the Government of
2 Guam; and

3 **WHEREAS**, the United States commonly uses withholding tax collections to
4 pay income tax refunds, while the Government of Guam uses such collections to fund
5 government operations, resulting in shortfalls or delays in the payment of income tax
6 refunds; and

7 **WHEREAS**, the Government of Guam was unable to set aside money to pay for
8 income tax refunds for nearly two (2) decades and has relied on accumulated deficits
9 and subsequent borrowing on the bond market to pay accrued income tax refund
10 payments owed to taxpayers; and

11 **WHEREAS**, in August 1994, the Government of Guam borrowed Forty-five
12 Million Dollars (\$45,000,000) on the bond market, all of which were used to pay for
13 1993 tax refunds, under the General Obligation Bonds 1994 Series A, as authorized by
14 Public Law 22-138; and

15 **WHEREAS**, in June 1995, the Government of Guam borrowed One Hundred
16 Fifteen Million Dollars (\$115,000,000) on the bond market, of which Forty-one Million
17 Dollars (\$41,000,000) were used to pay for 1994 tax refunds, under the General
18 Obligation Bonds 1994 Series A, as authorized by Public Law 22-138; and

19 **WHEREAS**, in June 2009, the Government of Guam borrowed Two Hundred
20 Seventy-one Million Seventy Thousand Dollars (\$271,070,000) on the bond market, of
21 which One Hundred Twelve Million Dollars (\$112,000,000) were used to pay for
22 delinquent tax refunds for prior years, under the General Obligation 2009 Bonds, Series
23 A, as authorized by Public Law 30-24; and

24 **WHEREAS**, in December 2011, the Government of Guam borrowed Two
25 Hundred Thirty-five Million Dollars (\$235,000,000) on the bond market, of which One

1 Hundred Ninety-eight Million Dollars (\$198,000,000) were used to pay for 2010 tax
2 refunds and prior years, under the Business Privilege Tax Bonds Series 2011A, as
3 authorized by Public Law 30-24; and

4 **WHEREAS**, in June 2012, the Government of Guam borrowed One Hundred
5 Eight Million Seven Hundred Thousand Dollars (\$108,700,000) on the bond market, of
6 which Sixty Million Dollars (\$60,000,000) was used to pay for 2010 and 2011 tax
7 refunds, under the Business Privilege Tax Bonds Series 2012B, as authorized by Public
8 Law 30-24; and

9 **WHEREAS**, in April 2011, a class action lawsuit filed on behalf of Guam
10 residents Jeffrey and Rea Paeste, and Sharon and Glenn Zapanta, challenged the
11 Government of Guam's failure to pay tax refunds to its taxpayers in a timely manner;
12 and

13 **WHEREAS**, in January 2013, U.S. District Court Judge Consuelo Marshall
14 issued a permanent injunction in the case of *Paeste, et al. v. Government of Guam*
15 (Exhibit 2), ordering that the Government of Guam must pay most tax refunds no later
16 than six (6) months after tax returns are due; and

17 **WHEREAS**, in December 2011, the Guam Office of Public Accountability
18 released a report of the performance audit of the Income Tax Refund Efficient Payment
19 Trust Fund (Exhibit 3), and concluded that the Government of Guam failed to pay Forty-
20 one Million Dollars (\$41,000,000) for Fiscal Year 2011, citing that the Government of
21 Guam Department of Administration failed to adhere to the requirements of Public Law
22 26-74 when it did not always deposit funds directly into the Trust Fund, and when it
23 commingled income tax collections in the General Fund; and

24 **WHEREAS**, the taxpayers of Guam have seen a historic pattern of the
25 Government of Guam failing to set aside sufficient money to pay income tax refunds,

1 as mandated in Guam Public Law 26-74, relying on federal Section 30 funds to cover
2 shortfalls (Exhibit 4), despite the budget of the Government of Guam increasing every
3 fiscal year (Exhibit 5); and

4 **WHEREAS**, the Government of Guam’s reliance on federal Section 30 funds
5 that arrive at the end of the fiscal year continues to slow the rate of the issuance of
6 income tax refunds, with taxpayers having to wait longer and being pushed farther along
7 the issuance schedule; and

8 **WHEREAS**, federal Section 30 funds are being expended in the fiscal year they
9 are received to fund income tax refund shortfalls, yet continue to be factored in the
10 ensuing fiscal year they are intended to fund, resulting in immediate deficit spending
11 that makes fiscal year budgets unbalanced upon enactment; and

12 **WHEREAS**, the Government of Guam does not have a locally enacted
13 constitution and, instead, operates under the Organic Act of Guam; and, the enactment
14 of an amendment to the Organic Act of Guam including the provisions of Guam Public
15 Law 26-74, requiring that the Government of Guam deposit tax collections in the
16 Income Tax Refund Efficient Payment Trust Fund as enumerated, would prevent further
17 unbalanced budgeting, deficit spending, chronic borrowing, and future burdens on the
18 taxpayers of Guam; now therefore, be it

19 **RESOLVED**, that *I Mina'Trentai Kuattro Na Liheslaturan Guåhan* does hereby,
20 on behalf of the people of Guam, respectfully petition the United States Congress,
21 pursuant to 48 USC § 1423k, to enact legislation amending the Organic Act of Guam
22 to include a provision of Guam Public Law 26-74 for the Government of Guam to
23 deposit a required percentage of tax collections into the Guam Income Tax Refund
24 Efficient Payment Trust Fund for the payment of income tax refunds; and be it further

1 **RESOLVED**, that the Speaker certify, and the Legislative Secretary attest to, the
2 adoption hereof, and that copies of the same be thereafter transmitted to the Honorable
3 Vice President Mike Pence, President of the United States Senate; to the Honorable
4 Speaker Paul Ryan, United States House of Representatives; to the Honorable
5 Madeleine Z. Bordallo, Guam Delegate to the United States House of Representatives;
6 and to the Honorable Edward J.B. Calvo, *I Maga'låhen Guåhan*.

DULY AND REGULARLY ADOPTED BY *I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN* ON THE DAY OF MAY 2018.

BENJAMIN J.F. CRUZ
Speaker

RÉGINE BISCOE LEE
Legislative Secretary