



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu


Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Office of the People's Speaker
vicente (ben) c. pangelinan

JUN 23 2004

22 JUN 2004

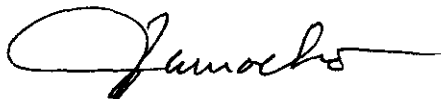
TIME: 12:15T 1AM (1)PM
RECEIVED BY: 

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
Twenty-Seventh Guam Legislature
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 256 (LS), "AN ACT TO PROVIDE FUNDING FOR THE CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS, ESTABLISHMENT OF HEALTHCARE FACILITIES, AND SAFETY UPGRADES TO THE PRISON FACILITY, BY ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED.," now designated as **Public Law 27-92**.

Sinseru yan Magåhet,



FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

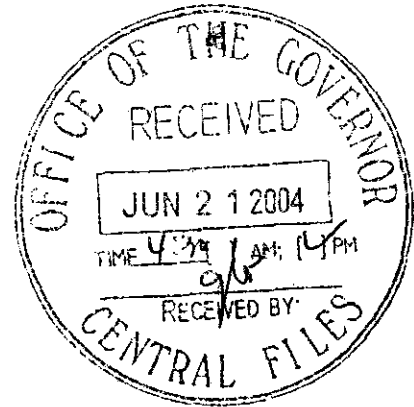
Attachment: a copy of the overridden bill is attached

cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary



MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

June 21, 2004



The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Camacho:

Transmitted herewith is Bill No. 256(LS) which was overridden by *I Mina'Bente Siete Na Liheslaturan Guåhan* on June 18, 2004, notwithstanding your veto.

Sincerely,

ANTOINETTE (TONI) D. SANFORD
Senator and Acting Legislative Secretary

Enclosure (1)

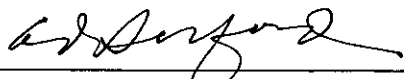
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

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

This is to certify that Bill No. 256 (LS), "AN ACT TO PROVIDE FUNDING FOR THE CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS, ESTABLISHMENT OF HEALTHCARE FACILITIES, AND SAFETY UPGRADES TO THE PRISON FACILITY, BY ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED," returned without approval of *I Maga'lahaen Guåhan* was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 18th day of June, 2004, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of Thirteen (13) Members.

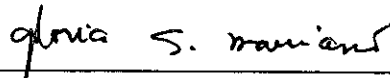
Attested:

vicente (ben) c. pangelinan
Speaker



Antoinette (Toni) D. Sanford
Senator and Acting Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 21st day of June, 2004, at 4:30 o'clock
P.M.



Assistant Staff Officer
Maga'lahaen's Office

Public Law No. 27-92

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 256 (LS)

As amended by the Committee
on Economic Development, Retirement,
Investments, Public Works and Regulatory
Functions and further amended on the Floor.

Introduced by:

v. c. pangelinan
L. A. Leon Guerrero
C. Fernandez
Toni Sanford
F. B. Aguon, Jr.
T. R. Muña Barnes
J. M.S. Brown
F. R. Cunliffe
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
J. A. Lujan
J. M. Quinata
R. J. Respicio
Ray Tenorio

AN ACT TO PROVIDE FUNDING FOR THE
CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS,
ESTABLISHMENT OF HEALTHCARE FACILITIES, AND
SAFETY UPGRADES TO THE PRISON FACILITY, BY
ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF
DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Article 14 is hereby *added* to Chapter 22 of Division
3 2 of Title 5, Guam Code Annotated, to read as follows:

1 At the same time, but in a different area of need, the people of
2 Guam also have had to cope with the Guam Memorial Hospital's CT
3 Scan System that has nearly surpassed its useful life and also is in
4 great need of technological update. *I Liheslatura* also recognizes the
5 much-needed expansion and redesign of the emergency medical
6 department, as well as the need to establish an endoscopy suite on
7 Guam.

8 Moreover, *I Liheslaturan Guåhan* realizes that the Department of
9 Public Health and Social Services' regional community health clinics
10 are unable to accommodate the population increases in the island's
11 villages, and therefore, would require expansion of the health
12 centers, or in some cases, may require additional ones.

13 Less visible to the general public yet very important to the
14 overall safety of the community, Guam's Adult Correctional Facility
15 requires safety upgrades in order to meet mandates set forth by the
16 U.S. Federal government in a Consent Decree entered into between
17 the government of Guam and the Federal government as a result of a
18 lawsuit. These safety upgrades, which include fire control and entry
19 control devices, would ensure adequate security for Guam's people
20 and safety for the facility's personnel and inmates. *I Liheslatura* finds
21 that the interests of public security and the humane delivery of justice
22 demand that these upgrades be completed without further delay.

23 *I Liheslaturan Guåhan* further recognizes that the repair and
24 refurbishment of existing public schools, the construction of new
25 public schools, the establishment of healthcare facilities, and safety

1 upgrades to the prison are expensive endeavors. However, they are
2 investments of vital importance to the island's future. While the
3 financing of large projects is difficult, it is neither an insurmountable
4 obstacle, nor a necessarily reckless and risky financial undertaking.
5 This legislative body is mindful of the need for new facilities but also
6 equally mindful that the price of educating our students, improving
7 health care, and ensuring security does not have to be a huge debt on
8 the backs of our children and grandchildren.

9 Therefore, it is the intent of *I Liheslaturan Guåhan* to enable the
10 financing for the repair and refurbishment of existing public schools,
11 the construction of new public schools, the replacement of the CT
12 Scan System and the establishment of an endoscopy suite at the
13 Guam Memorial Hospital, the expansion and the redesign of the
14 emergency medical department of the Guam Memorial Hospital, the
15 expansion of the Department of Public Health and Social Services'
16 regional community health clinics or the construction of new ones,
17 and safety upgrades to our prison facility; thereby investing in a solid
18 future for Guam's people, while ensuring that this same investment
19 is not compromised by large public debt.

20 *I Liheslatura* further finds that the securitization of future
21 revenue streams to be received by the government of Guam is an
22 acceptable source of repayment of bonds issued with no recourse to
23 full faith and credit of the government for repayment. *I Liheslatura*
24 successfully issued bonds using this method with the securitization
25 of the future payments of the master settlement agreement between

1 the tobacco companies and the various states' attorneys general. In
2 addition, other state and local governments have done the same with
3 revenues of Federal grants to states authorized by Congress.

4 For Guam, we have such an opportunity to maximize the future
5 revenues of the Compact Impact reimbursements authorized for
6 twenty (20) years by the recent re-authorization in United States
7 Public Law 108-188 of the Compact of Free Association. The
8 securitization of these future revenues can be used to issue bonds of a
9 sufficient amount to accomplish the projects authorized herein that
10 will result in an economic stimulus that creates new jobs and
11 increased government revenues.

12 **§221402. Compact Impact Grant Anticipation Bonds.** (1)
13 Subject to the provisions of this Article, *I Maga'lahi*, through the
14 Guam Economic Development and Commerce Authority (hereinafter
15 'GEDCA'), may issue Compact Impact Grant Anticipation Bonds for
16 the purposes of financing the construction, repair and refurbishing of
17 public school buildings, the replacement of the CT Scan System and
18 the establishment of an endoscopy suite of the Guam Memorial
19 Hospital, the expansion and the redesign of the emergency medical
20 department at the Guam Memorial Hospital Authority, the expansion
21 of the Department of Public Health and Social Services' regional
22 community health clinics or the construction of new ones, and the
23 upgrading of the Department of Correction's Adult Correctional
24 Facility (hereinafter 'DOC ACF').

1 (2) (a) The power to fix the date of sale of the Compact Impact
2 Grant Anticipation Bonds, to receive bids or proposals, to award and
3 sell the Compact Impact Grant Anticipation Bonds, to fix interest
4 rates, and to take all other action necessary to sell and deliver the
5 bonds shall be delegated by *I Maga'lahi* to GEDCA.

6 (b) GEDCA shall issue the Request for Proposals for the
7 Compact Impact Grant Anticipation Bonds within fifteen (15) days
8 after the enactment of this Article.

9 (3) (a) Subject to the provisions of this Subsection (3), the
10 principal of and interest on the Compact Impact Grant Anticipation
11 Bonds shall be payable solely from:

12 (i) money available as Compact Impact Aid for Guam
13 under Section 104(c)(6) of U.S. Public Law 99-239,
14 and as recently reauthorized in U.S. Public Law 108-
15 188 for the next twenty (20) years; and

16 (ii) any other revenues, funds, or other security
17 pledged for such purpose that do not constitute
18 revenues or funds of the government of Guam.

19 (b) The owners or holders of the Compact Impact Grant
20 Anticipation Bonds may not look to any other revenues of the
21 government of Guam for the payment of the bonds.

22 (c) The method of financing shall be non-recourse to, and
23 require no credit support by the government of Guam.

24 (4) (a) GEDCA shall issue Compact Impact Grant Anticipation
25 Bonds pursuant to a certificate executed by GEDCA, a trust indenture

1 between GEDCA and any commercial bank or trust company having
2 full trust powers, or any other instrument issued by GEDCA.

3 (b) As GEDCA deems appropriate, the certificate, trust
4 indenture, or other instrument authorizing the Compact Impact
5 Grant Anticipation Bonds may contain such provisions setting forth
6 the rights and remedies of the owners or holders of the Compact
7 Impact Grant Anticipation Bonds, may contain such provisions for
8 protecting and enforcing the rights and remedies of the owners or
9 holders of the Compact Impact Grant Anticipation Bonds as GEDCA
10 deems appropriate, and may contain such other provisions that
11 GEDCA deems appropriate for the security of the owners or holders
12 of the Compact Impact Grant Anticipation Bonds. Such provisions
13 may include, but not be limited to, provisions regarding letters of
14 credit, insurance, stand-by credit agreements, or other forms of credit
15 ensuring timely payment of the Compact Impact Grant Anticipation
16 Bonds, including the redemption price or the purchase price, and
17 provisions regarding the reimbursement of providers of such credit
18 out of revenues available for the payment of principal of and interest
19 on the Compact Impact Grant Anticipation Bonds for any amounts
20 paid by such providers with respect to such bonds.

21 (5) The Compact Impact Grant Anticipation Bonds may be
22 issued in such aggregate principal amount, may be issued in one (1)
23 or more series, may bear such dates, may be in such denomination or
24 denominations, may mature on any date or dates, may mature in
25 such amount or amounts, may be in such form, may be payable at

1 such place or places, may be subject to such terms of redemption
2 with or without a premium, may contain such provisions as GEDCA
3 deems appropriate regarding insurance to ensure the timely payment
4 of the bonds, and may contain such other provisions not inconsistent
5 with the provisions of this Article as GEDCA may determine.

6 (6) The rate or rates of interest borne by the Compact Impact
7 Grant Anticipation Bonds may be fixed, adjustable, or variable or any
8 combination thereof without regard to any interest rate limitation
9 appearing in any other laws of Guam. If any rate or rates are
10 adjustable or variable, the standard, index, method, or formula shall
11 be determined by GEDCA.

12 (7) Compact Impact Grant Anticipation Bonds may be sold at
13 public or private sale and may be sold at, above, or below the
14 principal amounts thereof. The sale of such bonds shall *not* be subject
15 to the Procurement Law.

16 **§221403.** Compact Impact Grant Anticipation Bonds issued by
17 GEDCA pursuant to the provisions of this Article and every contract
18 relating to the issuance of such bonds shall provide that all financial
19 obligations of the government of Guam in regard to the portion of the
20 principal of and interest on such bonds that shall be paid from money
21 available as Compact Impact Aid for Guam under Section (104)(c)(6)
22 of U.S. Public Law 99-239 and as recently reauthorized in U.S. Public
23 Law 108-188 for the next twenty (20) years, pursuant to Federal laws
24 and any agreement shall be subject to continuing Federal
25 appropriations of the money available as Compact Impact Aid for

1 Guam under Section (104)(c)(6) of U.S. Public Law 99-239 and as
2 recently reauthorized in U.S. Public Law 108-188 for the next twenty
3 (20) years, at a level equal to or greater than the amount needed to
4 pay principal and interest on the Compact Impact Grant Anticipation
5 Bonds.

6 **§221404. Bond Proceeds.** All proceeds from the issuance of
7 the Compact Impact Grant Anticipation Bonds in accordance with
8 the provisions of this Article shall be credited to the Capital
9 Infrastructure and Maintenance Fund to be used for the following
10 purposes:

- 11 (1) Construction of public schools and
12 collateral equipment \$88,000,000.00
13 *[(a) two (2) high schools not*
14 *to exceed \$56,000,000.00;*
15 *(b) one (1) middle school not*
16 *to exceed \$16,000,000.00; and*
17 *(c) two (2) elementary schools*
18 *not to exceed \$16,000,000.00]*
19 (2) repairs & refurbishments \$10,000,000.00
20 *[payments for the repairs and refurbishments of*
21 *existing public schools.]*
22 (3) upgrade of DOC ACF \$5,000,000.00
23 *[construction of a new eighty-five (85) bed facility*
24 *and upgrades required to meet the U.S. Department*

1 *of Justice mandates towards resolution of the*
2 *Consent Decree.]*

3 (4) replacement of CT Scan System \$1,000,000.00

4 *[as established in the Guam Memorial Hospital*
5 *Authority Ten-Year Capital Improvements Plan.]*

6 (5) redesign and expansion of the
7 emergency medical department \$3,000,000.00

8 *[as established in the Guam Memorial Hospital*
9 *Authority Ten-Year Capital Improvements Plan.]*

10 (6) establishment of an endoscopy suite \$500,000.00

11 *[as established in the Guam Memorial Hospital*
12 *Authority Ten-Year Capital Improvements Plan.]*

13 (7) expansion or construction of health clinics \$2,000,000.00

14 *[Department of Public Health and Social*
15 *Services' regional community health clinics.]*

16 (8) and any expenses relating to the authorization, sale and
17 issuance of the bonds, including, without limitation,
18 printing costs, costs of reproducing documents, credit
19 enhancement fees, underwriting, legal, financial advisory
20 and accounting fees and charges, fees paid to banks or
21 other financial institutions providing credit enhancement,
22 costs of credit ratings and other costs, charges and fees in
23 connection with the issuance, sale and delivery of the
24 bonds.

1 §221405. All projects enumerated in §221404 of this Article
2 shall be performed by private companies, subject to Chapter 5 of Title
3 5, Guam Code Annotated (Guam Procurement Law).

4 §221406. **Selection of Participants.** In view of the urgency for
5 the issuance of the bonds for the purpose of financing the projects
6 enumerated in §221404 of this Article, GEDCA is hereby authorized
7 to utilize such method as it deems appropriate for the selection of all
8 participants in connection with the issuance and sale of those bonds,
9 including trustees, depositories, paying agents, underwriters,
10 counsel, any credit enhancement provider and any other participants;
11 provided, however, that such selection shall be subject to any
12 provision of law which requires bidding, other competitive process,
13 or any other procedure with respect to such selection, except that
14 GEDCA may limit the Requests for Proposals for services associated
15 with the issuance of the bonds to those firms that have previously
16 participated in bond issues for Guam.

17 §221407. It is the policy of *I Liheslaturan Guåhan* to ensure that
18 the projects enumerated in §221404 of this Article are completed. In
19 this respect, a written request shall be submitted to *I Liheslaturan*
20 *Guåhan*, which may authorize and allow the transfer of funds
21 between projects contained in §221404 of this Article.

22 §221408. Interest earned on the bonds authorized by this
23 Article shall be used exclusively for the purposes of financing the
24 projects enumerated in §221404 of this Article.

1 §221409. All terms and agreements to be entered into pursuant
2 to this Article shall be subject to legislative approval.

3 §221410. The locations of the two (2) public high schools, one
4 (1) public middle school, and two (2) public elementary schools,
5 which are to be constructed and financed pursuant to this Article,
6 shall be determined by the Guam Education Policy Board pursuant to
7 the priorities established in the Ten-Year Capital Facilities Plan of the
8 Department of Education. In addition, the Guam Education Policy
9 Board shall outsource the building and grounds maintenance,
10 custodial, and food services of the newly constructed schools that are
11 funded by this Article.

12 §221411. The Guam Memorial Hospital Authority Board of
13 Trustees, through a board resolution, shall determine the details of
14 the establishment of an endoscopy suite, and the details of the
15 redesign and expansion of the emergency medical department and
16 the replacement of the CT Scan System.

17 §221412. The Department of Public Health and Social Services
18 Director and the Board of Trustees for the Regional Community
19 Health Centers, through a board resolution, shall determine the
20 details of the expansion or the construction of new regional
21 community health clinics.

22 §221413. **Creation of the ‘Capital Infrastructure and**
23 **Maintenance Fund’.** There is hereby established, separate and apart
24 from other funds of the government of Guam, a fund known as the
25 ‘Capital Infrastructure and Maintenance Fund’ (hereinafter ‘Fund’).

1 The Fund shall not be commingled with the General Fund or any
2 other fund of the government of Guam. The Fund shall be held in an
3 account or accounts at a Guam financial institution or institutions
4 separate and apart from all other accounts and funds of the
5 government of Guam. The Fund shall not be subject to *I Maga'lahi's*
6 transfer authority. All proceeds of the Compact Impact Grant
7 Anticipation Bonds shall be deposited into this Fund and are hereby
8 appropriated for the purposes of financing the projects enumerated
9 in §221404 of this Article."

10 **Section 2. Severability.** *If* any of the provisions of this Act or the
11 application thereof to any person or circumstance is held invalid, such
12 invalidity shall *not* affect any other provision or application of this Act
13 which can be given effect without the invalid provision or application, and
14 to this end the provisions of this Act are severable.




Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Office of the People's Speaker
~~vicente (ben) c. pangelinan~~

MAY 07 2004

TIME: 4:53 () AM () PM
RECEIVED BY: 

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

May 7, 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 256 (LS), "AN ACT TO PROVIDE FUNDING FOR THE CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS, NEW MEDICAL FACILITIES, AND SAFETY UPGRADES TO THE PRISON FACILITY, BY ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED," which I have vetoed.

On April 13, 2004 I initiated a municipal leasing plan for the construction of up to seven new schools for our island and to refurbish all 37 of Guam's existing public schools. I have already received approval from the Department of Interior to use \$6 million in Compact Impact funding for this purpose.

The municipal lease plan is a new concept for Guam but is one that has been used over the past 20 years throughout the United States. It is a proven method for building schools, hospitals, prisons and other public facilities without affecting the debt ceiling of the government.

Given the government of Guam's precarious financial situation, issuing additional bond funding for the construction of new schools is not a practical alternative for a number of reasons, which I will address. More importantly, the municipal lease plan that I initiated has many positive benefits that cannot be achieved through borrowing for the construction of the schools.

The government of Guam is historically very adept at finding the means for the construction of new facilities. Over the past 12 years, four new schools were built, including Southern High, Astumbo Elementary and Machanao Elementary. Where this government has fallen short is in the ability to maintain those buildings.

The Honorable Vicente C. Pangelinan
May 7, 2004

Today, those structures are all in serious states of disrepair, not for a lack of willingness on the part of the employees but because the government of Guam has been unable to provide the resources necessary to maintain those structures. Today the lack of funding to provide the supplies and materials necessary for regular maintenance is an even greater problem.

The municipal lease plan that I initiated would place the onus of maintenance with the entity that actually builds the schools and, in fact, owns the structures until the lease terms expire. Like any other lease agreement, maintenance is a responsibility of the building owner.

The municipal lease plan could also relieve the government of Guam of the insurance obligation for the new schools. Like the maintenance issue, insurance is also a responsibility of building owners. All that the government would need to cover is insurance for the contents of the classrooms.

Additionally, I have instructed my capital improvement team to negotiate terms that would require that the classrooms be furnished with the minimal equipment necessary for learning to take place. I envision schools being constructed and furnished with desks, chalkboards and other resources, all supplied by the winning bidder, so that on the first day of school our children will walk into completed classrooms adequate for their learning.

The municipal lease provides us with this flexibility while the bond borrowing proposed in Bill No. 256 does not.

Mr. Speaker, I commend you for your commitment to the education of our children. I sincerely hope that you and the other members of the Guam Legislature continue your commitment to our children.

My plan also includes a second phase that would require additional financing. However, I recognize that the government's funding streams are not currently adequate to seek financing above the current deficit-financing bond currently being heard by the U.S. Ninth Circuit Court of Appeals. Therefore, phase two of the plan is slated for implementation in 2006, after the maturation of the 1993 General Obligation Bond. At that time, I will be coming before the Legislature to request approval of bond financing or borrowing to address several other critical issues that our island faces, including a new hospital, a new corrections facility and additional vehicles and equipment for our health and safety systems. This would require a commitment of up to \$16 million of the \$18 million in General Fund revenues that will be freed up as the 1993 General Obligation bond matures.

I project that the second phase also would provide up to \$79 million to refurbish all 37 existing public schools. Based on estimates provided by the Department of Education and given the state of the schools today, it will take this much funding to significantly upgrade the schools.

The Honorable Vicente C. Pangelinan
May 7, 2004

As you can see, the municipal lease plan today and a finance plan in the future, when the funding is available, allows us to address a greater number of needs than simply borrowing, which faces serious challenges today.

Bill No. 256 poses serious concerns to the government of Guam's financial advisors due to the unreliability of the Compact Impact funding as a consistent revenue stream. Specifically, the Governor of Guam must submit to the Department of Interior an annual request for the use of Compact Impact funds. This arrangement does not fit the traditional definition of a dedicated revenue stream for the purposes of bond financing.

My municipal lease plan commits Compact Impact funds as the initial funding source, however, based on the non-appropriation provision that will be part of the lease agreement, the funding source can be amended on an annual basis. Therefore, the same concern Bill No. 256 faces does not apply to the municipal lease arrangement.

Another serious concern with the intent of Bill No. 256 is the issue that is being addressed by the U.S Ninth Circuit Court of Appeals. Until the U.S. Ninth Circuit Court of Appeals makes a determination on the current bond case, it would not be prudent to enact additional bond authorization laws.

Sincerely yours,



FELIX P. CAMACHO
I Maga' Lâhen Guâhan
Governor of Guam

Attachment: original attached for vetoed bill

cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary

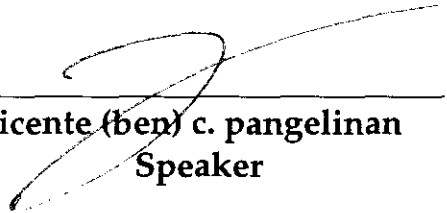
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

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


This is to certify that Bill No. 256 (LS), "AN ACT TO PROVIDE FUNDING FOR THE CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS, ESTABLISHMENT OF HEALTHCARE FACILITIES, AND SAFETY UPGRADES TO THE PRISON FACILITY, BY ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED," was on the 23rd day of April, 2004, duly and regularly passed.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) c. pangelinan
Speaker

This Act was received by I Maga'lahaen Guåhan this 27 day of April, 2004,
at 11:45 o'clock A. .M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. RAMOS
Maga'lahaen Guåhan

Date: _____

Public Law No. _____



FILE COPY

MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

April 27, 2004


The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 178(LS), 193(COR), 256(LS), 261(LS) and 277(COR), and Substitute Bill Nos. 17(LS), 115(COR), 119(COR), 146(LS), 172(LS), 175(LS), 177(LS), 183(COR), 220(COR), 230(LS), 231(LS), 249(COR), 255(LS) and 258(LS) which were passed by *I Mina' Bente Siete Na Liheslaturan Guåhan* on April 23, 2004.

Sincerely,


TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosures (19)

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

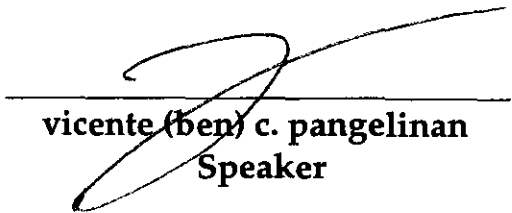
FILE COPY

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA LAHEN GUÅHAN


This is to certify that Bill No. 256 (LS), "AN ACT TO PROVIDE FUNDING FOR THE CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS, ESTABLISHMENT OF HEALTHCARE FACILITIES, AND SAFETY UPGRADES TO THE PRISON FACILITY, BY ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED," was on the 23rd day of April, 2004, duly and regularly passed.

Attested


Tina Rose Muña Barnes
Senator and Legislative Secretary


vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahen Guåhan* this 27 day of April, 2004,
at 11:45 o'clock A..M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____



Office of Senator Antoinette (Toni) Sanford
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions
Suite 15B, 777 Route 4, Sinajana, Guam 96910 / Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: senatorsanford@ite.net

April 2, 2004

Senator Lou Leon Guerrero
Chairperson, Committee on Rules & Health
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hesler Street
Hagatna, Guam 96910

Dear Senator Leon Guerrero,

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions, to which Bill No. 256 (LS) An act to provide funding for the construction and repair of public schools, new medical facilities, and safety upgrades to the prison facility, by adding a new Article 14 to Chapter 22 of Division 2 of Title 5, Guam Code Annotated, was referred, wishes to report its findings and recommendation TO DO PASS as substituted by the Committee.

The voting record is as follows:

TO PASS

7

NOT TO PASS

0

ABSTAIN

0

TO PLACE IN INACTIVE FILE

0

Copies of the Committee report and other pertinent documents are attached.

Antoinette (Toni) Sanford

Attachment.



Office of Senator Antoinette (Toni) Sanford
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions
Suite 15B, 777 Route 4, Sinajana, Guam 96910 /Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: senatorsanford@ite.net

April 2, 2004

MEMORANDUM

TO: Committee Members
FROM: Chairwoman
SUBJECT: Committee Report and Voting

Transmitted herewith for your information and action is the report on Bill No. 256 (LS) An act to provide funding for the construction and repair of public schools, new medical facilities, and safety upgrades to the prison facility, by adding a new Article 14 to Chapter 22 of Division 2 of Title 5, Guam Code Annotate.

Please review the report and take the appropriate action on the voting sheet. Your prompt attention and action on this matter is greatly appreciated. Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

A handwritten signature in black ink, appearing to read "Antoinette Sanford".

Antoinette (Toni) Sanford

Attachment.



Office of Senator Antoinette (To...) Sanford

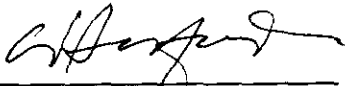
Assistant Majority Leader

TWENTY-SEVENTH GUAM LEGISLATURE

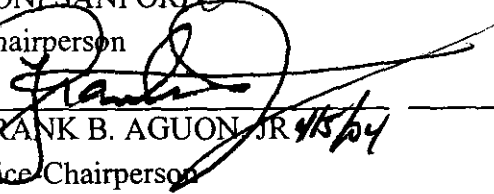
Chairwoman, Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions
 Suite 15B, 777 Route 4, Sinajana, Guam 96910 /Telephone (671) 479-8664/6 Fax (671) 479-8667 Email: senatorsanford@ite.net

Bill No. 256 (LS) as substituted, An act to provide funding for the construction and repair of public schools, new medical facilities, and safety upgrades to the prison facility, by adding a new Article 14 to Chapter 22 of Division 2 of Title 5, Guam Code Annotated

	TO PASS	NOT TO PASS	TO ABSTAIN	INACTIVE FILE
--	------------	----------------	---------------	------------------

	✓			
---	---	--	--	--

TONI SANFORD
 Chairperson

	✓			
---	---	--	--	--

FRANK B. AGUON, JR. *4/15/04*
 Vice Chairperson


LARRY KASPERBAUER
 Member

	✓			
---	---	--	--	--


LOU LEON GUERRERO
 Member

	✓			
--	---	--	--	--

JESSE A. LUJAN
 Member

	✓			
---	---	--	--	--


TINA MUNA-BARNES
 Member

				
---	--	--	--	--

JOHN M. QUINATA
 Member

	✓			
---	---	--	--	--

RORY J. RESPICIO
 Member

	✓			
---	---	--	--	--

BEN C. PANGELINAN
 Speaker & Ex-officio Member

**COMMITTEE ON ECONOMIC DEVELOPMENT, RETIREMENT,
INVESTMENTS, PUBLIC WORKS, AND REGULATORY FUNCTIONS**

Twenty-Seventh Guam Legislature
155 Hesler Street, Hagatna Guam 96910



**COMMITTEE REPORT
ON**

Bill No. 256 (LS) An act to provide funding for the construction and repair of public schools, new medical facilities, and safety upgrades to the prison facility, by adding a new Article 14 to Chapter 22 of Division 2 of Title 5, Guam Code Annotated.

COMMITTEE MEMBERS

Chairperson Senator Toni Sanford
Vice-Chairperson Senator Frank B. Aguon, Jr.

Majority Members

Senator Lou Leon Guerrero
Senator Tina Muna Barnes
Senator John M. Quinata
Senator Rory Respicio
Speaker ben c. pangelinan (ex-officio)

Minority Members

Senator Jesse A. Lujan
Senator Larry Kasperbauer

I. OVERVIEW

A. Purpose and Essential Elements

INTENT

To authorize the issuance of Compact Impact Anticipation Notes to finance construction of new schools, a new cancer treatment facility, expansion and redesign of emergency medical department, the establishment of an endoscopy suite, and safety upgrades to DOC.

SECTION 1. Adds a new Article 14 to Chapter 22 of 5 GCA to read: '*Compact Impact Grant Anticipation Notes*'

§221401 Legislative Intent and Finding

States with the compact impact reimbursements authorized for the next 20 years, Guam can maximize these future revenues to finance new schools, a cancer treatment facility, repair and upgrade Dept of Corrections, expansion of the emergency medical department, establishment of an endoscopy suite.

§221402 Compact Impact Grant Anticipation Notes.

authorizes the governor to issue Compact Impact Grant Anticipation Notes for financing construction, repair and refurbishing of public schools buildings, the upgrading of the dept of correction's adult correction facility, the establishment of a cancer treatment facility for Guam, expansion and design of the emergency medical department, and the establishment of an endoscopy suite.

states the principal and interests of the notes shall be payable solely from money available as Impact Aid for Guam under §104©(6) of U.S. Public Law 99-239 and any other revenues, funds, or other security pledged for such purpose that do not constitute revenues of funds of Guam.

The governor shall issue compact impact grant anticipation notes pursuant to a certificate, a trust indenture between the governor and any commercial bank or trust company having full trust powers or any other instrument issued by the governor.

the certificates, the trust indenture, or other instrument authorizing the anticipation notes may contain such provisions as appropriate may include but not limited to provisions regarding letters of credit, insurance, stand by credit agreements, or other forms of credit ensuring timely payment of the anticipation notes including the redemption price or the purchase price, and provisions regarding the reimbursement of providers of such credit out of revenues available for the payment of principal of and interest on the anticipation notes for any amounts paid by such providers with respect to such notes.

the anticipation notes may be issued in such aggregate principal amount, in one of more series, may bear dates, in such denominations, may mature on any date or dates in such amount or amounts,, in such form, may be payable at such place or places, may be subject to terms of redemption with or without a premium, and contain such provisions as the governor deems appropriate.

the aggregate amount of annual installments of principal and interest on all compact impact anticipation notes issued that are scheduled to be paid during any given fiscal year, determined as of the date of issuance of each series of notes, shall not exceed an amount equal to 75% of the aggregate amount of the money available as Impact Aid for Guam under §104©(6) of US Public Law 99-239 paid to the government during the fiscal year immediately preceding the fiscal year in which such series of notes is issues.

The Rate . the rate or rates of interest borne by the anticipation notes may be fixed, adjustable, or variable or any combination thereof without regard to any interest rate limitation appearing in any other law of Guam. If any rate or rates are adjustable or variable, the standard, index, method or formula shall be determined by the governor.

Compact impact notes may be sold at public or private sale and may be sold at, above, or below the principal amounts thereof; the sale shall not be subject to the procurement law.

§221403. The notes and every contract relatig to the issuance shall provide that all financial obligations of Guam in regard to the portion of the principal of and interest on such notes that may be paid from money available as Impat Aid for Guam under §104©(6) of US Public Law 99-239 at a level equal to or greater than the amount needed to pay the federal share of principal and interest on the Compact Impact Grant anticipation Notes.

§221404 Notes Proceeds. Proceeds from the issuance of the notes shall be credited to the Capital Infrastructure and Maintenance Fund to be used for the following:

Construction of public schools \$88,000,000 = 2 high schools at \$28 million each; 1 middle school at \$16 million; and 2 elementary schools at \$8 million each.

Repairs & Refurbishments, & Fees \$10,000,000.

Upgrade of DOC ACF \$4,000,000

Cancer Treatment Facility \$4,000,000

Redesign and expansion of emergency medical department \$3,000,000

Establishment of an endoscopy suite \$500,000.

§221405 All projects listed shall be performed by private companies, subject to the procurement law. Construction, repair and refurbishment of public schools, the upgrade of DOC etc shall not be construed to allow hiring of new government of Guam employees.

§221406 Selection of Participants. Authorizes the governor to utilize such method as he deems appropriate to select participants in connection with the issuance and sale of those notes, including trustees, depositories, paying agents, underwriters, counsel, any credit enhancement provider and other participants, provided, however, such selection shall be subject to an provision of law which requires bidding, other competitive process, or other procedure with respect to such selection except that the governor may limit the requests for proposal for services associated with the issuance of the notes to those firms that have previously participated in note issues for Guam.

§221407 A written request shall be submitted to the Legislature to authorize and allow the transfer of funds between projects listed and authorized.

§221408 Interest earned on the notes authorized shall be used exclusively for the purpose of financing the projects enumerated and listed.

§221409 All terms and agreements to be entered into pursuant to this article shall be subject to legislative approval.

§221410 The locations of the two high schools, one middle, and two elementary shall be determined by the Guam Education Policy Board and based on the 10 year Capital Facilities Plan of DOE.

§221411 the GMHA Board of Trustees through a resolution shall determine the details of the Cancer Treatment Facility, yo include but limited to the purchase of equipment and the construction or identification of a building or other facility to provide on island radiation and other treatment for cancer patients. Also GMHA through resolution shall determine details of the endoscopy suite and the expansion of the emergency medical department.

§221412 Creation of the 'Capital Infrastructure and Maintenance Fund' establishes a fund, separate and apart from other funds of the government of Guam; shall not be co mingled with the General Fund or any other fund of the government of Guam. The Fund shall be held in account or accounts at a Guam financial institution separate – shall not be subject to the governor's transfer authority; all proceeds of the compact impact grant anticipation notes shall be deposited into this fund and is hereby appropriated for the purposes of financing the projects listed."

SECTION 2. Standard Severability Clause.

B. Public Hearing Conducted

The Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions conducted a public hearing on 9am, Monday, March 8, 2004 in the Legislative Public Hearing Room, I Liheslaturan Guahan, in Hagatna. Public notice was provided on February 27th and March 4, 2004.

Committee Chairwoman Toni Sanford called the public hearing to order at 11:00 am in the Legislative Public Hearing Room. Committee members present were: Senators Lou Leon Guerrero, John Quinata, and Speaker Ben Pangelinan. Non-committee members present: Senators Robert Klitzkie and Carmen Fernandez.

II. SUMMARY OF TESTIMONY

Speaker Pangelinan stated Bill 256 is in response to some critical needs in our community and provides a funding mechanism to fund these projects. I have been looking for ways to fund construction of new schools outside of the government's debt limitation and current controversies surrounding that limitation. In some of my research, I have come across some States who have used federal funds, which are not part of their local taxing revenue stream to fund grant anticipation notes. In some of cases – federal grants received from the U.S. Department of Transportation Federal Highways Administration have been used to collateralize and be earmarked for debt service on transportation anticipation notes for repair of public roadways in the different states such as New Jersey and Colorado. New Jersey even uses its transportation anticipation notes to fund their public safety and public transit system.

Speaker Pangelinan stated given that we've gotten guaranteed funding through the reauthorization of the Compact for the next 20 years, I felt that we could safely earmark those funds towards the repayment of bonds that we would float called 'Compact Impact Anticipation Notes' – we could secure between \$100 to \$128 million in cash up front and we would earmark that for the construction of five new schools; medical facilities including the expansion of the emergency room at the hospital, an endoscopy suite, and a cancer treatment center; \$10 million for the repair and refurbishment of existing DOE schools; and \$4 million for the Dept of Corrections' new 80 bed facility. All the bonds would be repaid from the Compact Impact funds; other state jurisdictions have done this, we did this three years ago with securitizing our tobacco settlement funds – we were able to get about \$25 million in funds for some critical needs for DOE, GMHA, UOG, GCC, Mental Health, Public Health.

Although not appearing before the Committee, written testimony was received from the Guam Economic Development and Commerce Authority; the Department of Education; and the Guam Contractors' Association.

In his written testimony, Mr. James A. Martinez, Executive Director of the Guam Contractors Association stated support for Bill 256 and raised the concern over the lack of enforcing Executive Order No. 2000-10 which required all contractors of government funded projects employ at least one apprentice in the U.S. Department of Labor approved apprenticeship program at the Guam Community College for every ten workers on that project.

In his written testimony, Mr. Juan P. Flores, Superintendent of the Department of Education stated Bill 256 is in line with DOE's Ten-Year Capital Facilities Plan. Mr. Flores suggested combining the financial strategy contained in Bill 256 with the Governor's Initiative for new schools and the rehabilitation of existing school facilities. He stated he supports the passage of Bill 256 and provision to allocate a portion of the proceeds for school repairs and the construction of new schools.

In his written testimony, Mr. Gerald S.A. Perez, Administrator of the Guam Economic Development and Commerce Authority provided comments on the bill as the government's central financial manager for public finance concerning the source of repayment funding, Guam's credit worthiness, and Guam's debt ceiling:

- 1) Securitization of future revenue streams from Compact Impact funds presents risks in the possible event of a non-appropriation by Congress of the funding; and investors will probably desire a document from the Federal Government committing to the funding for the term of the bond. The bill is silent on whether the approval of the Federal Government is required for any financing secured by Compact Impact funds. Because of the limited history of the Compact Impact revenues, investors will require additional debt service coverage beyond the normal minimum 2x the annual payment requirement.

Mr. Perez stated the tobacco settlement proceeds example are a different kind of revenue source in that it was a set payment schedule based on the Master Settlement Agreement (MSA) – the agreement guaranteed Guam’s right to receive future initial, annual and strategic contribution fund payments by the PMs under the MSA.

- 2) In Standard and Poor’s consideration of an appropriate fund balance level, several variables include the make up and liquidity of the fund balance, particularly as related to the volatility and patterns of the revenue stream; the predictability of government spending; the availability of unencumbered reserves or contingency funds; and the ability of public officials to sustain a strong financial position.

- 3) Organic Debt Ceiling

Would the proposed financing contained in Bill 256 be treated comparably to the Section 30 revenue secured bonds which the recent Guam Supreme Court of Guam decision ‘mischaracterized’ as being general obligations? Mr. Perez stated if the financing is comparable to Section 30 financing, then the securing the bonds proposed in Bill 256 may be delayed if the 9th Circuit sides with the AG’s opinion.

Mr. Robert Camacho, acting director of the Dept of Corrections appeared before the Committee and provided written and oral testimony in favor of the bill. Mr. Camacho asked that his written testimony be held temporarily until he had the opportunity to present his testimony to the governor and anticipated he would be submitted supplemental testimony in support of Bill 256.

Mr. Camacho provided general information concerning the planned new facility and what Dept of Corrections intends to use the new facility. Currently our population is 516 inmates and detainees including our off island inmates brings the total to 549. We receive an average of 10 inmates every month and that increases the population each month bringing the total by the end of the year an increase of another 100 inmates. He stated out of the 549 inmates – 235 are detainees. Our current facility in only holds 80 detainees; that’s way over above its design capacity. What we intend to do with the new facility is to close down Post 18 – which is a medium custody classification use and it requires significant manpower to utilize. According to the U.S. Dept of Justice – DOC is provided a minimum of 6 people to man that facility; one of the problems of the facility is the field of observation is very bad. You have to go down range and there are a lot of blind spots.

Mr. Camacho stated he is hopeful with this new design – one of our newest facilities is Post 16 which was built by “Fiber Bond” -- with 3 officers they can man 85 inmates and detainees and they’ll have an area where they will have their meals and do recreation within the facility. They’ll have close circuit TV – the main factor is that we’ll have improved safety. They won’t have to go down range and be blind sighted by the inmates and the detainees. This Post 18 we’ve had some major difficulties with that for several years – it came to the point where a few

months ago, we had to close down the facility and operate it with minimum number of inmates. There were a lot of problems – making of weapons, inmate assaults – we decided to relocate the inmates there to other areas and double bund in other facilities.

Mr. Camacho stated the benefits generally to be provided by the new facility:

- 1) officers will have a better designed facility with a clear and direct supervision of inmates addressing safety and security concerns;
- 2) the Dept of Justice's issues with fire and safety devices will be addressed – these were issues dating back and cited since 1991. There currently no fire sprinklers and so instead, we have fire watches at Post 18;
- 3) It will also lower manpower costs needed to man the unit; the reduction will allow DOC to redirected towards supervision of community services projects. DOC currently has over 47 projects in the community, not including parolees – we've cleaning projects from Marine Drive (from Micronesian Mall to Adelup); Public Works has just requested to assist in the Parks extending now to Piti; inmates and parolees are assisting with cleaning the Sports Complex in Dededo, several painting projects in the schools and maintaining the lawns;
- 4) The vacated rooms will be converted into education and treatment rooms and hopefully, establish a Prison Industry Program;

Those facilities will not be wasted, they will be minor renovations to accommodate offices, classrooms, conference rooms, and training rooms.

Major Frank Crisostomo, Warden at the Department of Corrections appeared before the Committee and provided oral testimony in support of the DOC's testimony in support of Bill 256. He emphasized the funding for the proposed DOC 80 bed facility addresses a 12 year old Dept of Justice citation; it is a 12-year deficiency that could have been rectified and is based on the level of overcrowding experienced.

Senator Klitzkie asked where is post 18? Major Crisostomo responded it is the old penitentiary; it is currently being used as temporary housing to house short-term inmates which we have a total count of 30 that are serving one year and below sentences before full term release. Senator Klitzkie asked whether DOC has removed its recreational role there and is now using it as housing? Major Crisostomo stated the recreation facility is still attached to the main structure – it's on the outside.

Senator Klitzkie asked Major Crisostomo to define the term 'down range'? Major Crisostomo responded the old penitentiary consists of administrative offices, a visitation area, and also casework assign offices at one time. It is an area that will move down to the housing unit – 'down range' is when you from the Control Center looking down on various rooms that are being housed there – it would be cell blocks or cubicles.

Senator Klitzkie asked do we still build prisons with cellblocks? Mr. Camacho responded on some facilities depending on the classifications – if it is a minimum security, yes they do. But for Guam's purposes and needs, it would be better if we had them directly looking in to the cells. That's what we intend to do with our current situation and needs for Post 16 and the Agana Facility – Post 16 holds medium classifications – it's a direct supervision type of housing unit.

Senator Klitzkie asked for an explanation of 'direct supervision' housing unit? Major Crisostomo stated that is a housing unit where you have a Control Center right in the middle that can oversee both top and bottom tier; every movement of prisoners to include the exercise yard is completely visible by inside the Control if there is a Corrections Officer inside.

Senator Klitzkie asked so you have something that is circular and you have the Control Center in the middle? Major Crisostomo affirmed. Senator Klitzkie stated these are important distinctions for the Committee. Senator Klitzkie asked whether it would be possible to bring the Adult Correctional Facility to the capacity and level it should be for modern penal purposes? Mr. Camacho stated it would be possible, however, costly. He stated the priority is to ensure officers safety issues are addressed; the current facility just doesn't provide for that – the manpower needed is costly and it is unsafe – too many blind spots when officers 'go down range.'

Speaker Pangelinan stated in his previous discussion with DOC management – the need to build a facility that would alleviate manpower needs of the department, expand services and programs to the community, enhance officers' safety – the project funding fits with the Compact Impact purpose of reimbursing Guam for public safety impact of the Compact Impact residents. Speaker Pangelinan stated certainly the residents migrating here impact the prison and that justifies the use of these funds for this project.

Senator Sanford stated she is in support of the bill and has also asked to be a co-sponsor. The Compact Impact reimbursement is an appropriate source of funding to pay for debt service for this particular bill. We're talking about schools, the hospital and the prison which are directly impacted by the migration and Bill 256 appropriately distributes the reimbursement for Capital expenditures for these areas.

Senator Sanford stated she would be interested in learning the actual costs of the project as the proposed amount is an estimate as well as the cost of debt service will be to ensure we work within the realm of the actual Compact Impact Reimbursement funding which has been earmarked at \$14 million for a few years – and is dependent on whether we can justify the reimbursement documentation.

Senator Sanford informed the Committee written testimony in support of the bill was also received from Mr. Juan Flores, Dept of Education Superintendent; and from Mr. James Martinez from the Guam Contractors Association .

Senator Sanford stated Senator Quinata had to leave the hearing, however, asked that the author considering adding him as a co sponsor of the bill. As oversight Chairman of the Dept of Corrections, he is in full support of Bill 256

III. COMMITTEE FINDINGS

The Committee on Economic Development, Retirement, Insurance, Public Works, and Regulatory Functions finds that several suggestions provided were appropriate and would improve the legislation and therefore made the following changes:

- Deleted construction of a cancer treatment center; and
- Added construction or expansion of regional community health clinics; and construction or replacement of CT Scan Systems of the Guam Memorial Hospital.

IV. COMMITTEE RECOMMENDATIONS

The Committee on Economic Development, Retirement, Investments, Public Works, and Regulatory Functions recommends Bill No. 256 as substituted by the Committee be hereby reported out with a recommendation TO DO PASS.



GUAM CONTRACTORS' ASSOCIATION

March 8, 2004

Honorable Speaker Vicente (ben) Pangelinan
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Hafa Adai yan Buenas! Speaker Ben Pangelinan and members of the Committee on Economic Development, Retirement, Investments, Public Works and Regulatory Functions.

My name is James Martinez and I am the Executive Director of the Guam Contractors' Association. I would first like to take this opportunity to thank you for allowing the Guam Contractors Association to participate and provide testimony in support of Bill 256, an act to provide funding for the construction and repair of public schools, new medical facilities and safety upgrades to the prison facility.

I commend the Mina' Bente Siete Na Liheslaturan Guåhan for drafting legislation that provide funds through the Compact Impact Grant Anticipation Notes for the building of new schools, new medical facilities and safety upgrades to the prison facility. A forward step in making education, health and safety a true priority on your agenda.

While the Guam Contractors Association fully supports Bill No. 256, we would also like to address to this committee, the workforce issues that currently plague our local contractors. As we face a shortage of local skilled workers in the construction trades, we are anticipating an increase in foreign H2 labor to make up this deficiency. Executive Order No. 2000-10, that was spearheaded by the Guam Contractors Association and signed by then Gov. Carl T.C. Gutierrez, required contractors working on government funded programs to employ at least one apprentice in the U.S. Department of Labor-approved apprenticeship program at the Guam Community College for every ten workers. While this Executive Order still exists today, the lack of enforcement to ensure

Senseramente,

James A. Martinez
Executive Director



DEPARTMENT OF EDUCATION

P.O. Box DE
Hågatña, Guam 96932
Telephone (671) 475-0462/457
Fax: (671) 472-5003
Email: juanpflores@doe.edu.gu



Juan P. Flores
Superintendent of Education

March 8, 2004

SPEAKER VICENTE C. PANGELINAN
Mina' Bente Siete Na Liheslaturan Guahan

Subject: Testimony in Support of Bill No. 256

Dear Speaker Pangelinan:

Buenas yan Hafa Adai! The Department of Education (DOE) commends you for your effort in providing a means of exploring strategies to assist the Department of Education with the construction of new schools and the rehabilitation of existing school facilities. Furthermore, DOE supports the intent of Bill No. 256 – *An act to provide funding for the construction and repair of public schools, new medical facilities, and safety upgrades to the prison facility, by adding a new Article 14 to Chapter 22 of Division 2 of Title 5, Guam Code Annotated.*

There exists a need for new schools to address the current overcrowding situation at DOE educational facilities. There is also a need to rehabilitate our current school facilities that have been seriously neglected due to the lack of funding. Bill No. 256 is most appreciated by the Department of Education.

For several months DOE officials have worked with the Governor's Office on the Governor's Initiative for new schools (Phase I) and the rehabilitation of existing school facilities (Phase II) reflecting the department's need based on the DOE 10-Year Capital Facilities Plan. The Governor's Initiative for new schools engages a comprehensive approach to overcrowding and deferred maintenance at all DOE school facilities. The initiative is a result of DOE's recommendation to build seven (7) new schools in order to address the overcrowding at existing educational facilities: two (2) elementary schools in the north and one in the central; one (1) middle school and the conversion of J.M. Guerrero Elementary School to a middle school; and three (3) high schools in the north. School Administrators and the Educational Policy Board were briefed on the Initiative. In fact, the selection of proposed sites has begun, reflecting the urgency to address this issue.

Notwithstanding the Governor's Initiative, the department appreciates Bill No. 256. May we suggest that a concerted effort be made to combine financial strategies with Bill No. 256 and the Governor Initiative for new schools and the rehabilitation of existing school facilities. DOE firmly believes that the two (2) proposals will ultimately improve conditions in the schools and support more effective teaching and learning in our classrooms.

In closing, Bill No. 256 is in line with the Department of Education's Ten-Year Capital Facilities Plan...construction of new schools and the urgently needed repairs of our educational facilities. This Bill is a testament and pledge of your commitment in fulfilling our department's mission...*to prepare all students for life, promote excellence, and provide support.* On behalf of over 30,000 public school children, we thank you for your commitment and for supporting our efforts for improving our island's educational system and assuring quality educational opportunities for Guam's public school students. *Si Yu 'os Ma'ase!*

JUAN P. FLORES
Superintendent of Education

Aturidad Inadilanton



Ikunumihan Guahan

Governor
Felix P. Camacho

Lieutenant Governor
Kaleo S. Moylan

March 8, 2004

Senator Toni Sanford
Chairperson, Committee on Economic Development, Retirement, Investments, Public Works and
Regulatory Functions
Suite 15B, Sinajana Shopping Mall, Phase II
777 Route 4
Sinajana, Guam 96926

SUBJECT: Bill No. 256 Testimony

Dear Senator Sanford,

I would like to thank you and members of your Committee for the opportunity to provide testimony on Bill No. 256.

AN ACT TO PROVIDE FUNDING FOR THE CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS, NEW MEDICAL FACILITIES, AND SAFETY UPGRADES TO THE PRISON FACILITY, BY ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF DIVISION 2 OF TITLE 5, GUAM CODE ANNOTATED.

The comments below are provided strictly from GEDCA's perspective as the government's central financial manager for public finance. We trust that both the Legislature and the Governor will be guided accordingly as discussions evolve regarding the merits and direction of public debt financing policy.

1) **Compact Impact funds**

In structuring a finance package with the securitization of the future revenue streams from Compact Impact funds, the biggest risk is the possibility of non-appropriation of the compact impact funding by Congress. Investors would probably want a document from the federal government (DOI?) committing to the funding for the term of the bonds. The bill is silent as to whether the approval of the Federal Government is required for any financing secured by Compact Impact funds.

Furthermore, because of the limited history of Compact Impact revenues, we believe that investors will require additional debt service coverage beyond the normal minimum of 2x the annual payment requirement.

We need to be mindful that the tobacco settlement proceeds are a different kind of revenue source, as that is a set payment schedule based on the Master Settlement Agreement (the "MSA") entered into by participating cigarette manufacturers (the "PM's"), Guam, 46 states and five other U.S. jurisdictions in November 1998. This settlement agreement, from smoking related litigation, guarantees Guam's right to receive future initial, annual and strategic contribution fund payments by the PM's under the MSA.

Guam USA ~ The Ultimate Destination

2) **Guam's credit worthiness**

Standard & Poor's has raised concerns regarding various aspects of the Government of Guam's financial position. Most recently, the conversations revolved around the fiscal health of the retirement fund and deficits, but there is still an overall concern for the Government's General Fund position.

In Standard & Poor's consideration of an appropriate fund balance level, several variables are important: (i) the makeup and liquidity of the fund balance, particularly as related to the volatility and patterns of the revenue stream; (ii) the predictability of government spending; (iii) the availability of unencumbered reserves or contingency funds; and (iv) the ability of public officials to sustain a strong financial position.

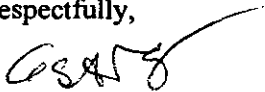
To this issue, Guam's capital market image needs to be substantially improved if we are to regain an investment grade rating.

3) **Guam's debt limitation**

Lastly, and most importantly, is whether for Organic Act debt limitation purposes, the proposed financing should be treated comparably to the Section 30 revenue secured bonds, which according to the recent Guam Supreme Court decision were mischaracterized as being general obligations. According to the decision, the Section 30 bonds were treated as "indebtedness" subject to the limitation, without further explanation. If the financing is found to be comparable to the Section 30 financing, it may be delayed indefinitely if the 9th Circuit Court sides with the AG's opinion.

Should you have any questions or need to discuss in more detail, please call me at the GEDCA offices.

Respectfully,



Gerald S.A. Perez

Administrator

cc: Governor Felix P. Camacho
C. Bordallo, BBMR Director
L. Perez, DOA Director

TESTIMONY

March 08, 2004

To: The 27th Guam Legislature

From: CO I M.S. Lizama, DOJ Monitor

Subject: Request for Additional Funds

Ref: Bill No. 256 reads four million to build an (85) bed facility and upgrades to meet DOJ Standards. It should be about ten million dollars instead of four million dollars.

On November 06, 2003, a Telephone Conference was conducted at the AG's Office with Assistant James Mitchell, former Director Frank T. Ishizaki, Captain J. Q. Tupaz and myself. Civ. Case No. 91-00020 is a twelve year old case and it's the oldest case which they would like to clear. Their concern is the Fire/Life Safety, Sanitation, Health, Overcrowding and Kitchen Equipment Repair. The problem has been on-going which is due to the lack or limited amount of funds in the previous years to make improvements and to come into compliance with the 1991 Settlement Agreement.

Senators, I implore your help since there are no other source of funding to repair deficiencies or install equipment at both the Adult Correctional Facility and the Hagatna Detention Facility. The following is a list of deficiencies that needs to be repaired, installation of, or equipment that needs to be purchased;

1. Generators-An adequate amount of generators is needed to ensure that all Fire/Life Safety Equipment is operable during power failure for safety reasons.
 - (1)ea. for the Main Building.
 - (2)ea. 250kw for Post #05 and Post #06
 - (1)ea. for Post #09
 - (1)ea. for Post #24
 - (1)ea. for Post #25
 - (1)ea. for the proposed (85) bed facility.
2. Fire Sprinkler, Fire Alarm and Smoke Detection System-installation and repair of; Posts #02, #03, #04, #09, #9a, #18, #28 does not have a sprinkler system. We need to also repair any deficiencies on the already existing Fire Sprinkler, Fire Alarm and Smoke detection system. All of these needs to be hooked up to Central Control.

Post #07 and #17 needs an F. D. C. (Fire Department Connection) hook up.

Continued Page 2 of 2
Testimony 3/08/04 MSL

POSTS #06, #08, #17, #18, #24, needs smoke barriers. Any wooden walls or doors needs to be replaced with metals or fire rated materials.

All Fire Sprinkler System and Fire Alarms needs to be certified by a licensed vendor with documentation that it is operable at ACF and HDF. This is also a separate fee for documentation. Likewise, Fire Inspection has been disapproving all inspections due to no documentation of certification of the Fire Sprinkler and Fire Alarms.

Fire Extinguishers also needs to be inspected and certified annually by a certified Technician.

3) A/C Ventilation- All units must be operable and a good ventilation system so that the oxygen level is adequate for those confined in the building.

POSTS- #02, #04, #06, #07, #09, #9A, #16, #17, #18, #24, #25, ALL HAS A/C Units but most needs to be repaired, recharged or replaced.

POST #05 and POST #17 Lobby has no A/C unit.

Post #02, #04 Unit Control, #06 lobby, #08, #09, #9a, #16 unit control, Post #18 unit control, and Post #25 needs their A/C Unit to be repaired, recharged or replaced.

4)KITCHEN EQUIPMENT-At ACF a total of (04) ovens needs to be replaced. Presently, the oven is not being utilize due to the outsourcing of the galley to California Mart. My question is, is it a guarantee that the food service workers will report for work before, during and after a typhoon or any natural disaster? Therefor, the ovens needs to be replaced. HDF also needs (1)set of oven due to it is presently inoperable.

5)FIRE RETARDANT MATTRESSES/PILLOWS- A requisition has been submitted to GSA to purchase a total of (600)ea Fire Retardant Mattresses and (600) ea. Fire Retardant Pillows. However, I do not know if there is enough money to cover the costs.

6)ELECTRONIC LOCKING DEVICE- Units that needs repair or installation of,
Post #05 Emergency Exit and Egress Gates needs electronic locking device.
Post #06-Emergency Exit Doors needs to be replaced. Some cell doors are not operating electronically.

Post #08-Emergency Exit doors needs electronic locking device.

Post #09/#9A- Fire waiver is needed due to the buildings has no fence. The Emergency Doors needs electronic locking device.

Post #16-locking device needs to be repaired. Some doors can not be opened electronically or the doors are out of alignment due to the earthquake. Some doors can not be secured properly. The electrical control panel for the electronic locking device needs to be repaired.

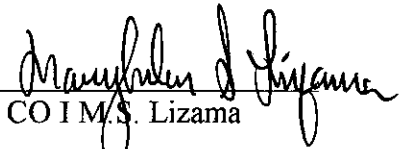
continued Page 4 of 4.
TESTIMONY 3/8/04 MSL

so they may become law abiding citizens when they return to society someday.

Ladies/Gentlemen, we are dealing with human lives who are confined and they still have to be treated humanely, protected and cared for during imprisonment. These people maybe your relatives, friends or neighbors. The public or anyone would say DOC is not important. But, DOC is important when there is an escape, when there is a high profile prisoner that they want locked up, or when someone commits a serious crime. You need to just for one moment do not think that they are just criminals, but they are humans. The reality is that it is costly to run a facility with an increase of population.

Once again, I am asking for your assistance for additional funds to repair all deficiencies or the purchase of much needed equipment to ensure the overall safety and welfare of staff and inmates.

Considering an (85) bed facility would cost approximately \$3.5 million, I am requesting a total of \$10 million dollars for the upgrade of the facility to come into compliance with the 1991 Settlement Agreement. Any remaining funds will be returned to the General Fund. If additional funds are needed, we will request again with justification. There will be a record of money spent and receipts for each project. Probably, an account should be set up at DOA. A monthly progress report will also be forwarded to your office for your review. Si Yuus Maase and May God Speed!


CO I M. S. Lizama

**DEPARTMENT OF CORRECTIONS
DAILY INSTITUTIONAL POPULATION BREAKDOWN**

1ST PLATOON DATE: 03-07-04 TIME: 2200-0600 h

POST	UNIT	FED. COUNT	INS COUNT		REG
					INM
#17	IMMIGRATION		16		
#3	INFIRMARY				01
#4	ADMINISTRATIVE SEG.				22
#5	LOCAL DETENTION				
#6	SPECIAL HOUSING (*Awaiting Extradition)	02 *02	03		32
#7	MAXIMUM FACILITY				2
#8	WOMEN'S FACILITY	13	02		1
#9	Community Correction Center				3
#16	Medium Level Housing Unit				2
	MEDIUM LEVEL I				2
	MEDIUM LEVEL II				1
#18	SHORT TERM UNIT				
	Medium Level I				1
	Medium Level II				0
	Medium Level III				0
	Min-Out				0
#24	MINIMUM IN FACILITY				2
	Court Committed				0
	Min-Out Awaiting Space availability				0
#28	R.S.A.T.				
#13	G.M. H				
#30	F.D.F. *Overnighters #Court Committed	40 detainees			0
#30A	G.D.F. *GPD-Overnighter	01 inmate			0
OFF ISLAND	BOP/OREGON				3
TOTAL		(58)	(21)		(29)
ACF TOTAL POP. [352]		IMMIGRANTS (21)			
INMATES: (260)		BREAKDOWN/ ETHNIC ORIGIN	MALE (19)	FEMALE (02)	FEDE
MALE: 249	FEMALE: 11				LOCA
DETAINEES (92)		CHINESE	15	01	LOCA
MALE: 74	FEMALE: 18	AFRICAN			OVER
LOCAL: 70	LOCAL: 05	BURMESE			WARR
FEDERAL: 04	FEDERAL: 13	IRANIAN			COUR
		KOREAN		01	
GMH [00]		CHUUKESE	04		
		YAPESE			
INMATE:		FILIPINO			FEDE
DETAINEE:		GHANA			LOCA
OFF ISLAND [33]		PALAUAN			LOCA
		IRAQI			OVER
MALE: 31	FEMALE: 01	MEXICAN			
OREGON: 01					

**DEPARTMENT OF CORRECTIONS
DAILY INSTITUTIONAL POPULATION BREAKDOWN**

1ST PLATOON DATE: 03-07-04 TIME: 2200-0600 hours

POST	UNIT	FED. COUNT	INS COUNT		REGULAR COUNT		TOTAL COUNT
					INMATE	DETAINEE	
#17	IMMIGRATION		16				16
#3	INFIRMARY				01		01
#4	ADMINISTRATIVE SEG.				22		22
#5	LOCAL DETENTION					64	64
#6	SPECIAL HOUSING (*Awaiting Extradition)	02 *02		03	32	06	45
#7	MAXIMUM FACILITY				21		21
#8	WOMEN'S FACILITY	13		02	11	05	31
#9	Community Correction Center				35		35
#16	Medium Level Housing Unit						
	MEDIUM LEVEL I				26		
	MEDIUM LEVEL II				26		
	MEDIUM LEVEL III				16		68
#18	SHORT TERM UNIT						
	Medium Level I				18		
	Medium Level II				04		
	Medium Level III				06		
	Min-Out				02		30
#24	MINIMUM IN FACILITY				29		
	Court Committed				08		
	Min-Out Awaiting Space availability				03		40
#28	R.S.A.T.						00
#13	G.M. H						00
#30	F.D.F.	40 detainees			01	75	125
	*Overnighters #Court Committed					*09 00	
#30A	G.D.F.	01 inmate			04	12	18
	*GPD-Overnighter					*01	
OFF ISLAND	BOP/OREGON				33		33
TOTAL		(58)	(21)		(298)	(172)	[549]
ACF TOTAL POP. [352]		IMMIGRANTS (21)			FDF [125]		
INMATES: (260)		BREAKDOWN/ ETHNIC ORIGIN	MALE (19)	FEMALE (02)	FEDERAL DETAINEE		40
MALE: 249	FEMALE: 11				LOCAL DETAINEE		75
DETAINEES (92)		CHINESE	15	01	LOCAL INMATE		01
MALE: 74	FEMALE: 18	AFRICAN			OVERNIGHTERS		09
LOCAL: 70	LOCAL: 05	BURMESE			WARRANT of ARREST		00
FEDERAL: 04	FEDERAL: 13	IRANIAN			COURT COMMITTED		00
		KOREAN		01			
GMH [00]		CHUUKESE	04		GDF [18]		
		YAPESE					
INMATE:		FILIPINO			FEDERAL INMATE		01
DETAINEE:		GHANA			LOCAL DETAINEE		12
OFF ISLAND [33]		PALAUAN			LOCAL INMATE		04
		IRAQI			OVERNIGHTER		01
MALE: 31	FEMALE: 01	MEXICAN					
OREGON: 01							

- 1.) **Type of facility:** **CONCRETE**
FIBER-BOND **Direct Supervision Model**
- 2.) **Design Capacity:** **(85) BED SPACE Capacity**
Single Cell
 - A Block** **top tier = 15**
bottom tier = 15
(30) single cells
 - B Block** **top tier = 15**
bottom tier = 15
(30) single cells
 - C Block** **top tier = 12**
bottom tier = 13 cells
(25) single cells
- 3.) **All blocks to be equipped with day rooms, exercise yards and laundry area, top tiers with CCTV camera, officer station, electronic lockings, service slots for all cells and entrances to include exercise yard and intercom systems to all cells.**
- 4.) **All blocks will be equipped with sprinkler system and fire alarm to be connected to main Central Control center.**
- 5.) **Facility entrance will be equipped with electronic locking, voice box and CCTV camera.**
- 6.) **All exercise yards will be equipped with razor wires, electronic locking doors with service slot and P.A. system.**
- 7.) **Facility shall be equipped with Generator (75kva) capacity for natural disasters and/or unforeseen emergencies.**
- 8.) **Facility shall be equipped with external perimeter lights on all sections.**
- 9.) **Facility shall be equipped with shakedown rooms and latrine for employees.**
- 10.) **Unit Control Room shall be equipped with PA monitoring system, electronic locking control panel, CCTV monitoring equipment and latrine/restroom.**



OFFICE OF SENATOR
ANTOINETTE (TONI) SANFORD

2565
FEB 06 2004

Senator Lou Leon Guerrero RN, MPH TIME: _____ AM() PM()

REC'D BY: A

02/05/04

MEMORANDUM

To: Senator Toni Sanford, Chairwoman
Committee on Economic Development, Retirement, Investments,
Public Works & Regulatory Functions

From: Senator Lou Leon Guerrero, Chairwoman *LLG*
Committee on Rules and Health

Subject: Referral – Bill No. 256 (LS)

In accordance with Section 6.04.04.01 of the Standing Rules of the Mina' Bente Siete na Liheslaturan Guahan,

Bill No. 256 (LS) - AN ACT TO PROVIDE FUNDING FOR THE CONSTRUCTION AND REPAIR OF PUBLIC SCHOOLS, NEW MEDICAL FACILITIES, BY ADDING A NEW ARTICLE 14 TO CHAPTER 22 OF DIVISION 2 OR TITLE 5, GUAM CODE ANNOTATED,

is referred to your Committee on Economic Development, Retirement Investments, Public Works & Regulatory Functions as the principal committee.

A copy of this bill may be obtained at the office of the Clerk of the Legislature.

Also in accordance with Section 7.01 of the Standing Rules, the Principal Committee shall notify the Speaker, the Chairwoman of the Committee on Rules and the Executive Director, the date, time, subject matter, number and title of the bill for which a public hearing will be held.

Thank you.

Cc: Speaker V. C. Pangelinan, Author, Bill No. 256 (LS)
Clerk of the Legislature

Democrat Majority Leader

Committee on Rules & Health
Chairwoman

Committee on Utilities & Land
Member

Committee on Appropriation
& Budgeting, General
Government Operations
Reorganization & Reform
Member

Committee on Community,
Culture, Recreation &
Public Broadcasting
Member

Committee on Economic
Development, Retirement,
Investments, Public Works,
& Regulatory Functions
Member

Committee on Education
& Housing
Member

Committee on Judiciary
& Transportation
Member

Committee on Youth &
Senior Citizens,
Federal & Foreign Affairs
Member