

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

October 4, 2011

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

31-11-972  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 10/4/11  
Time 4:00 PM  
Received by [Signature]

Dear Madame Speaker:

Transmitted herewith is Bill No. 308-31 (LS) "AN ACT TO APPROPRIATE ONE MILLION THREE HUNDRED SIXTY THOUSAND NINE HUNDRED FORTY-THREE DOLLARS (\$1,360,943) FROM THE SUPPLEMENTAL APPROPRIATIONS REVENUE FUND TO THE UNIVERSITY OF GUAM FOR ITS FY 2012 OPERATIONS; FOR THE PAYMENT OF TAX YEAR 2010 INCOME TAX REFUNDS; AND TO AMEND TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO IMPROVING FISCAL DISCIPLINE", which was signed into law on September 30, 2011 as **Public Law 31-126**.

*Senseramente,*

EDDIE BAZA CALVO

2011 OCT - 5 AM 8:10  
[Signature]

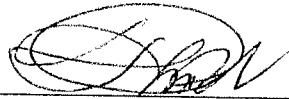
Attachment: copy of Bill

972

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

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

This is to certify that Bill No. 308-31 (LS), "AN ACT TO APPROPRIATE ONE MILLION THREE HUNDRED SIXTY THOUSAND NINE HUNDRED FORTY-THREE DOLLARS (\$1,360,943) FROM THE SUPPLEMENTAL APPROPRIATIONS REVENUE FUND TO THE UNIVERSITY OF GUAM FOR ITS FY 2012 OPERATIONS; FOR THE PAYMENT OF TAX YEAR 2010 INCOME TAX REFUNDS; AND TO AMEND TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO IMPROVING FISCAL DISCIPLINE," was on the 19<sup>th</sup> day of September, 2011, duly and regularly passed.




Judith T. Won Pat, Ed.D.  
Speaker

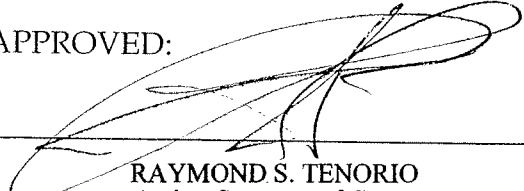
Attested:

  
Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by I Maga'lahaen Guåhan this 19<sup>th</sup> day of SEP, 2011, at 7:50 o'clock P..M.

  
PO<sup>2</sup> R.S. Mearriola #364  
Assistant Staff Officer  
Maga'laha's Office

APPROVED:

  
RAYMOND S. TENORIO  
Acting Governor of Guam

Date: SEP 30 2011

Public Law No. 31-126

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

**Bill No. 308-31 (LS)**

Introduced by:

v. c. pangelinan  
Judith T. Won Pat, Ed.D.

T. C. Ada

V. Anthony Ada

F. F. Blas, Jr.

B. J.F. Cruz

Chris M. Duenas

Judith P. Guthertz, DPA

Sam Mabini, Ph.D.

T. R. Muña Barnes

Adolpho B. Palacios, Sr.

Dennis G. Rodriguez, Jr.

R. J. Respicio

M. Silva Taijeron

Aline A. Yamashita, Ph.D.

**AN ACT TO APPROPRIATE ONE MILLION THREE HUNDRED SIXTY THOUSAND NINE HUNDRED FORTY-THREE DOLLARS (\$1,360,943) FROM THE SUPPLEMENTAL APPROPRIATIONS REVENUE FUND TO THE UNIVERSITY OF GUAM FOR ITS FY 2012 OPERATIONS; FOR THE PAYMENT OF TAX YEAR 2010 INCOME TAX REFUNDS; AND TO *AMEND* TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO IMPROVING FISCAL DISCIPLINE.**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1. Legislative Statement and Intent.** *I Liheslaturan Guåhan*

3 finds that a Memorandum of Understanding (MOU) between the government of  
4 Guam and the United States Department of the Interior (USDO I) was signed in  
5 September of 2008 by the Director of the Department of Revenue and Taxation,  
6 the Director of the Bureau of Budget and Management Research, and the Director  
7 of the USDO I Office of Insular Affairs. Due to the overestimations of Section 30  
8 funds remitted to the government of Guam by the United States, the amount of  
9 Twenty-Three Million Two Hundred Thirty-Three Thousand One Hundred Eight  
10 One Dollars (**\$23,233,181**) was identified as an overpayment of Section 30 funds  
11 to the government of Guam. This MOU acknowledged the government of Guam’s  
12 agreement that the amount indicated as an overpayment be offset with future  
13 Section 30 funds remitted to the government of Guam for Fiscal Years 2010  
14 through 2013 in the amount of approximately Five Million Eight Hundred Eight  
15 Thousand Three Hundred Dollars (**\$5,808,300**) each fiscal year.

16           *I Liheslaturan Guåhan* further finds that the original Bill No. 145-31, the  
17 Executive Budget Request from *I Maga’lahen Guåhan*, recognized Fifty Million  
18 Two Hundred Twenty-Eight Thousand Eight Hundred Fifty-Five Dollars  
19 (**\$50,228,855**) of Federal Income Tax Collection – Section 30, which is net of the  
20 Five Million Eight Hundred Eight Thousand Two Hundred Ninety-Five Dollars  
21 (**\$5,808,295**) overpayment reconciliation of Section 30 funds indicated in the  
22 September 2008 MOU.

23           *I Liheslaturan Guåhan* deplores the difficulty the Committee on  
24 Appropriations had in obtaining information legally mandated to be provided by  
25 the Bureau of Budget and Management Research (BBMR) in accordance with  
26 Public Law 30-219. The Administration’s practice of preaching transparency,  
27 while concealing information, is clearly becoming its emerging policy.

1 Information necessary for the Committee on Appropriations for proper budgeting  
2 purposes were withheld from the Committee. Information was only provided via a  
3 Freedom of Information Act request that was sent to the BBMR to obtain such  
4 communications, correspondences, etc. that are legally mandated to be provided to  
5 *I Liheslaturan Guåhan*.

6 Through the Freedom of Information Act request, the Committee received a  
7 letter dated September 1, 2011 from *I Maga'láhen Guåhan* to the Assistant  
8 Secretary of the Interior, Office of Insular Affairs, Anthony M. Babauta, which  
9 requested Fifty-Three Million One Hundred Twenty-Five Thousand Nine Hundred  
10 Forty-Nine Dollars (**\$53,125,949**) of Section 30 funds, Two Million Eight Hundred  
11 Ninety-Seven Thousand Ninety-Four Dollars (**\$2,897,094**) *more* than what was  
12 included in the Governor's Executive Budget Request. Also in this letter, *I*  
13 *Maga'láhen Guåhan* requested a decrease of the overpayment reconciliation of  
14 Section 30 funds for FY 2012 from the Five Million Eight Hundred Eight  
15 Thousand Two Hundred Ninety-Five Dollars (**\$5,808,295**) submitted in the  
16 budgets transmitted to *I Liheslaturan Guåhan* by *I Maga'láhen Guåhan* after the  
17 September 1, 2011 letter, amount to only Five Hundred Thousand Dollars  
18 (**\$500,000**), while also requesting to spread the remainder owed in the September  
19 2008 MOU, which was to be paid by September 2012, to be spread over the next  
20 five (5) years as follows:

21	September 2011	\$500,000
22	September 2012	\$1,500,000
23	September 2013	\$2,000,000
24	September 2014	\$3,000,000
25	September 2015	<u>\$4,616,600</u>
26		<b>\$11,616,600</b>

1            *I Liheslaturan Guåhan* further finds that if the FY 2012 Section 30 advance  
2 request calculation and the request to amend the September 2008 MOU is  
3 approved by the USDOJ, the government of Guam will receive an additional Two  
4 Million Eight Hundred Ninety-Seven Thousand Ninety-Four Dollars (**\$2,897,094**)  
5 in Section 30 funds for FY 2012 that was *not* included in the General Fund  
6 estimates for Section 30 in Bill No. 1(2-S) (Annual Appropriations Act of FY  
7 2012) passed by *I Liheslaturan Guåhan* and transmitted to *I Maga'lahaen Guåhan*  
8 in September of 2011.

9            It is *I Liheslaturan Guåhan's* intent to appropriate additional funds to cover  
10 the operational expenditures of the University of Guam (UOG) in lieu of  
11 implementing a burdensome student tuition increase in the upcoming semesters.  
12 This additional support to the University will still require it to implement its  
13 austerity programs, which will result in a savings of approximately One Million  
14 Nine Hundred Thousand Dollars (**\$1,900,000**) in FY 2012 through utility  
15 conservation, temporary salary reductions, and other efforts as presented to the  
16 UOG Board of Regents.

17            *I Liheslaturan Guåhan* intends to continue to direct additional revenues to  
18 the payment of tax refunds as well, and intends to appropriate the excess funds  
19 towards the payment of Tax Year 2010 A-Status Income Tax Returns.

20            **Section 2.** The sum of Two Million Eight Hundred Ninety-Seven  
21 Thousand Ninety-Four Dollars (**\$2,897,094**) from Section 30 funds for FY 2012  
22 *shall* be deposited into the Supplemental Appropriations Revenue Fund *only* for  
23 the use of the appropriations herein for FY 2012. The deposit in this Section *shall*  
24 occur *no later than* fifteen (15) days after the enactment of this Act.

25            **Section 3. Appropriation to the University of Guam.** The sum of One  
26 Million Three Hundred Sixty Thousand Nine Hundred Forty-Three Dollars  
27 (**\$1,360,943**) is appropriated from the Supplemental Appropriations Revenue Fund

1 to the University of Guam for its operations in Fiscal Year 2012. This  
2 appropriation is contingent upon the transmittal of a resolution duly passed by the  
3 University of Guam Board of Regents to the Speaker of *I Liheslaturan Guåhan* and  
4 *I Maga'lahen Guåhan* that the University of Guam *will not* increase its tuition in  
5 the Spring 2012 and Fall 2012 semesters which *shall* be due *no later than* sixty  
6 (60) days after the enactment of this Act.

7 **Section 4. Appropriation for Tax Year 2010 A-Status Returns.** The  
8 sum of One Million Five Hundred Thirty-Six Thousand One Hundred Fifty-One  
9 Dollars (**\$1,536,151**) is appropriated from the Supplemental Appropriations  
10 Revenue Fund to pay for Tax Year 2010 “A-status returns,” and *shall* be  
11 transferred into the Income Tax Refund Efficient Payment Trust Fund *no later*  
12 *than* thirty (30) days after the enactment of this Act. The deposits into the Income  
13 Tax Refund Efficient Payment Trust Fund in this Section *shall* be separate and  
14 apart from and *shall not be* credited as a deposit mandated in §51102 of Chapter 51  
15 of Title 11 of the Guam Code Annotated. For the purposes of this Section, A-  
16 status returns means income tax returns that are certified by the Guam Department  
17 of Revenue and Taxation as ready for payment.

18 **Section 5. Appropriations Contingent Upon Approval by the USDOJ**  
19 **of Section 30 Advance for FY 2012.** The appropriations in Sections 3 and 4 of  
20 this Act are contingent upon approval of the final official Section 30 advance for  
21 FY 2012 by the USDOJ.

22 **Section 6. Legislative Intent - Income Tax Refund Provision Payment**  
23 **Assurance for FY 2012.** *I Liheslaturan Guåhan* finds that the income tax  
24 provision in the Annual Appropriations Act of FY 2011 in the amount of One  
25 Hundred Million Sixty Two Thousand Dollars (\$100,062,000) has *not* been  
26 deposited into the Income Tax Refund Efficient Payment Trust Fund by the current

1 Administration in accordance with §51102 of Chapter 51 of Title 11, Guam Code  
2 Annotated.

3 *I Liheslaturan Guåhan* further finds that the current Administration has  
4 admitted in several instances, on the record and under oath, that such deposits have  
5 *not* been made citing a multitude of reasons for *not* following the law.

6 *I Liheslaturan Guåhan* further finds that One Hundred Five Million Dollars  
7 (\$105,000,000) was provisioned in Bill No. 1(2-S), as passed by *I Liheslaturan*  
8 *Guåhan* and transmitted to *I Maga'lahen Guåhan*. Before *I Liheslaturan Guåhan*  
9 in the Committee of the Whole, when asked if the full provision is planned to be  
10 set aside in FY 2012 as budgeted in the FY 2012 budget act as passed, the Chief  
11 Fiscal Advisor of *I Maga'lahen Guåhan*, under oath, stated “if we want to run the  
12 government into the ground.”

13 *I Liheslaturan Guåhan* further finds that in a letter from *I Maga'lahen*  
14 *Guåhan* sent to *I Liheslaturan Guåhan* on September 7, 2011, *I Maga'lahen*  
15 *Guåhan* stated that “[t]here are no revenues to support these continuing  
16 appropriations.” Furthermore, the Director of the Department of Administration  
17 has publicly voiced concerns over continuing appropriations that have *no* identified  
18 revenue source that may exacerbate the revenues in FY 2012.

19 *I Liheslaturan Guåhan* further finds that Sections 7, 8, and 9 of this Act are  
20 paramount in providing more assurances that the current Administration will set  
21 aside the full provision for income tax refunds of One Hundred Five Million  
22 Dollars (\$105,000,000) in FY 2012, and will deposit that amount in the Income  
23 Tax Refund Efficient Payment Trust Fund in accordance with §51102 of Chapter  
24 51 of Title 11, Guam Code Annotated, and that the continuing appropriations  
25 language included in Bill No. (2-S) as passed by *I Liheslaturan Guåhan*, will *not*  
26 deter or prevent these deposits and subsequent payment of the provisioned income  
27 tax refund payments in FY 2012.



1           **Section 7.** A new Subsection (g) is *added* to §4109 of Title 5, Guam Code  
2 Annotated, to read:

3           **“§ 4109.    Program Execution.**

4                   (g) Continuing Appropriations

5                               (1) *shall not* be filled in the first quarter of the current  
6 fiscal year if the Monthly Comparative Revenue and  
7 Expenditure Analysis Report filed pursuant to 5GCA §  
8 4109(c)(3) in September of the previous fiscal year indicates  
9 unfavorable revenue collections to estimated revenues;

10                              (2) *shall not* be filled after the first quarter of the  
11 current fiscal year if the cumulative year-to-date current fiscal  
12 year deposits into the Income Tax Refund Efficient Payment  
13 Trust Fund are *less than* the budgeted provision pursuant to the  
14 monthly audits required pursuant to 11GCA § 51106(b).

15                              (3) may be filled for any current fiscal year expenses  
16 and *shall* automatically de-appropriate the equal amount from  
17 the branch, agency or department from its current fiscal year  
18 revenues appropriated. The de-appropriated revenues, if  
19 available on September 1 of the current fiscal year, are reserved  
20 for the branch, agency or department which may be expended  
21 by a new legislative appropriation.”

22           **Section 8.** A new Subsection (x) is *added* to §4117 of Title 5, Guam Code  
23 Annotated to read:

24           **“§ 4117.    Definitions.**

25                   (x) *Continuing Appropriations* include all unexpended and  
26 unencumbered balance of appropriations available to support obligations for

1 a specified purpose or project, even when these obligations are incurred  
2 beyond the budget year.”

3 **Section 9. Reaffirmation of Title 5 GCA, §4118.**

4 “§ 4118. Cash Reports from the Department of  
5 Administration.

6 The Director of Administration *shall* certify and submit to *I*  
7 *Maga’lahen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the  
8 Director of the Bureau of Budget and Management Research the following  
9 reports, which *shall* also be certified by the Treasurer of Guam:

10 (a) Treasurer of Guam’s Monthly General Fund Cash  
11 Position Report, which *shall* be submitted *no later than* five (5) days  
12 after the end of each month.

13 (b) Treasurer of Guam’s Weekly General Fund Cash Flow  
14 Report, inclusive of unrestricted and restricted accounts, with  
15 comparisons of actual to forecasted cash receipts, which *shall* be  
16 submitted *no later than* five (5) days after the end of each week.

17 (c) Department of Administration’s Weekly Cash  
18 Disbursement Analysis, which *shall* be submitted *no later than* five  
19 (5) days after the end of each week.

20 (d) The reports listed above in Subsections (a), (b) and (c)  
21 *shall* be posted on *I Maga’lahen Guåhan’s* website, the Department of  
22 Administration’s website, the Bureau of Budget and Management  
23 Research’s website, and the Department of Revenue and Taxation’s  
24 website.”

25 **Section 10. Severability.** *If* any provisions of this Act or the application  
26 thereof to any person or circumstance is held invalid, such invalidity *shall not*  
27 affect any other provision or application of this Act which can be given effect

- 1 without the invalid provision or application, and to this end the provisions of this
- 2 Act are severable.



**OFFICE OF THE SPEAKER**  
**JUDITH T. WON PAT, Ed.D.**  
 CHAIRPERSON OF THE COMMITTEE ON EDUCATION AND PUBLIC LIBRARIES

2011 SEP 19 PM 2:17

**VICE CHAIR**

COMMITTEE ON TOURISM,  
 MUNICIPAL AFFAIRS,  
 HOUSING AND  
 RECREATION

September 19, 2011

COMMITTEE ON  
 TAXATION,  
 APPROPRIATIONS, PUBLIC  
 DEBT, BANKING,  
 INSURANCE, RETIREMENT  
 AND LAND

To: Honorable Rory Respicio  
 Chairperson, Committee on Rules

RE: **Waiver of Public Hearing Request of Bill No. 308 (LS)**

**COMMISSIONER**

GUAM COMMISSION ON  
 DECOLONIZATION

After careful evaluation for a request to waive the requirements for a public hearing on Bill No. 308 (LS)

GUAM FIRST  
 COMMISSION

**Bill No. 308 (LS) An act to appropriate One Million Three Hundred Sixty Thousand Nine Hundred Forty Three Dollars (\$1,360,943) from the supplemental appropriations revenue fund to the University of Guam for its FY 2012 operations, for the payment of tax year 2010 income tax refunds and to amend 5GCA, relative to improving fiscal discipline.**

**VICE PRESIDENT**

ASSOCIATION OF  
 PACIFIC ISLAND  
 LEGISLATURES  
 (APIL)

**BOARD MEMBER**

PACIFIC RESOURCES FOR  
 EDUCATION  
 AND LEARNING  
 (PREL)

I certify that Bill No. 308 (LS) meets a condition set forth in 2 GCA §2103(a), and that the requirements for a public hearing on Bill No. (LS).

Senseramente,

Judith T. Won Pat, Ed.D.  
 Speaker

**LEGISLATIVE  
 REPRESENTATIVE**

PACIFIC ISLAND  
 DEVELOPMENT BANK  
 (PIDB)

FESTIVAL OF THE  
 PACIFIC ARTS  
 (FESTPAC)

cc: Clerk of the Legislature



6

# I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: 9/19/11

## VOTING SHEET

Bill No. 308-31 (LS)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.	✓				
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL

15    0    0    0    0

CERTIFIED TRUE AND CORRECT:

  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

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

Bill No. 308-31 (LS)

Introduced by:

V.C. Pangelinan  
J.T. Won Pat, Ed.D.

2011 SEP 12 PM 1:18

**AN ACT TO APPROPRIATE ONE MILLION THREE HUNDRED SIXTY THOUSAND NINE HUNDRED FORTY THREE DOLLARS (\$1,360,943) FROM THE SUPPLEMENTAL APPROPRIATIONS REVENUE FUND TO THE UNIVERSITY OF GUAM FOR ITS FY 2012 OPERATIONS, FOR THE PAYMENT OF TAX YEAR 2010 INCOME TAX REFUNDS AND TO AMEND 5GCA RELATIVE TO IMPROVING FISCAL DISCIPLINE.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

1        **Section 1. Legislative Statement and Intent.** *I Liheslaturan Guåhan*  
2 finds that a Memorandum of Understanding (MOU) between the government of  
3 Guam and the United States Department of the Interior (USDO I) was signed in  
4 September of 2008 by the Director of the Department of Revenue and Taxation,  
5 the Director of the Bureau of Budget and Management Research, and the Director  
6 of the USDO I Office of Insular Affairs. Due to the over-estimations, Section 30  
7 funds remitted to the government of Guam by the United States, the amount of  
8 Twenty Three Million Two Hundred Thirty Three Thousand One Hundred Eight  
9 One Dollars (\$23,233,181) was identified as an overpayment of Section 30 funds

1 to the government of Guam. This MOU acknowledged the government of Guam's  
2 agreement that the amount indicated as an overpayment be offset with future  
3 Section 30 funds remitted to the government of Guam for fiscal years 2010 through  
4 2013 in the amount of approximately Five Million Eight Hundred Eight Thousand  
5 Three Hundred Dollars (**\$5,808,300**) each fiscal year.

6 *I Liheslaturan Guåhan* further finds that the original Bill No. 145-31, the  
7 Executive Budget Request from *I Maga'låhen Guåhan*, recognized Fifty Million  
8 Two Hundred Twenty Eight Thousand Eight Hundred Fifty Five Dollars  
9 (**\$50,228,855**) of Federal Income Tax Collection – Section 30 which is net of the  
10 Five Million Eight Hundred Eight Thousand Two Hundred Ninety Five Dollars  
11 (**\$5,808,295**) Overpayment Reconciliation of Section 30 Funds indicated in the  
12 September 2008 MOU.

13 *I Liheslaturan Guåhan* deplores the difficulty the Committee on  
14 Appropriations had in obtaining information legally mandated to be provided by  
15 the Bureau of Budget and Management Research (BBMR) in accordance with  
16 Public Law 30-219. The Administration's practice of preaching transparency,  
17 while concealing information, is clearly becoming its emerging policy. Information  
18 necessary for the Committee on Appropriations for proper budgeting purposes,  
19 were withheld from the Committee. Information was only provided via a Freedom  
20 of Information Act request that was sent to the BBMR to obtain such  
21 communications, correspondences, etc. that are legally mandated to be provided to  
22 *I Liheslaturan Guåhan*.

23 Through the Freedom of Information Act request, the Committee received a  
24 letter dated September 1, 2011, from *I Maga'låhen Guåhan* to the Assistant  
25 Secretary of the Interior, Office of Insular Affairs, Anthony M. Babauta, which  
26 requested Fifty Three Million One Hundred Twenty Five Thousand Nine Hundred  
27 Forty Nine Dollars (**\$53,125,949**) of Section 30 funds, Two Million Eight Hundred



1 Ninety Seven Thousand Ninety Four Dollars (**\$2,897,094**) *more* than what was  
2 included in the Governor's Executive Budget Request. Also in this letter, *I*  
3 *Maga'låhen Guåhan* requested a decrease of the Overpayment Reconciliation of  
4 Section 30 Funds for FY 2012 from the Five Million Eight Hundred Eight  
5 Thousand Two Hundred Ninety Five Dollars (**\$5,808,295**) submitted in the  
6 budgets transmitted to *I Liheslaturan Guåhan* by *I Maga'låhen Guåhan* after the  
7 September 1, 2011 letter, amount to only Five Hundred Thousand Dollars  
8 (**\$500,000**), while also requesting to spread the remainder owed in the September  
9 2008 MOU, which was to be paid by September 2012, to be spread over the next  
10 five years as follows:

11	September 2011	\$500,000
12	September 2012	1,500,000
13	September 2013	2,000,000
14	September 2014	3,000,000
15	September 2015	<u>4,616,600</u>
16		<b>\$11,616,600</b>

17 *I Liheslaturan Guåhan* further finds that if the FY 2012 Section 30 advance  
18 request calculation and the request to amend the September 2008 MOU is  
19 approved by the USDOJ, the government of Guam will receive an additional Two  
20 Million Eight Hundred Ninety Seven Thousand Ninety Four Dollars (**\$2,897,094**)  
21 in Section 30 funds for FY 2012 that was not included in the General Fund  
22 estimates for Section 30 in Bill 1 (2-S) (*Annual Appropriations Act of FY 2012*)  
23 passed by *I Liheslaturan Guåhan* and transmitted to *I Maga'låhen Guåhan* in  
24 September of 2011.

25 It is *I Liheslaturan Guåhan*'s intent to appropriate additional funds to cover  
26 the operational expenditures at the University of Guam in lieu of implementing a  
27 burdensome student tuition increase in the upcoming semesters. This additional

1 support to the University will still require to implement its austerity programs  
2 which will result in a savings of approximately One Million Nine Hundred  
3 Thousand Dollars (**\$1,900,000**) in FY 2012 through utility conservation, temporary  
4 salary reductions and other efforts as presented to the Board of Regents.

5 *I Liheslaturan Guåhan* intends to continue to direct additional revenues to  
6 the payments of tax refunds as well and intends to appropriate the excess funds  
7 toward the payment of Tax Year 2010 A-Status Income Tax Returns.

8 **Section 2.** The sum of Two Million Eight Hundred Ninety Seven  
9 Thousand Ninety Four Dollars (**\$2,897,094**) from Section 30 Funds for FY 2012  
10 *shall* be deposited into the Supplemental Appropriations Revenue Fund *only* for  
11 the use of the appropriations herein for FY 2012. The deposit in this Section *shall*  
12 occur *no later than* fifteen (15) days after the enactment of this Act.

13 **Section 3. Appropriation to the University of Guam.**

14 (a) The sum of One Million Three Hundred Sixty Thousand Nine Hundred  
15 Forty Three Dollars (**\$1,360,943**) is appropriated from the Supplemental  
16 Appropriations Revenue Fund to the University of Guam for its  
17 operations in Fiscal Year 2012.

18 (b) The appropriation in Section 3(a) is contingent upon a sending of a  
19 resolution duly passed by the University of Guam Board of Regents to  
20 the Speaker of *I Liheslaturan Guåhan* and *I Maga'låhen Guåhan* that the  
21 University of Guam *will not* increase its tuition in the Spring 2012 and  
22 Fall 2012 semesters which *shall* be due *no later than* sixty (60) days after  
23 the enactment of this Act.

24 **Section 4. Appropriation for Tax Year 2010 "A-status returns."** The  
25 sum of One Million Five Hundred Thirty Six Thousand One Hundred Fifty One  
26 Dollars (**\$1,536,151**) is appropriated from the Supplemental Appropriations  
27 Revenue Fund to pay for Tax Year 2010 "A-status returns" and *shall* be transferred

1 into the Income Tax Refund Efficient Payment Trust Fund *no later than* thirty (30)  
2 days after the enactment of this Act. The deposits into the Income Tax Refund  
3 Efficient Payment Trust Fund in this Section *shall* be separate and apart from and  
4 *shall not be* credited as a deposit mandated in §51102 of Chapter 51 of Title 11 of  
5 the Guam Code Annotated. For the purposes of this Section, A-status returns  
6 means income tax returns that are certified by the Guam Department of Revenue  
7 and Taxation as ready for payment.

8       **Section 5. Appropriations Contingent Upon Approval by the USDOJ**  
9 **of Section 30 Advance for FY 2012.** The appropriations in Sections 3 and 4 of  
10 this Act are contingent upon approval of the final official Section 30 advance for  
11 FY 2012 by the USDOJ.

12       **Section 6. Legislative Intent - Income Tax Refund Provision Payment**  
13 **Assurance for FY2012.** *I Liheslaturan Guåhan* finds that the income tax  
14 provision in the *Annual Appropriations Act of FY 2011* in the amount of One  
15 Hundred Million Sixty Two Thousand Dollars (\$100,062,000) has not been  
16 deposited into the Income Tax Refund Efficient Payment Trust Fund by the current  
17 Administration in accordance with §51102 of Chapter 51 of Title 11 of the Guam  
18 Code Annotated.

19       *I Liheslaturan Guåhan* further finds that the current Administration has  
20 admitted, in several instances, on the record and under oath, that such deposits  
21 have not been made citing a multitude of reasons for not following the law.

22       *I Liheslaturan Guåhan* further finds that One Hundred Five Million Dollars  
23 (\$105,000,000) was provisioned in Bill 1 (2-S) as passed by *I Liheslaturan*  
24 *Guåhan* and transmitted to *I Maga'låhen Guåhan*. Before *I Liheslaturan Guåhan*  
25 in the Committee of the Whole, when asked if the full provision is planned to be  
26 set aside in FY 2012 as budgeted in the FY 2012 budget act as passed, the Chief

1 Fiscal Advisor of *I Maga'låhen Guåhan*, under oath, stated “if we want to run the  
2 government into the ground.”

3 *I Liheslaturan Guåhan* further finds that in a letter from *I Maga'låhen*  
4 *Guåhan* sent to *I Liheslaturan Guåhan* on September 7, 2011, *I Maga'låhen*  
5 *Guåhan* stated that “[t]here are no revenues to support these continuing  
6 appropriations.” Furthermore, the Director of the Department of Administration  
7 has publicly voiced concerns over continuing appropriations that have no identified  
8 revenue source that may exacerbate the revenues in FY 2012.

9 *I Liheslaturan Guåhan* further finds that Sections 7, 8, and 9 of this Act are  
10 paramount in providing more assurances that the current Administration will set  
11 aside the full provision for income tax refunds of One Hundred Five Million  
12 Dollars (\$105,000,000) in FY 2012 and will deposit that amount in the Income Tax  
13 Refund Efficient Payment Trust Fund in accordance with §51102 of Chapter 51 of  
14 Title 11 of the Guam Code Annotated, and that the continuing appropriations  
15 language included in Bill 1 (2-S) as passed by *I Liheslaturan Guåhan*, will not  
16 deter or prevent these deposits and subsequent payment of the provisioned income  
17 tax refund payments in FY 2012.

18 **Section 7. A new Subsection (g) is added to § 4109 of Title 5, Guam**  
19 **Code Annotated to read:**

20 **“§ 4109. Program Execution.**

21 (g) Continuing Appropriations

22 (1) shall not be filled in the first quarter of the current fiscal  
23 year if the Monthly Comparative Revenue and Expenditure Analysis  
24 Report filed pursuant to 5GCA § 4109(c)(3) in September of the  
25 previous fiscal year indicates unfavorable revenue collections to  
26 estimated revenues;

1                   (2) shall not be filled after the first quarter of the current fiscal  
2                   year if the cumulative year-to-date current fiscal year deposits into the  
3                   Income Tax Refund Efficient Payment Trust Fund are less than the  
4                   budgeted provision pursuant to the monthly audits required pursuant  
5                   to 11GCA § 51106(b).

6                   (3) may be filled for any current fiscal year expenses and shall  
7                   automatically de-appropriate the equal amount from the branch,  
8                   agency or department from its current fiscal year revenues  
9                   appropriated. The de-appropriated revenues, if available on  
10                   September 1 of the current fiscal year are reserved for the branch,  
11                   agency or department which may be expended by a new Legislative  
12                   appropriation.

13           **Section 8. A new Subsection (x) is added to § 4117 of Title 5, Guam**  
14 **Code Annotated to read:**

15           **“§ 4117. Definitions.**

16                   (x) Continuing Appropriations include all unexpended and  
17                   unencumbered balance of appropriations available to support obligations for  
18                   a specified purpose or project, even when these obligations are incurred  
19                   beyond the budget year.”

20           **Section 9. Reaffirmation of 5GCA, § 4118.**

21           **“§ 4118. Cash Reports from the Department of Administration.**

22                   The Director of Administration shall certify and submit to *I*  
23                   *Maga'lahaen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the  
24                   Director of the Bureau of Budget and Management Research the following  
25                   reports, which shall also be certified by the Treasurer of Guam:

1           (a) Treasurer of Guam’s Monthly General Fund Cash Position Report,  
2           which shall be submitted *no later than* five (5) days after the end of each  
3           month.

4           (b) Treasurer of Guam’s Weekly General Fund Cash Flow Report,  
5           inclusive of unrestricted and restricted accounts, with comparisons of actual  
6           to forecasted cash receipts, which shall be submitted *no later than* five (5)  
7           days after the end of each week.

8           (c) Department of Administration’s Weekly Cash Disbursement  
9           Analysis, which shall be submitted *no later than* five (5) days after the end  
10          of each week.

11          (d) Reports listed above in Subsections (a), (b), and (c) shall be posted  
12          on the *I Maga’lahen Guåhan’s* website, the Department of Administration’s  
13          website, the Bureau of Budget and Management Research’s website, and the  
14          Department of Revenue and Taxation’s website.”

15          **Section 10. Severability.** If any provisions of this Act or the application  
16          thereof to any person or circumstance is held invalid, such invalidity *shall* not  
17          affect any other provision or application of this Act which can be given effect  
18          without the invalid provision or application, and to this end the provisions of this  
19          Act are severable.