

EDDIE BAZA CALVO  
Governor



2012 DEC 31 AM 11:22 *de*  
RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

December 28, 2012

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

31-12-2047  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 12/28/12  
Time 5:04pm  
Received by FW

Dear Madame Speaker:

Transmitted herewith is Bill No. 535-31 (COR) "AN ACT TO REPEAL AND REENACT SECTION 18 OF PUBLIC LAW 31-229 TO AUTHORIZE THE UNIVERSITY OF GUAM TO PLEDGE CERTAIN REVENUES AND ENTER INTO INSTALLMENT PURCHASE AND SALE AGREEMENTS FOR THE PURPOSE OF REFINANCING THE JESUS AND EUGENIA LEON GUERRERO SCHOOL OF BUSINESS AND PUBLIC ADMINISTRATION BUILDING", which I signed into law on December 28, 2012 as Public Law 31-277.

*Senseramente,*

  
EDDIE BAZA CALVO

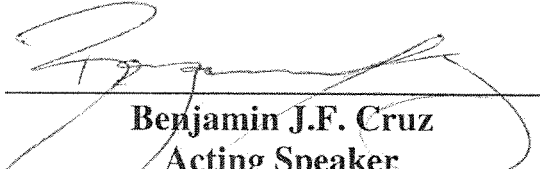
Attachment: copy of Bill

2047


*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2012 (SECOND) Regular Session

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


This is to certify that **Bill No. 535-31 (COR)**, "AN ACT TO *REPEAL AND REENACT* SECTION 18 OF PUBLIC LAW 31-229 TO AUTHORIZE THE UNIVERSITY OF GUAM TO PLEDGE CERTAIN REVENUES AND ENTER INTO INSTALLMENT PURCHASE AND SALE AGREEMENTS FOR THE PURPOSE OF REFINANCING THE JESUS AND EUGENIA LEON GUERRERO SCHOOL OF BUSINESS AND PUBLIC ADMINISTRATION BUILDING", was on the 14<sup>th</sup> day of December, 2012, duly and regularly passed.

  
Benjamin J.F. Cruz  
Acting Speaker

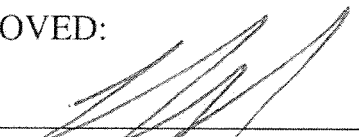
Attested:

  
Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 17 day of Nov, 2012, at 11:40 o'clock A.M.

  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

  
EDWARD J.B. CALVO  
*I Maga'lahaen Guåhan*

Date: DEC 28 2012

Public Law No. 31-277

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
**2012 (SECOND) Regular Session**

**Bill No. 535- 31 (COR)**

Introduced by:

V. C. Pangelinan  
Judith P. Guthertz, DPA  
Judith T. Won Pat, Ed.D.  
T. C. Ada  
V. Anthony Ada  
F. F. Blas, Jr.  
B. J.F. Cruz  
Chris M. Dueñas  
Sam A. Mabini, Ph.D.  
T. R. Muña Barnes  
Adolpho B. Palacios, Sr.  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
M. Silva Taijeron  
Aline A. Yamashita, Ph.D.

**AN ACT TO *REPEAL* AND *REENACT* SECTION 18 OF  
PUBLIC LAW 31-229 TO AUTHORIZE THE  
UNIVERSITY OF GUAM TO PLEDGE CERTAIN  
REVENUES AND ENTER INTO INSTALLMENT  
PURCHASE AND SALE AGREEMENTS FOR THE  
PURPOSE OF REFINANCING THE JESUS AND  
EUGENIA LEON GUERRERO SCHOOL OF BUSINESS  
AND PUBLIC ADMINISTRATION BUILDING.**

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

2        **Section 1. Legislative Findings and Intent.** Subsequent to the enactment of  
3        Public Law 31-229, the University of Guam (University) and the United States  
4        Department of Agriculture (USDA) have identified an Installment Purchase and Sale

1 as the most desirable structure for the refinancing of the Jesus and Eugenia Leon  
2 Guerrero School of Business and Public Administration Building (JELG Building).  
3 The University has also requested the flexibility to pledge certain revenues to the  
4 payment of amounts owed under an Installment Sale Agreement in connection with  
5 the refinancing of the JELG Building.

6 *I Liheslaturan Guåhan* finds that the University will best be able to realize  
7 savings from the refinancing of the JELG Building with the ability to enter into an  
8 Installment Purchase Agreement and an Installment Sale Agreement, and to secure its  
9 payments under such documents by a pledge of certain appropriated revenues as  
10 further described below, and hereby authorizes the University to enter into such  
11 agreements and pledge such revenues.

12 **Section 2.** Section 18 of Public Law 31-229 is hereby *repealed* and *reenacted*  
13 as follows:

14 **“Section 18. University of Guam; Authorization to Enter Into Lease**  
15 **Agreements and Installment Purchase and Sale Agreements.**

16 (a) Exclusively for the purpose of facilitating the refinancing of  
17 the JELG Building, the University is hereby authorized to sell the JELG  
18 Building to, and to simultaneously repurchase the JELG Building from,  
19 the University of Guam Endowment Foundation (Foundation), by  
20 entering into a purchase agreement and a sale agreement with the  
21 Foundation as further provided in this Section.

22 (b) Exclusively for the purpose of facilitating the financing of the  
23 design, construction or renovation of the facilities described below, the  
24 University is hereby authorized to lease the site of the University of  
25 Guam Student Services Center and the site of the Engineering Annex  
26 facility onto the existing Agriculture and Life Sciences Building to the

1 Foundation, and, in that connection, the University is hereby authorized  
2 to lease those buildings and site, as improved, back from the Foundation,  
3 by entering into one (1) or more lease agreements and one (1) or more  
4 lease-back agreements as provided in this Section.

5 (c) The proceeds of such financing or refinancing are to be applied  
6 to the following purposes:

7 (1) Refinance existing USDA Community Facilities Loan  
8 for the JELG Building – approximately Twelve Million Four  
9 Hundred Eighty-One Thousand Five Hundred Fifteen Dollars  
10 (\$12,481,515) as of May 31, 2012;

11 (2) Expansion and renovation of the University of Guam  
12 Student Services Center — approximately Eighteen Million Sixty-  
13 Five Thousand Six Hundred Twenty-Five Dollars (\$18,065,625);

14 (3) Construction of an Engineering Annex facility onto the  
15 existing Agriculture and Life Sciences Building at the University  
16 for the School of Engineering — approximately Three Million Six  
17 Hundred Four Thousand Three Hundred Seventy-Five Dollars  
18 (\$3,604,375);

19 (4) Funding of any appropriate or necessary debt service  
20 reserve; and

21 (5) Payment of expenses incurred in connection with such  
22 financing not already included in an existing appropriation for or  
23 the regular budget of any government agency or instrumentality or  
24 public corporation providing any service in connection with the  
25 issuance of such bonds.

1           To the extent the costs of completion of the project described in  
2           Subsection (c)(2) of this Section are *less than* the amount set forth in  
3           Subsection (c)(2), any excess financing proceeds for such project can be  
4           applied toward the costs of the project described in Subsection (c)(3) of  
5           this Section. To the extent the costs of completion of the project  
6           described in Subsection (c)(3) of this Section are *less than* the amount set  
7           forth in Subsection (c)(3) of this Section, any excess financing proceeds  
8           for such project can be applied toward the costs of the project described  
9           in Subsection (c)(2) of this Section.

10           (d) The lease and lease-back agreements *shall* have a term *not to*  
11           *exceed* forty (40) years. The lease-back agreement may be structured as  
12           an annually renewable lease with provision for automatic renewals to the  
13           extent that liquid fuel tax revenues, funds from the Guam Highway Fund  
14           or other available revenues in the amount of up to One Million Dollars  
15           (\$1,000,000) per fiscal year beginning FY 2014 are appropriated to the  
16           University of Guam Capital Improvements Fund for the purpose of  
17           paying rental payments due under the lease-back agreement during such  
18           fiscal year. The lease-back agreement, and any loan, bonds or other  
19           obligations secured thereby, *shall not* be construed as a debt under any  
20           applicable debt limitation contained in the Guam Organic Act or Guam  
21           law.

22           (e) The lease-back agreement *shall* require that the University be  
23           responsible for the procurement and oversight of the design and  
24           construction associated with the project or projects authorized to be  
25           financed pursuant to this Section. The lease and lease-back agreements  
26           *shall* be valid and binding obligations of the University and the

1 Foundation enforceable in accordance with their respective terms, and  
2 there shall be no power to terminate or declare null and void any such  
3 agreement for procurement violations or any other reason or reasons.

4 (f) The lease and lease-back agreements *shall* provide rental  
5 provisions, term, payment, security, default, remedy, and other terms or  
6 provisions as may be specified in such agreements and *shall not* permit  
7 the substitution of other public buildings for the public buildings initially  
8 leased by the University and the Foundation pursuant to this Section. The  
9 lease agreement and lease-back agreement may provide that if sufficient  
10 funds are *not* appropriated or otherwise available for the payment of  
11 amounts due under the lease-back, the University will have the obligation  
12 to vacate the leased facility or facilities, and the lender or its trustee, as  
13 applicable, *shall* have the right of use and occupancy of the leased  
14 facility or facilities for the remainder of the term of the lease and lease-  
15 back agreements, unless new mutually satisfactory terms are entered into.  
16 For this purpose, the lease and lease-back agreements may each provide  
17 that its respective term *shall* be extended for a period *not to exceed* the  
18 shorter of ten (10) years beyond the original term of the agreement or  
19 such period of time as is necessary to repay in full any financing arranged  
20 pursuant to Subsection (f) of this Section.

21 (g) To facilitate the purposes of this Act and to provide security  
22 for the holders of any financing instruments issued pursuant to this Act,  
23 the lease and lease-back agreements may provide that the Foundation  
24 may assign, with the consent of the University, the lease and lease-back  
25 agreements to any lender, trustee or other party as appropriate to facilitate  
26 the financing and refinancing contemplated hereby.

1           (h) To facilitate the purposes of this Act and to provide security  
2 for the USDA, the Foundation may assign, with the consent of the  
3 University, the installment purchase and installment sale agreements to  
4 the USDA or other party as appropriate to facilitate the refinancing  
5 contemplated hereby.

6           (i) To minimize the financing cost to the University, the  
7 Foundation has applied to the USDA for a loan secured by the base rental  
8 payments to be made by the University pursuant to the lease-back  
9 agreement. Alternatively, in the event the Foundation is unable to secure  
10 funding through a USDA loan prior to December 31, 2012, the  
11 University and the Guam Economic Development Authority are hereby  
12 authorized to enter into the lease agreement and lease-back agreement  
13 described above, subject to the same terms, conditions and provisions set  
14 forth in this Section (substituting the Authority for the Foundation). *I*  
15 *Liheslaturan Guåhan*, pursuant to § 50103(k), Title 12 Guam Code  
16 Annotated, hereby approves either the USDA loan or loans and/or the  
17 issuance and sale by the Guam Economic Development Authority of  
18 Project Revenue Bonds pursuant to Chapter 64 of Title 12 of the Guam  
19 Code Annotated for the purposes set forth in Subsection (b) of this  
20 Section, such loans or such Project Revenue Bonds to be secured by the  
21 base rental payments to be made by the University pursuant to the lease-  
22 back agreement; provided, however, that the terms and conditions of such  
23 loan or bonds, and the related lease and lease-back agreements, *shall* be  
24 consistent with this Section, that any such USDA loan *shall* bear interest  
25 at a rate that *does not exceed* five percent (5%) per annum and with a  
26 term that *does not exceed* forty (40) years, and that any such bonds *shall*



1 mature *not later than* forty (40) years after their date of issuance and  
2 *shall* bear interest at such rates and be sold for such price or prices as  
3 *shall* result in a yield to the bondholders that *does not exceed* eight and  
4 one half percent (8.5%) per annum.

5 (j) To minimize the refinancing cost to the University, the  
6 Foundation has applied to the USDA for a loan secured by the sale  
7 payments to be made by the University pursuant to the installment sale  
8 agreement. *I Liheslaturan Guåhan*, pursuant to § 50103(k), Title 12  
9 Guam Code Annotated, hereby approves the USDA loan for the purpose  
10 set forth in Subsection (a) of this Section, such loan to be secured by the  
11 sale payments to be made by the University pursuant to the installment  
12 sale agreement; provided, however, that the terms and conditions of such  
13 loan and the related purchase and sale agreements, *shall* be consistent  
14 with this Section, that any such USDA loan *shall* bear interest at a rate  
15 that *does not exceed* five percent (5%) per annum and with a term that  
16 *does not exceed* the remaining term of the existing USDA loan relating to  
17 the JELG Building. The obligation of the University to make sale  
18 payments may be secured by a pledge of the Five Hundred Thousand  
19 Dollars (\$500,000) appropriation from the Guam Highway Fund to the  
20 University of Guam Capital Improvements Fund authorized by Section  
21 20 hereof. The revenues pledged and thereafter received by the  
22 government, the University, or by any depository or custodian *shall* be  
23 deposited in a separate account and *shall* be immediately subject to the  
24 lien of such pledge without any physical delivery thereof or further act,  
25 and the lien of such pledge *shall* be valid and binding against all parties  
26 having claims of any kind in tort, contract or otherwise against the

1 government of Guam, the University or such depository or custodian,  
2 irrespective of whether the parties have notice thereof. The instrument by  
3 which such pledge is created need not be recorded.

4 (k) The obligation of the University to make lease payments may  
5 be secured by a pledge or reservation of liquid fuel tax revenues, funds  
6 from the Guam Highway Fund or other available revenues. Any pledge  
7 or reservation pursuant to this Section *shall* be made on lease financing  
8 terms that *do not* cause the lease obligation of the College to be public  
9 indebtedness within the meaning of Section 11 of the Guam Organic Act  
10 or to violate or breach any existing bond covenant. The tax revenues  
11 pledged or reserved and thereafter received by the government, the  
12 University or by any trustee, depository or custodian *shall* be deposited in  
13 a separate account and *shall* be immediately subject to such reservation  
14 or the lien of such pledge without any physical delivery thereof or further  
15 act, and such reservation or the lien of such pledge *shall* be valid and  
16 binding against all parties having claims of any kind in tort, contract or  
17 otherwise against the government of Guam, the University or such  
18 trustee, depository or custodian, irrespective of whether the parties have  
19 notice thereof. The instrument by which such pledge or reservation is  
20 created need not be recorded. Any amounts pledged as provided in this  
21 Section are hereby continuously appropriated for the purpose of making  
22 lease payments, but any amounts only reserved as provided in this  
23 Section and *not* pledged, *shall* be subject to annual appropriation for the  
24 purpose of making lease payments. In the event amounts are pledged as  
25 provided in this Section, any surplus tax revenues *shall* be released to the  
26 government on a monthly basis.”

1           **Section 3. Severability.** If any provision of this Act or its application to any  
2 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
3 not affect other provisions or applications of this Act which can be given effect  
4 without the invalid provisions or application, and to this end the provisions of this Act  
5 are severable.

6

# I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (SECOND) Regular Session

Date: 12/14/12

## VOTING SHEET

Bill No. 535-31(COR)

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					EA
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**

14    0    0    0    1

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

DEC 10 2012

**The Honorable Judith T. Won Pat, Ed.D.**

Speaker

I Mina'trentai Una Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

2012 DEC 13 AM 11:13  
*[Signature]*

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

**VIA: The Honorable Rory J. Respicio**

Chairperson, Committee on Rules

**RE: Committee Report on Bill No. 535-31 (COR), As Introduced**

Vice Chairman  
Committee on Education

Dear Speaker Won Pat:

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Transmitted herewith is the Committee Report on Bill No. 535-31(COR), As Introduced, "An Act to Repeal and Re-Enact Section 18 of Public Law 31-229 to authorize the University of Guam to pledge certain revenues and enter into installment purchase and sale agreements for the purpose of refinancing the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building" sponsored by Senator Vicente (ben) Cabrera Pangelinan which was referred to the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land.

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Committee votes are as follows:

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

5

TO PASS

0

NOT TO PASS

1

TO REPORT OUT ONLY

0

TO ABSTAIN

0

TO PLACE IN INACTIVE FILE

Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

*Si Yu'os Ma'åse',*

*[Signature]*  
Vicente (ben) Cabrera Pangelinan  
Chairman

**COMMITTEE REPORT  
ON**

**Bill No. 535-31 (COR), As Introduced**

**Sponsored by Senator Vicente (ben) Cabrera  
Pangelinan**

**An Act to Repeal and Re-Enact Section 18 of  
Public Law 31-229 to authorize the University of  
Guam to pledge certain revenues and enter into  
installment purchase and sale agreements for the  
purpose of refinancing the Jesus and Eugenia  
Leon Guerrero School of Business and Public  
Administration Building.**



the People

# I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

DEC 10 2012

## MEMORANDUM

**To: All Members**

Committee on Appropriations, Taxation, Public Debt, Banking,  
Insurance, Retirement, and Land

**From:** Senator Vicente (ben) Cabrera Pangelinan  
Committee Chairperson

**Subject: Committee Report on Bill No. 535-31 (COR), As Introduced**

Transmitted herewith for your consideration is the Committee Report on Bill No. 535-31 (COR), As Introduced, "An Act to Repeal and Re-Enact Section 18 of Public Law 31-229 to authorize the University of Guam to pledge certain revenues and enter into installment purchase and sale agreements for the purpose of refinancing the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building," sponsored by Senator Vicente (ben) Cabrera Pangelinan.

This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 535 (COR), As Introduced
4. Public Hearing Sign-in Sheet
5. Copies of Written Testimonies
6. Copy of Fiscal Note Request
7. Copy of COR referral Bill No. 535-31 (COR)
8. Copy of the Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

*Si Yu'os Ma'åse',*

Vicente (ben) Cabrera Pangelinan  
Chairman

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security



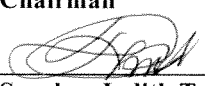
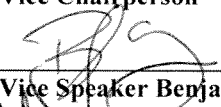

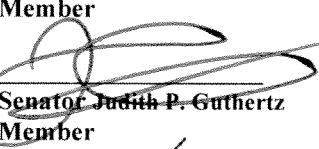


Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

*I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN*

**Committee Voting Sheet**

**Committee on Appropriations, Taxation, Banking, Public Debt, Insurance,  
Retirement, and Land**

Bill No. 535-31 (COR), as introduced, "An Act to Repeal and Re-Enact Section 18 of Public Law 31-229 to authorize the University of Guam to pledge certain revenues and enter into installment purchase and sale agreements for the purpose of refinancing the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building"

Committee Members	To Pass	Not To Pass	Report Out Only	Abstain	Inactive File
 Senator Vicente (ben) Cabrera Pangelinan Chairman	 12/10/12				
 Speaker Judith T. Won Pat, Ed.D Vice Chairperson					
 Vice Speaker Benjamin J. F. Cruz Member	12/10/12				
 Senator Tina Rose Muña-Barnes Member	12/10/12				
 Senator Judith P. Guthertz Member					
 Senator Dennis Rodriguez, Jr. Member			✓ 12/10		
Senator V. Anthony Ada Member					
Senator Christopher M. Duenas Member					
Senator Mana Silva Taijeron Member					





# I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

## Committee Report

Bill No. 535-31 (COR): An Act to Repeal and Re-Enact Section 18 of Public Law 31-229 to authorize the University of Guam to pledge certain revenues and enter into installment purchase and sale agreements for the purpose of refinancing the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building.

### **I. OVERVIEW**

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land convened a public hearing on December 6, 2012 at 9:00am in I Liheslatura's public hearing room.

### **Public Notice Requirements**

Notices were disseminated via hand-delivery and e-mail to all senators and all main media broadcasting outlets on November 29, 2012 (5-Day Notice), and again on December 4, 2012 (48 Hour Notice).

### **(a) Committee Members and Senators Present**

Vice Speaker Benjamin J.F. Cruz (Acting Committee Chairman)  
Senator Tina Rose Muña Barnes  
Senator Judith P. Guthertz, DPA  
Senator Thomas C. Ada  
Senator V. Anthony Ada

### **(b) Appearing before the Committee**

Dr. Robert A. Underwood, President – University of Guam  
David O'Brien, Vice President of Administration & Finance – University of Guam

### **(c) Written Testimonies Submitted**

None

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

## **II. COMMITTEE PROCEEDINGS**

### **(a) Bill Sponsor Summary**

**Acting Chairman, Vice Speaker Benjamin J.F. Cruz:** Thank you. The next bill--the Chair will take out of order, will be Bill 535 an Act to repeal and re-enact Section 18 of Public Law 31-229 to authorize the University of Guam to pledge certain revenues and enter into installment purchase and sale agreements for the purpose of refinancing the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building. The author and Chair is not here, so I'll read his statement into the record.

(See attached Sponsor Statement)

That was the sponsor's statement, and we have President Underwood and Vice President O'Brien here to testify.

### **(b) Testimony**

**Dr. Robert A. Underwood, President – University of Guam:** Thank you, Mr. Vice Speaker, and thank you for your indulgence in taking the bill out of order. As you read the statement, we're just here to endorse the bill and to continue on the progress for trying to get this through USDA. This will allow us to get the loan application through in a bigger package, of course, which will include the SBPA Building and therefore, allow us to save some money and apply it to the entire package. We're hopeful that you secure this legislation, and we thank you for the time. Mr. O'Brien is here to answer any other questions.

**Vice Speaker Benjamin J.F. Cruz:** Thank you.

### **Panel Questions and Comments**

None

This concludes the testimony on Bill No. 535-31. There being no additional individuals to present any additional testimony, this Committee will continue to remain open for the acceptance of any additional information or public testimony on the bill discussed. You can submit those testimonies to my office directly on Soledad Avenue, as well as the Guam Legislature or through any of the electronic processes either email at [senbenp@guam.net](mailto:senbenp@guam.net) or through our website at [senbenp.com](http://senbenp.com).

## **III. FINDINGS & RECOMMENDATIONS**

The Committee on Appropriation, Taxation, Public Debt, Banking, Insurance, Retirement, and Land, hereby reports Bill No. 535-31 (COR), as introduced with the recommendation to pass.

***I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN***  
**2012 (SECOND) Regular Session**

Bill No. 535 - 31 (COR)

Introduced by:

v.c. pangelinan  
J.P. Guthertz, DPA  
J.T. Won Pat, Ed.D.

2012 NOV 27

PM 2:17

**AN ACT TO REPEAL AND RE-ENACT SECTION 18 OF PUBLIC LAW 31-229 TO AUTHORIZE THE UNIVERSITY OF GUAM TO PLEDGE CERTAIN REVENUES AND ENTER INTO INSTALLMENT PURCHASE AND SALE AGREEMENTS FOR THE PURPOSE OF REFINANCING THE JESUS AND EUGENIA LEON GUERRERO SCHOOL OF BUSINESS AND PUBLIC ADMINISTRATION BUILDING.**

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

**Section 1. Legislative Findings and Intent.** Subsequent to the enactment of Public Law 31-229, the University of Guam (University) and the United States Department of Agriculture (USDA) have identified an Installment Purchase and Sale as the most desirable structure for the refinancing of the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building (JELG Building). The University has also requested the flexibility to pledge certain revenues to the payment of amounts owed under an Installment Sale Agreement in connection with the refinancing of the JELG Building.

*I Liheslaturan Guåhan* finds that the University will best be able to realize savings from the refinancing of the JELG Building with the ability to enter into an Installment Purchase Agreement and an Installment Sale Agreement, and to secure its payments under such documents by a pledge of certain appropriated revenues as

1 further described below, and hereby authorizes the University to enter into such  
2 agreements and pledge such revenues.

3 **Section 2. Section 18 of Public Law 31-229 is hereby repealed and re-**  
4 **enacted as follows:**

5 **“Section 18. University of Guam; Authorization to Enter Into Lease**  
6 **Agreements and Installment Purchase and Sale Agreements.**

7 (a) Exclusively for the purpose of facilitating the refinancing of the  
8 JELG Building, the University is hereby authorized to sell the JELG  
9 Building to, and to simultaneously repurchase the JELG Building from, the  
10 University of Guam Endowment Foundation (Foundation), by entering into  
11 a purchase agreement and a sale agreement with the Foundation as further  
12 provided in this section.

13 (b) Exclusively for the purpose of facilitating the financing of the  
14 design, construction or renovation of the facilities described below, the  
15 University is hereby authorized to lease the site of the University of Guam  
16 Student Services Center and the site of the Engineering Annex facility onto  
17 the existing Agriculture and Life Sciences Building to the Foundation, and,  
18 in that connection, the University is hereby authorized to lease those  
19 buildings and site, as improved, back from the Foundation, by entering into  
20 one or more lease agreements and one or more lease-back agreements as  
21 provided in this section.

22 (c) The proceeds of such financing or refinancing are to be applied  
23 to the following purposes:

24 (1) Refinance existing USDA Community Facilities Loan for  
25 the JELG Building – approximately Twelve Million Four Hundred  
26 Eighty One Thousand Five Hundred Fifteen Dollars (**\$12,481,515**) as  
27 of May 31, 2012;

1                   (2) Expansion and renovation of the University of Guam  
2 Student Services Center — approximately Eighteen Million Sixty  
3 Five Thousand Six Hundred Twenty Five Dollars (**\$18,065,625**);

4                   (3) Construction of an Engineering Annex facility onto the  
5 existing Agriculture and Life Sciences Building at the University for  
6 the School of Engineering — approximately Three Million Six  
7 Hundred Four Thousand Three Hundred Seventy Five Dollars  
8 (**\$3,604,375**);

9                   (4) Funding of any appropriate or necessary debt service  
10 reserve; and

11                  (5) Payment of expenses incurred in connection with such  
12 financing not already included in an existing appropriation for or the  
13 regular budget of any Government agency or instrumentality or public  
14 corporation providing any service in connection with the issuance of  
15 such bonds.

16                  To the extent the costs of completion of the project described in  
17 Subsection (c)(2) above are less than the amount set forth in Subsection  
18 (c)(2), any excess financing proceeds for such project can be applied toward  
19 the costs of the project described in Subsection (c)(3) above. To the extent  
20 the costs of completion of the project described in Subsection (c)(3) above  
21 are less than the amount set forth in Subsection (c)(3) above, any excess  
22 financing proceeds for such project can be applied toward the costs of the  
23 project described in Subsection (c)(2) above.

24                  (d) The lease and lease-back agreements shall have a term not to  
25 exceed forty (40) years. The lease-back agreement may be structured as an  
26 annually renewable lease with provision for automatic renewals to the extent  
27 that liquid fuel tax revenues, funds from the Guam Highway Fund or other

1 available revenues in the amount of up to One Million Dollars (**\$1,000,000**)  
2 per fiscal year beginning FY 2014 are appropriated to the University of  
3 Guam Capital Improvements Fund for the purpose of paying rental  
4 payments due under the lease-back agreement during such fiscal year. The  
5 lease-back agreement, and any loan, bonds or other obligations secured  
6 thereby, shall not be construed as a debt under any applicable debt limitation  
7 contained in the Guam Organic Act or Guam law.

8 (e) The lease-back agreement shall require that the University be  
9 responsible for the procurement and oversight of the design and construction  
10 associated with the project or projects authorized to be financed pursuant to  
11 this Section. The lease and lease-back agreements shall be valid and binding  
12 obligations of the University and the Foundation enforceable in accordance  
13 with their respective terms, and there shall be no power to terminate or  
14 declare null and void any such agreement for procurement violations or any  
15 other reason or reasons.

16 (f) The lease and lease-back agreements shall provide rental  
17 provisions, term, payment, security, default, remedy, and other terms or  
18 provisions as may be specified in such agreements and shall not permit the  
19 substitution of other public buildings for the public buildings initially leased  
20 by the University and the Foundation pursuant to this Section. The lease  
21 agreement and lease-back agreement may provide that if sufficient funds are  
22 not appropriated or otherwise available for the payment of amounts due  
23 under the lease-back, the University will have the obligation to vacate the  
24 leased facility or facilities, and the lender or its trustee, as applicable, shall  
25 have the right of use and occupancy of the leased facility or facilities for the  
26 remainder of the term of the lease and lease-back agreements, unless new  
27 mutually satisfactory terms are entered into. For this purpose, the lease and

1 lease-back agreements may each provide that its respective term shall be  
2 extended for a period not to exceed the shorter of ten (10) years beyond the  
3 original term of the agreement or such period of time as is necessary to  
4 repay in full any financing arranged pursuant to Subsection (f) of this  
5 Section.

6 (g) To facilitate the purposes of this Act and to provide security for  
7 the holders of any financing instruments issued pursuant to this Act, the  
8 lease and lease-back agreements may provide that the Foundation may  
9 assign, with the consent of the University, the lease and lease-back  
10 agreements to any lender, trustee or other party as appropriate to facilitate  
11 the financing and refinancing contemplated hereby.

12 (h) To facilitate the purposes of this Act and to provide security for  
13 the USDA, the Foundation may assign, with the consent of the University,  
14 the installment purchase and installment sale agreements to the USDA or  
15 other party as appropriate to facilitate the refinancing contemplated hereby.

16 (i) To minimize the financing cost to the University, the  
17 Foundation has applied to the USDA for a loan secured by the base rental  
18 payments to be made by the University pursuant to the lease-back  
19 agreement. Alternatively, in the event the Foundation is unable to secure  
20 funding through a USDA loan prior to December 31, 2012, the University  
21 and the Guam Economic Development Authority are hereby authorized to  
22 enter into the lease agreement and lease-back agreement described above,  
23 subject to the same terms, conditions and provisions set forth in this Section  
24 (substituting the Authority for the Foundation). *I Liheslaturan Guåhan*,  
25 pursuant to § 50103(k), Title 12 Guam Code Annotated, hereby approves  
26 either the USDA loan or loans and/or the issuance and sale by the Guam  
27 Economic Development Authority of Project Revenue Bonds pursuant to

Chapter 64 of Title 12 of the Guam Code Annotated for the purposes set forth in Subsection (b) of this Section, such loans or such Project Revenue Bonds to be secured by the base rental payments to be made by the University pursuant to the lease-back agreement; provided, however, that the terms and conditions of such loan or bonds, and the related lease and lease-back agreements, shall be consistent with this Section, that any such USDA loan shall bear interest at a rate that does not exceed five percent (5%) per annum and with a term that does not exceed forty (40) years, and that any such bonds shall mature not later than forty (40) years after their date of issuance and shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the bondholders that does not exceed eight and one half percent (8.5%) per annum.

(j) To minimize the refinancing cost to the University, the Foundation has applied to the USDA for a loan secured by the sale payments to be made by the University pursuant to the installment sale agreement. *I Liheslaturan Guåhan*, pursuant to § 50103(k), Title 12 Guam Code Annotated, hereby approves the USDA loan for the purpose set forth in Subsection (a) of this Section, such loan to be secured by the sale payments to be made by the University pursuant to the installment sale agreement; provided, however, that the terms and conditions of such loan and the related purchase and sale agreements, shall be consistent with this Section, that any such USDA loan shall bear interest at a rate that does not exceed five percent (5%) per annum and with a term that does not exceed the remaining term of the existing USDA loan relating to the JELG Building. The obligation of the University to make sale payments may be secured by a pledge of the Five Hundred Thousand Dollar (\$500,000) appropriation from the Guam Highway Fund to the University of Guam Capital Improvements



1 Fund authorized by Section 20 hereof. The revenues pledged and thereafter  
2 received by the government, the University, or by any depository or  
3 custodian shall be deposited in a separate account and shall be immediately  
4 subject to the lien of such pledge without any physical delivery thereof or  
5 further act, and the lien of such pledge shall be valid and binding against all  
6 parties having claims of any kind in tort, contract or otherwise against the  
7 government of Guam, the University or such depository or custodian,  
8 irrespective of whether the parties have notice thereof. The instrument by  
9 which such pledge is created need not be recorded.

10 (k) The obligation of the University to make lease payments may  
11 be secured by a pledge or reservation of liquid fuel tax revenues, funds from  
12 the Guam Highway Fund or other available revenues. Any pledge or  
13 reservation pursuant to this Section shall be made on lease financing terms  
14 that do not cause the lease obligation of the College to be public  
15 indebtedness within the meaning of Section 11 of the Guam Organic Act or  
16 to violate or breach any existing bond covenant. The tax revenues pledged or  
17 reserved and thereafter received by the government, the University or by any  
18 trustee, depository or custodian shall be deposited in a separate account and  
19 shall be immediately subject to such reservation or the lien of such pledge  
20 without any physical delivery thereof or further act, and such reservation or  
21 the lien of such pledge shall be valid and binding against all parties having  
22 claims of any kind in tort, contract or otherwise against the government of  
23 Guam, the University or such trustee, depository or custodian, irrespective of  
24 whether the parties have notice thereof. The instrument by which such  
25 pledge or reservation is created need not be recorded. Any amounts pledged  
26 as provided in this Section are hereby continuously appropriated for the  
27 purpose of making lease payments, but any amounts only reserved as

provided in this Section and not pledged, shall be subject to annual appropriation for the purpose of making lease payments. In the event amounts are pledged as provided in this Section, any surplus tax revenues shall be released to the government on a monthly basis.”

**Section 3. Severability.** If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.



**Mina'trentai Unu Na Liheslaturan Guahan**  
***THIRTY-FIRST GUAM LEGISLATURE***  
**Senator Vicente "ben" Cabrera Pangelinan**

**COMMITTEE ON APPROPRIATIONS, TAXATION, PUBLIC DEBT, BANKING,  
INSURANCE, RETIREMENT AND LAND**  
**December 6, 2012**

**Bill No. 535-31 (COR)**  
**SIGN UP SHEET**

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT Yes No
David O'Brien	UCG	735-2900			X	X
Robert A. Duno	UCG				X	X



**Mina'trentai Unu Na Liheslaturan Guahan**  
**THIRTY-FIRST GUAM LEGISLATURE**  
**Senator Vicente "ben" Cabrera Pangelinan**

**COMMITTEE ON APPROPRIATIONS, TAXATION, PUBLIC DEBT, BANKING,  
INSURANCE, RETIREMENT AND LAND**  
**December 6, 2012**

**Bill No. 535-31 (COR)**  
**SIGN UP SHEET**

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT Yes No
Mark B. Mendoza	UOG ef	727-3868	fundvog@gmail.com			Yes

324 W. Soledad Ave. Hagatna, Guam 96910  
Ph. 473-4236 Fax. 473-4238  
Email: senbenp@guam.net

**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 535-31 (COR)**

An act to repeal and re-enact Section 18 of Public Law 31-229 to authorize the University of Guam to pledge certain revenues and enter into installment purchase and sale agreements for the purpose of refinancing the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building.

**Department/Agency Appropriation Information**

Dept./Agency Affected: University of Guam	Dept./Agency Head: Dr. Robert Underwood
Department's General Fund (GF) appropriation(s) to date:	30,189,847
Department's Other Fund (Specify) appropriation(s) to date: Healthy Futures Fund; Tourist Attraction Fund; GHF (CIP); and Territorial Education Facilities Fund	3,662,048
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>333,851,895</b>

**Fund Source Information of Proposed Appropriation**

	General Fund:	(Guam Highway Fund):	Total:
FY 2012 Unreserved Fund Balance <sup>1</sup>		\$552,310	\$552,310
FY 2013 Adopted Revenues	\$0	\$17,209,945	\$17,209,945
FY 2013 Appro. (P.L. 31-233)	\$0	(\$17,209,945)	(\$17,209,945)
Sub-total:	\$0	\$552,310	\$552,310
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$552,310</b>	<b>\$552,310</b>

**Estimated Fiscal Impact of Bill**

	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Guam Highway	\$0	\$0	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
<b>Total</b> 1/	<b>\$0</b>	<b>\$0</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>

1. Does the bill contain "revenue generating" provisions? / / Yes /X/ No  
If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No  
If no, what is the additional amount required? \$ /X/ N/A
3. Does the Bill establish a new program/agency? / / Yes /X/ No  
If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No  
Is there a federal mandate to establish the program/agency? / / Yes /X/ No
4. Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /X/ No  
/ / Requested agency comments not received by due date /X/ Other: Time constraint

Analyst (s): Joe Certeza Date: 12/05/2011 Director: John A. Rios, Director Date: DEC 12 2012

**Footnotes:**

1/ This Bill proposes to add two (2) provisions to the original Section 18 of P.L. 31-229, specifically, authorizing the University of Guam to refinance the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building (JELG Building) by selling the facility to the University Endowment Foundation (UEF) and repurchasing the facility from UEF @\$12,481,515 through a leaseback agreement for the renovation and expansion of the Guam Student Center (\$18,065,625); construction of the Engineering Annex Facility (\$3,604,375); and the debt service reserve (\$750,000). Total leaseback agreement is estimated at \$34,901,575 with a 40-year pay back under a purchase installment agreement. As such, the bill proposes to appropriate \$1,500,000 from the Guam Highway Fund beginning 10/01/2013 (FY2014). Based on revenue tracking reports as of October 31, 2012, actual FY2013 GHF revenues are projected to exceed the FY2013 Adopted Revenues of \$17,209,945 by \$3,209,212 by end of fiscal year 09/30/2012. Based on an anticipated growth of 1.8% (from FY2012 GHF Revenues-\$20,067,647 to Projected FY2013 GHF Revenues-\$20,419,157) in revenue for fuel costs and vehicle registration, it is anticipated that actual GHF revenues may total \$20,786,702 for FY2014.



## COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

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Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

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Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

### MINORITY MEMBERS:

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

November 30, 2012

VIA FACSIMILE  
(671) 472-2825

John A. Rios  
Director  
Bureau of Budget & Management Research  
P.O. Box 2950  
Hagåtña, Guam 96910

RE: Request for Fiscal Note -  
Bill Nos. 535-31 (COR) through 540-31 (COR)

*Hafa Adai* Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Unu na Liheslaturan Guåhan*'s most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

*Si Yu'os ma'åse'* for your attention to this matter.

Very Truly Yours,

Rory J. Respicio

Attachments

Cc: Clerk of the Legislature

2012 NOV 30 AM 11:57

MESSAGE CONFIRMATION

NOV-30-2012 08:42 AM FRI

FAX NUMBER : 4772240  
NAME : GNF

NAME/NUMBER : 4722825  
PAGE : 3  
START TIME : NOV-30-2012 08:41AM FRI  
ELAPSED TIME : 00' 32"  
MODE : STD ECM  
RESULTS : [ O.K ]



COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Gutherz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

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vicente c. panglinan

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ASSI. MINORITY LEADER

Senator  
Christopher M. Ducnas

November 30, 2012

VIA FACSIMILE  
(671) 472-2825

John A. Rios  
Director  
Bureau of Budget & Management Research  
P.O. Box 2950  
Hagåtña, Guam 96910

RE: Request for Fiscal Note -  
Bill Nos. 535-31 (COR) through 540-31 (COR)

*Hafa Adai* Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Unu na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

*Si Yu'os ma'åse'* for your attention to this matter.

Very Truly Yours,

*Rory J. Respicio*

Attachments

Cc: Clerk of the Legislature

Rec'd: Analyst  
date: 11/30/12  
time 9:43am

Bill Nos.	Sponsor	Title	Date Introduced	Date Referred	120 Day Deadline	Comte Referred
<b>535-31 (COR)</b>	V. C. Pangelinan, J. P. Guthertz, DPA, J. T. Won Pat, Ed.D.	AN ACT TO REPEAL AND RE-ENACT SECTION 18 OF PUBLIC LAW 31-229 TO AUTHORIZE THE UNIVERSITY OF GUAM TO PLEDGE CERTAIN REVENUES AND ENTER INTO INSTALLMENT PURCHASE AND SALE AGREEMENTS FOR THE PURPOSE OF REFINANCING THE JESUS AND EUGENIA LEON GUERRERO SCHOOL OF BUSINESS AND PUBLIC ADMINISTRATION BUILDING.	11/27/2012 2:17 pm	<b>11/28/12</b>		Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land
<b>536-31 (COR)</b>	B. J.F. Cruz	AN ACT RELATIVE TO ZONING THE PROPERTY, B-3 REM-12, LOCATED IN THE MUNICIPALITY OF MALAHAN, GUAM FROM A (AGRICULTURAL) TO M-1 (LIGHT INDUSTRIAL) TO ALLOW FOR THE CREATION OF RENEWABLE ENERGY.	11/27/2012, 4:20pm	<b>11/28/12</b>		Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land
<b>537-31 (COR)</b>	T. R. Muna Barnes	AN ACT TO APPROPRIATE THE SUM OF SIXTY THOUSAND DOLLARS (\$60,000) FROM THE TOURIST ATTRACTION FUND TO THE UNIVERSITY OF GUAM FOR THE OPERATIONS OF THE GUAMPEDIA FOUNDATION.	11/28/2012, 3:40pm	<b>11/28/12</b>		Committee on Municipal Affairs, Tourism, Housing and Recreation





## COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

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Senator  
vicente c. pangelinan

### MINORITY MEMBERS:

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

November 28, 2012

### MEMORANDUM

To: Pat Santos  
Clerk of the Legislature

Attorney Therese M. Terlaje  
Legislative Legal Counsel

From: Senator Rory J. Respicio  
Majority Leader & Rules Chair

Subject: Referral of Bill Nos. 535-31 (COR) & 536-31 (COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 535-31 (COR) and 536-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

*Si Yu'os Ma'åse!*

(2) Attachment

*I Mina Trentai Unu Na Liheslaturan Guahan*

**Bill Log Sheet**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
535-31 (COR)	v. c. pangelinan, J. P. Guthertz, DPA, J. T. Won Pat, Ed.D.	AN ACT TO REPEAL AND RE-ENACT SECTION 18 OF PUBLIC LAW 31-229 TO AUTHORIZE THE UNIVERSITY OF GUAM TO PLEDGE CERTAIN REVENUES AND ENTER INTO INSTALLMENT PURCHASE AND SALE AGREEMENTS FOR THE PURPOSE OF REFINANCING THE JESUS AND EUGENIA LEON GUERRERO SCHOOL OF BUSINESS AND PUBLIC ADMINISTRATION BUILDING.	11/27/2012 2:17 pm	11/28/2012		Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land			



# I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

November 29, 2012

## Memorandum

To: Senators

From: Senator Vicente (ben) Cabrera Pangelinan

Re: Public Hearing Notice – FIRST NOTICE

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00am, Thursday, December 6, 2012** at the Guam Legislature's Public Hearing Room. The following is on the agenda:

## Confirmation Hearing

**Mr. Elmore A. Cotton, Member, Board of Equalization**  
**Ms. Cynthia V. Ecube, Member, Board of Equalization**  
**Mr. Thomas Tanaka, Member, Cockpit License Board**

## Bills

**Bill No 510-31 (COR): An Act to Add a new Section 8 to Chapter VIII of Public Law 31-233 Relative to the continuing appropriations for the Mayor's Council of Guam.**

**Bill No. 514-31 (COR): An Act to Amend Section 1512.3(a)(2)(B) of Article 5, Chapter 1, Title 5 of the Guam Code Annotated Relative to Reprioritizing the Payment of Income Tax Refund with the Remaining \$18 Million of Series B Bond Series.**

**Bill No. 528-31 (COR): An Act to Add a new Chapter 58C to Title 5 of the Guam Code Annotated, Relative to the lease of school busses for Guam's school children also known as the Yellow School Bus Procurement Act of 2012.**

**Bill No. 534-31 (LS): An Act to Rezone property situated in the Municipality of Dededo, specifically Lot 10063 REM. (Portion 1 and Portion 3), together containing an area of approximately 10,864± square meters, bordered by Harmon Loop Road.**

Memo to Senators  
November 29, 2012  
Page 2

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Lisa Dames <cipo@guamlegislature.org>

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## Public Hearing - First Notice

1 message

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Lisa Dames <cipo@guamlegislature.org>  
To: phnotice@guamlegislature.org

Thu, Nov 29, 2012 at 4:45 PM

Hafa Adai,

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### Confirmation Hearing

Mr. Elmore A. Cotton, Member, Board of Equalization

Ms. Cynthia V. Ecube, Member, Board of Equalization

Mr. Thomas Tanaka, Member, Cockpit License Board

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Lisa Dames <cipo@guamlegislature.org>

## Public Hearing - First Notice

1 message

**Lisa Dames** <cipo@guamlegislature.org>

Thu, Nov 29, 2012 at 4:49 PM

To: news@guampdn.com, news@k57.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, krystal@kuam.com, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Kevin Kerrigan <kevin@k57.com>, Betsy Brown <betsy@k57.com>, gerry@mvguam.com, zita@mvguam.com, marvic@mvguam.com, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, slimtiaco@guampdn.com, bmkelman@guampdn.com, Oyaol Ngirairikl <odngirairikl@guampdn.com>, jpsablan@guampdn.com, life@guampdn.com

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# I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

December 4, 2012

## Memorandum

To: Senators

From: Senator Vicente (ben) Cabrera Pangelinan

Re: Public Hearing Notice – SECOND NOTICE

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

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Memo to Senators  
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## Public Hearing - SECOND NOTICE

1 message

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To: phnotice@guamlegislature.org

Tue, Dec 4, 2012 at 8:38 AM

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Lisa Dames <cipo@guamlegislature.org>

## Public Hearing - Second Notice

1 message

Lisa Dames <cipo@guamlegislature.org>

Tue, Dec 4, 2012 at 8:40 AM

To: news@guampdn.com, news@k57.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, krystal@kuam.com, Ken Quintanilla <kenq@kuam.com>, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, gerry@mvguam.com, zita@mvguam.com, marvic@mvguam.com, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumatol@guampdn.com>, slintiaco@guampdn.com, bmkelman@guampdn.com, Oyaol Ngirairikl <odngirairikl@guampdn.com>, jpsablan@guampdn.com, life@guampdn.com

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**I Mina'Trentai Unu Na  
Liheslaturan Guahan  
THIRTY-FIRST GUAM LEGISLATURE**

**Senator Vicente "ben" Cabrera Pangelinan  
Office of the People**

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**Email: [senbenp@guam.net](mailto:senbenp@guam.net)**

**Website: [www.senbenp.com](http://www.senbenp.com)**

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**INEKUNGOK PUPBLEKO  
(PUBLIC HEARING)**

***gi Huebes, gi diha 6 gi Disembre 2012***  
**Thursday, December 6, 2012**

***Kuàtton Inekungok Pupbleko gi I Liheslaturan Guàhan***  
**(Guam Legislature Public Hearing Room)**

***alas nuebi gi egga'an***  
**(9:00 AM)**

**TAREHA  
(AGENDA)**

***Komfitmasion Siha:***  
**(Confirmation Hearing)**

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***Priniponi Siha:***  
**(Bills)**

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**Bill No. 528-31 (COR): An Act to Add a new Chapter 58C to Title 5 of the Guam Code Annotated, Relative to the lease of school busses for Guam's school children also known as the Yellow School Bus Procurement Act of 2012.**

**Bill No. 534-31 (LS): An Act to Rezone property situated in the Municipality of Dededo, specifically Lot 10063 REM. (Portion 1 and Portion 3), together containing an area of approximately 10,864± square meters, bordered by Harmon Loop Road.**

**Bill No. 535-31 (COR): An Act to Repeal and Re-Enact Section 18 of Public Law 31-229 to authorize the University of Guam to pledge certain revenues and enter into installment purchase and sale agreements for the purpose of refinancing the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building.**

Yanggen un nisisita espesiât na setbision, put fabot âgang i Ifisinin Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hâlom gi i uepsait i Liheslaturan Guåhan gi [www.guamlegislature.com](http://www.guamlegislature.com) Yanggen para un na'hâlom testigu-mu, chule' para i ifisinin-mâmi gi 324 West Soledad Avenue gi iya Hagåtña, pat guatto gi i Kuatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi [senbenp@guam.net](mailto:senbenp@guam.net). Este na nutisiu inapâsi nu i fendon gubetnamento.

If you require any special accommodations, auxiliary aids or other special services or for further information, please call the Office of Senator Vicente (ben) Cabrera Pangelinan at 473-4236/7. For copies of any of the Bills listed on this agenda, you may log on to the Guam Legislature's website at [www.guamlegislature.com](http://www.guamlegislature.com) Testimonies may be submitted directly to our office at 324 West Soledad Avenue in Hagåtña or at the Mail Room of the Guam Legislature, via fax at 473-4238, or via email at [senbenp@guam.net](mailto:senbenp@guam.net)

***I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN***  
**2012 (SECOND) Regular Session**

Bill No. 535 - 31 *LCR*

Introduced by:

v.c. pangelinan  
J.P. Guthertz, DPA  
J.T. Won Pat, Ed.D.

**AN ACT TO REPEAL AND RE-ENACT SECTION 18 OF  
PUBLIC LAW 31-229 TO AUTHORIZE THE UNIVERSITY OF  
GUAM TO PLEDGE CERTAIN REVENUES AND ENTER  
INTO INSTALLMENT PURCHASE AND SALE  
AGREEMENTS FOR THE PURPOSE OF REFINANCING THE  
JESUS AND EUGENIA LEON GUERRERO SCHOOL OF  
BUSINESS AND PUBLIC ADMINISTRATION BUILDING.**

2012 NOV 27 PM 2:17

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

**Section 1. Legislative Findings and Intent.** Subsequent to the enactment of Public Law 31-229, the University of Guam (University) and the United States Department of Agriculture (USDA) have identified an Installment Purchase and Sale as the most desirable structure for the refinancing of the Jesus and Eugenia Leon Guerrero School of Business and Public Administration Building (JELG Building). The University has also requested the flexibility to pledge certain revenues to the payment of amounts owed under an Installment Sale Agreement in connection with the refinancing of the JELG Building.

*I Liheslaturan Guåhan* finds that the University will best be able to realize savings from the refinancing of the JELG Building with the ability to enter into an Installment Purchase Agreement and an Installment Sale Agreement, and to secure its payments under such documents by a pledge of certain appropriated revenues as

1 further described below, and hereby authorizes the University to enter into such  
2 agreements and pledge such revenues.

3 **Section 2. Section 18 of Public Law 31-229 is hereby repealed and re-**  
4 **enacted as follows:**

5 **“Section 18. University of Guam; Authorization to Enter Into Lease**  
6 **Agreements and Installment Purchase and Sale Agreements.**

7 (a) Exclusively for the purpose of facilitating the refinancing of the  
8 JELG Building, the University is hereby authorized to sell the JELG  
9 Building to, and to simultaneously repurchase the JELG Building from, the  
10 University of Guam Endowment Foundation (Foundation), by entering into  
11 a purchase agreement and a sale agreement with the Foundation as further  
12 provided in this section.

13 (b) Exclusively for the purpose of facilitating the financing of the  
14 design, construction or renovation of the facilities described below, the  
15 University is hereby authorized to lease the site of the University of Guam  
16 Student Services Center and the site of the Engineering Annex facility onto  
17 the existing Agriculture and Life Sciences Building to the Foundation, and,  
18 in that connection, the University is hereby authorized to lease those  
19 buildings and site, as improved, back from the Foundation, by entering into  
20 one or more lease agreements and one or more lease-back agreements as  
21 provided in this section.

22 (c) The proceeds of such financing or refinancing are to be applied  
23 to the following purposes:

24 (1) Refinance existing USDA Community Facilities Loan for  
25 the JELG Building – approximately Twelve Million Four Hundred  
26 Eighty One Thousand Five Hundred Fifteen Dollars (\$12,481,515) as  
27 of May 31, 2012;

1                   (2) Expansion and renovation of the University of Guam  
2 Student Services Center — approximately Eighteen Million Sixty  
3 Five Thousand Six Hundred Twenty Five Dollars (**\$18,065,625**);

4                   (3) Construction of an Engineering Annex facility onto the  
5 existing Agriculture and Life Sciences Building at the University for  
6 the School of Engineering — approximately Three Million Six  
7 Hundred Four Thousand Three Hundred Seventy Five Dollars  
8 (**\$3,604,375**);

9                   (4) Funding of any appropriate or necessary debt service  
10 reserve; and

11                  (5) Payment of expenses incurred in connection with such  
12 financing not already included in an existing appropriation for or the  
13 regular budget of any Government agency or instrumentality or public  
14 corporation providing any service in connection with the issuance of  
15 such bonds.

16                  To the extent the costs of completion of the project described in  
17 Subsection (c)(2) above are less than the amount set forth in Subsection  
18 (c)(2), any excess financing proceeds for such project can be applied toward  
19 the costs of the project described in Subsection (c)(3) above. To the extent  
20 the costs of completion of the project described in Subsection (c)(3) above  
21 are less than the amount set forth in Subsection (c)(3) above, any excess  
22 financing proceeds for such project can be applied toward the costs of the  
23 project described in Subsection (c)(2) above.

24                  (d) The lease and lease-back agreements shall have a term not to  
25 exceed forty (40) years. The lease-back agreement may be structured as an  
26 annually renewable lease with provision for automatic renewals to the extent  
27 that liquid fuel tax revenues, funds from the Guam Highway Fund or other

1 available revenues in the amount of up to One Million Dollars (**\$1,000,000**)  
2 per fiscal year beginning FY 2014 are appropriated to the University of  
3 Guam Capital Improvements Fund for the purpose of paying rental  
4 payments due under the lease-back agreement during such fiscal year. The  
5 lease-back agreement, and any loan, bonds or other obligations secured  
6 thereby, shall not be construed as a debt under any applicable debt limitation  
7 contained in the Guam Organic Act or Guam law.

8 (e) The lease-back agreement shall require that the University be  
9 responsible for the procurement and oversight of the design and construction  
10 associated with the project or projects authorized to be financed pursuant to  
11 this Section. The lease and lease-back agreements shall be valid and binding  
12 obligations of the University and the Foundation enforceable in accordance  
13 with their respective terms, and there shall be no power to terminate or  
14 declare null and void any such agreement for procurement violations or any  
15 other reason or reasons.

16 (f) The lease and lease-back agreements shall provide rental  
17 provisions, term, payment, security, default, remedy, and other terms or  
18 provisions as may be specified in such agreements and shall not permit the  
19 substitution of other public buildings for the public buildings initially leased  
20 by the University and the Foundation pursuant to this Section. The lease  
21 agreement and lease-back agreement may provide that if sufficient funds are  
22 not appropriated or otherwise available for the payment of amounts due  
23 under the lease-back, the University will have the obligation to vacate the  
24 leased facility or facilities, and the lender or its trustee, as applicable, shall  
25 have the right of use and occupancy of the leased facility or facilities for the  
26 remainder of the term of the lease and lease-back agreements, unless new  
27 mutually satisfactory terms are entered into. For this purpose, the lease and

1 lease-back agreements may each provide that its respective term shall be  
2 extended for a period not to exceed the shorter of ten (10) years beyond the  
3 original term of the agreement or such period of time as is necessary to  
4 repay in full any financing arranged pursuant to Subsection (f) of this  
5 Section.

6 (g) To facilitate the purposes of this Act and to provide security for  
7 the holders of any financing instruments issued pursuant to this Act, the  
8 lease and lease-back agreements may provide that the Foundation may  
9 assign, with the consent of the University, the lease and lease-back  
10 agreements to any lender, trustee or other party as appropriate to facilitate  
11 the financing and refinancing contemplated hereby.

12 (h) To facilitate the purposes of this Act and to provide security for  
13 the USDA, the Foundation may assign, with the consent of the University,  
14 the installment purchase and installment sale agreements to the USDA or  
15 other party as appropriate to facilitate the refinancing contemplated hereby.

16 (i) To minimize the financing cost to the University, the  
17 Foundation has applied to the USDA for a loan secured by the base rental  
18 payments to be made by the University pursuant to the lease-back  
19 agreement. Alternatively, in the event the Foundation is unable to secure  
20 funding through a USDA loan prior to December 31, 2012, the University  
21 and the Guam Economic Development Authority are hereby authorized to  
22 enter into the lease agreement and lease-back agreement described above,  
23 subject to the same terms, conditions and provisions set forth in this Section  
24 (substituting the Authority for the Foundation). *I Liheslaturan Guåhan*,  
25 pursuant to § 50103(k), Title 12 Guam Code Annotated, hereby approves  
26 either the USDA loan or loans and/or the issuance and sale by the Guam  
27 Economic Development Authority of Project Revenue Bonds pursuant to

Chapter 64 of Title 12 of the Guam Code Annotated for the purposes set forth in Subsection (b) of this Section, such loans or such Project Revenue Bonds to be secured by the base rental payments to be made by the University pursuant to the lease-back agreement; provided, however, that the terms and conditions of such loan or bonds, and the related lease and lease-back agreements, shall be consistent with this Section, that any such USDA loan shall bear interest at a rate that does not exceed five percent (5%) per annum and with a term that does not exceed forty (40) years, and that any such bonds shall mature not later than forty (40) years after their date of issuance and shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the bondholders that does not exceed eight and one half percent (8.5%) per annum.

(j) To minimize the refinancing cost to the University, the Foundation has applied to the USDA for a loan secured by the sale payments to be made by the University pursuant to the installment sale agreement. *I Liheslaturan Guåhan*, pursuant to § 50103(k), Title 12 Guam Code Annotated, hereby approves the USDA loan for the purpose set forth in Subsection (a) of this Section, such loan to be secured by the sale payments to be made by the University pursuant to the installment sale agreement; provided, however, that the terms and conditions of such loan and the related purchase and sale agreements, shall be consistent with this Section, that any such USDA loan shall bear interest at a rate that does not exceed five percent (5%) per annum and with a term that does not exceed the remaining term of the existing USDA loan relating to the JELG Building. The obligation of the University to make sale payments may be secured by a pledge of the Five Hundred Thousand Dollar (\$500,000) appropriation from the Guam Highway Fund to the University of Guam Capital Improvements

1 Fund authorized by Section 20 hereof. The revenues pledged and thereafter  
2 received by the government, the University, or by any depository or  
3 custodian shall be deposited in a separate account and shall be immediately  
4 subject to the lien of such pledge without any physical delivery thereof or  
5 further act, and the lien of such pledge shall be valid and binding against all  
6 parties having claims of any kind in tort, contract or otherwise against the  
7 government of Guam, the University or such depository or custodian,  
8 irrespective of whether the parties have notice thereof. The instrument by  
9 which such pledge is created need not be recorded.

10 (k) The obligation of the University to make lease payments may  
11 be secured by a pledge or reservation of liquid fuel tax revenues, funds from  
12 the Guam Highway Fund or other available revenues. Any pledge or  
13 reservation pursuant to this Section shall be made on lease financing terms  
14 that do not cause the lease obligation of the College to be public  
15 indebtedness within the meaning of Section 11 of the Guam Organic Act or  
16 to violate or breach any existing bond covenant. The tax revenues pledged or  
17 reserved and thereafter received by the government, the University or by any  
18 trustee, depository or custodian shall be deposited in a separate account and  
19 shall be immediately subject to such reservation or the lien of such pledge  
20 without any physical delivery thereof or further act, and such reservation or  
21 the lien of such pledge shall be valid and binding against all parties having  
22 claims of any kind in tort, contract or otherwise against the government of  
23 Guam, the University or such trustee, depository or custodian, irrespective of  
24 whether the parties have notice thereof. The instrument by which such  
25 pledge or reservation is created need not be recorded. Any amounts pledged  
26 as provided in this Section are hereby continuously appropriated for the  
27 purpose of making lease payments, but any amounts only reserved as



1 provided in this Section and not pledged, shall be subject to annual  
2 appropriation for the purpose of making lease payments. In the event  
3 amounts are pledged as provided in this Section, any surplus tax revenues  
4 shall be released to the government on a monthly basis.”

5 **Section 3. Severability.** If any provision of this Act or its application to any  
6 person or circumstance is found to be invalid or contrary to law, such invalidity  
7 shall not affect other provisions or applications of this Act which can be given  
8 effect without the invalid provisions or application, and to this end the provisions  
9 of this Act are severable.