

**Public Law 27-069**

**I MINA 'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session**

**Bill No. 232 (COR)**

As amended on the Floor.

**Introduced by:**L. A. Leon Guerrero

v. c. pangelinan

F. B. Aguon, Jr.

J. M.S. Brown

F. R. Cunliffe

C. Fernandez

Mark Forbes

L. F. Kasperbauer

R. Klitzkie

J. A. Lujan

T. R. Muña Barnes

J. M. Quinata

Toni Sanford

R. J. Respicio

Ray Tenorio

**AN ACT TO APPROPRIATE SIX HUNDRED EIGHTY-NINE THOUSAND SEVEN HUNDRED SEVENTY-ONE DOLLARS (\$689,771) FROM THE SERIES 2001A SUBACCOUNT OF THE YOUTH TOBACCO EDUCATION AND PREVENTION FUND TO THE DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE FUND FOR THE PURPOSE OF YOUTH COMPLIANCE MONITORING AND TOBACCO AND DRUG PREVENTION AND EDUCATION PROGRAMS; AND TO EXTEND THE TIME FOR EXPENDITURE OF VARIOUS TOBACCO SETTLEMENT BOND FUNDS BY AMENDING 5 GUAM CODE ANNOTATED §§221304(b), 221305, 221306, AND 11 GUAM CODE ANNOTATED §6123(b).**

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

**Section 1. Legislative Findings and Intent.** On July 1, 2001, Orrick, Herrington & Sutcliffe, LLP, Bond Counsel for the Guam Economic Development Authority, reported that two (2) endowment funds were established on June 21, 2001, for the Youth Tobacco Education and Prevention Fund ("YTEPF"): the Series 2001A subaccount with a total of Nine Hundred Eighty-Two Thousand Two Hundred Forty-Seven Dollars and Twenty-Six Cents (\$982,247.26) on deposit and the Series 2001B subaccount with a total of One Million One Hundred Sixty-Five Thousand Seven Hundred Forty-Eight Dollars and Nine Cents (\$1,165,748.09) on deposit.

Public Law 26-68 appropriated Three Hundred Twenty-Seven Thousand Four Hundred Fifteen Dollars (\$327,415.00) from the Series 2001A subaccount to the Department of Mental Health and Substance Abuse Fund ("MHSA Fund") to be used exclusively for youth compliance monitoring and tobacco and drug prevention and education programs for Fiscal Year 2002, which was ten percent (10%) of the proceeds of the sale and securitization of the Guam Allocation from the Master Settlement

Agreement. As of June 30, 2003, the balance in the Series A account was One Million Seventeen Thousand One Hundred Eighty-Six Dollars and Twenty-Six Cents (\$1,017,186.26).

It is therefore the intent of *I Liheslaturan Guåhan* to appropriate the remainder of the Six Hundred Eighty-Nine Thousand Seven Hundred Seventy-One Dollars (\$689,771) from the Series 2001A subaccount of the YTEPF to the Department of Mental Health and Substance Abuse to develop multiple strategies to include: Information Dissemination, Education, Alternatives, Problem Identification and Referral, Community-Based Process and Environmental and Social Policies.

**Section 2. Appropriation to the Department of Mental Health and Substance Abuse Fund from the Series 2001A Subaccount of the Youth Tobacco Education and Prevention Fund for tobacco prevention and education programs.** Pursuant to Public Law 25-187 and notwithstanding any other provision of law, there is hereby appropriated Six Hundred Eighty-Nine Thousand Seven Hundred Seventy-One Dollars (\$689,771) from the Series 2001A Subaccount of the Youth Tobacco Education and Prevention Fund to the Department of Mental Health and Substance Abuse Fund to be used exclusively for youth compliance monitoring and tobacco and drug prevention and education programs for Fiscal Year 2004.

**Section 3. Restriction of Transfer Authority by *I Maga'lahaen Guåhan*.** Notwithstanding any other provision of law, *I Maga'lahaen Guåhan* shall *not* use his transfer authority to utilize any monies appropriated herein and said funds shall *not* be transferred or used for any other purpose.

**Section 4. Reversion of Funds.** Notwithstanding the general provisions of §22406 of Title 5 of the Guam Code Annotated, which require that unused and de-appropriated funds revert to the General Fund, or any other provision of law to the contrary, all unused funds appropriated herein shall, in all circumstances and whether in whole or in part, remain in the Department of Mental Health and Substance Abuse Fund and shall be carried over into the next fiscal year and shall be expended exclusively for youth compliance monitoring and tobacco and drug prevention and education programs.

**Section 5. Reporting Requirement.** The Department of Mental Health and Substance Abuse shall submit a detailed report of the expenditures of the funds appropriated by this Act to the Speaker of *I Liheslaturan Guåhan* and the Administrator of the Guam Economic Development and Commerce Authority within sixty (60) days following the close of Fiscal Year 2004. If any unused

portion of the funds appropriated herein is carried over into Fiscal Year 2005, the provisions contained in this Section so do apply.

**Section 6. (a) Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the proceeds of the Tobacco Settlement Asset-Backed Bonds for Guam are deposited in Series 2001A and Series 2001B accounts. Fifty percent (50%) of the initial amount deposited in the Series 2001A accounts are expected to be used and expended by June 21, 2004. Any unexpended amounts thereafter will be transferred to the Series 2001B accounts, which expenditures are limited to ninety percent (90%) of the earnings of the funds.

*I Liheslaturan Guåhan* further finds that due to the problems created by the two (2) typhoons in 2002, the expenditure of these funds have been delayed. Additionally, the needs of the beneficiaries of these bonds have been re-prioritized due to damages suffered during the typhoons. Rather than rushing to spend the bond proceeds prior to the June 2004 deadline, it is more prudent to allow more time for some beneficiaries of the Tobacco Settlement Asset-Backed Bonds to reallocate the proceeds and maximize them by using the money to match the Federal Emergency Management Agency (“FEMA”) grants, for example. It is not sufficient to only encumber the funds in the Series 2001A accounts, but the Series 2001A funds must actually be spent before the deadline, or else the monies will be transferred to the Series 2001B accounts.

Therefore, there being no indenture limitations, tax law or legal prohibition to prevent the extension, it is the intent of *I Liheslaturan Guåhan* to amend the current law in order to extend the amount of time remaining before the Series 2001A funds will lapse into the Series 2001B accounts, thereby allowing additional time for the beneficiaries to spend the Series 2001A funds for their various purposes.

**(b) Section 221304(b) of Article 13 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, is hereby amended to read as follows:**

“(b) The Health Security Trust Fund, subject to legislative approval, may be invested or reinvested in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds. The appropriations from the Health Security Trust Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first four (4) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund.”

**(c) Section 221305 of Article 13 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, is hereby amended to read as follows:**

**“§221305. UOG Higher Education Endowment Funds.** There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the UOG Higher Education Endowment Fund. The UOG Higher Education Endowment Fund shall not be commingled with the General Fund and shall be kept in a separate bank account and administered by the University of Guam. The UOG Higher Education Endowment Fund may be invested or reinvested by the UOG Board of Regents in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds.

The appropriations from the UOG Higher Education Endowment Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first four (4) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund. The proceeds from the investments shall remain within the UOG Higher Education Endowment Fund. All monies deposited into the UOG Higher Education Endowment Fund shall be expended exclusively for enhancement of learning resources and technology, including, but not limited to, the following:

- (a) purchase of computer equipment, books, subscriptions, periodical materials and other library supplies and materials;
- (b) training; and
- (c) management of library materials and resources.

The University of Guam shall determine the allocation of this appropriation in compliance with this Section.”

**(d) Section 221306 of Article 13 of Chapter 22 of Division 2 of Title 5, Guam Code Annotated, is hereby amended to read as follows:**

**“§221306. GCC Endowment Fund.** There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the ‘GCC Endowment Fund.’ The GCC Endowment Fund shall not be commingled with the General Fund and shall be kept in a separate bank account and administered by the Guam Community College. The GCC Endowment Fund may be invested or reinvested by the GCC Board of Trustees in bonds or in securities that are approved for the Retirement Fund, or according to modern investment practices of similar funds. The appropriations from the GCC Endowment Fund shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first four (4) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund. The proceeds from the investments shall remain within the GCC Endowment Fund. All monies deposited into the GCC Endowment Fund shall be expended exclusively for enhancement of learning resources and technology, and for the purpose of funding capital improvement projects expenditures at GCC, including, but not limited to, the following:

- (a) purchase of computer equipment, books, subscriptions, periodical materials and other library supplies and materials;
- (b) training;
- (c) management of library materials and resources; and
- (d) capital improvement projects.

GCC shall determine the allocation of this appropriation in compliance with this Section.”

**(e) Section 6123(b) of Chapter 6 of Division 1 of Title 11, Guam Code Annotated, is hereby amended to read as follows:**

“(b) YTEPF, subject to legislative approval, may be invested or reinvested in bonds or in securities that are approved for the Retirement Fund or according to modern investment practices of similar funds. The appropriations from the YTEPF received pursuant to 5 GCA § 221203, shall be limited to fifty percent (50%) of the initial deposit from the proceeds of the sale for the first four (4) years. Thereafter, expenditures shall be limited to ninety percent (90%) of the earnings of the Fund.”

**Section 7. Effective Date.** The provisions of this Act shall become effective immediately upon enactment.

**Section 8. Severability.** *If* any provision of this Law 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 Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.