

**I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) REGULAR SESSION**

Bill No. 235 - 32 (COR)

Introduced by:

V.C. Pangelinan 

AN ACT TO *ADD* A NEW SECTION 19 TO PART I, CHAPTER II OF PUBLIC LAW 32-068 AND TO *AMEND* SECTION 1303, CHAPTER 1, ARTICLE 3, TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO UPHOLDING THE INTENT OF *I LIHESLATURA'S* ANNUAL APPROPRIATIONS TO THE GUAM DEPARTMENT OF EDUCATION (GDOE) FOR EVERY FISCAL YEAR AND FOR FUNDING THE REPAIR AND/OR RENOVATION OF SIMON SANCHEZ HIGH SCHOOL AND FOR OTHER FACILITIES AND MAINTENANCE NEEDS OF THE GDOE.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
2 that the sum of Two Hundred Nineteen Million Six Hundred Fifty Five Thousand
3 Four Hundred Eleven Dollars (**\$219,655,411**) was appropriated to the Guam
4 Department of Education (GDOE) in FY 2014 which represents an increase of Six
5 Million Nine Hundred Twenty Five Thousand Fifty Dollars (**\$6,925,050**) above the
6 appropriation *I Liheslatura* provided to the GDOE in FY 2013. *I Liheslatura*
7 further finds that in accordance with the Bureau of Budget and Management
8 Research (BBMR) Circular No. 14-01, a ten percent (10%) reserve has been
9 imposed on all appropriations funded by the General Fund and all Special Funds
10 inclusive of operations which is applicable to the amount appropriated to the
11 GDOE.

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1 *I Liheslaturan Guåhan* further finds that as a result of BBMR Circular No.
2 13-01 which placed a fifteen percent (15%) reserve on the GDOE appropriation in
3 FY 2013, over Nine Million Dollars (**\$9,000,000**) continues to be reserved and
4 withheld from the GDOE’s Two Hundred Twelve Million Seven Hundred Thirty
5 Thousand Three Hundred Sixty One Dollars (**\$212,730,361**) appropriation in FY
6 2013. *I Liheslatura* believes that such funds reserved and withheld from the GDOE
7 is unjustified as the September 30, 2013 Consolidated Revenue and Expenditure
8 Report filed and certified by the BBMR, the Department of Administration (DOA),
9 and the Department of Revenue and Taxation (DRT) reports that actual General
10 Fund revenues collected exceeds estimated General Fund revenues for FY 2013 by
11 Twenty Three Million Eight Hundred Twenty Seven One Hundred Twenty One
12 Dollars (**\$23,827,121**).

13 *I Liheslaturan Guåhan* further finds that this reserve on the GDOE
14 appropriation for FY 2014 equates to almost Twenty Two Million Dollars
15 (**\$22,000,000**) and that such reserve not only places a burden on the GDOE’s
16 ability to plan and provide adequate facilities and maintenance for the students,
17 teachers, and administrators of the GDOE but also impedes the GDOE’s ability to
18 continue to provide the best education it can to the students of Guam. Such issues
19 have been seen with the facilities and maintenance issues at Simon Sanchez High
20 School (SSHS) which have prompted the Executive Branch and the Office of the
21 Attorney General to respond to the issues raised by students, teachers, and
22 administrators of SSHS.

23 Section 1303, Chapter 1, Article 3, Title 5 of the Guam Code Annotated
24 provides the authority of budget allotment control to the BBMR which has been
25 utilized to impose the ten percent (10%) reserve on the GDOE in FY 2014. *I*
26 *Liheslatura* further finds that although this Section of the Guam Code Annotated is
27 a financial management tool provided by *I Liheslatura* to the Executive Branch,

1 such use of this authority toward the GDOE has not been justified as seen with the
2 reserving of the GDOE appropriation in FY 2013 even though actual revenues
3 were collected in excess of estimates. Furthermore, this same Section of the Guam
4 Code Annotated which provides such authority to the BBMR to manage allotments
5 states, “that sufficient cash *shall* always be released to the Department of Education
6 to provide an adequate public education to every public school student.”

7 *I Liheslaturan Guåhan* does not believe that the use of the management of
8 allotments and the continued reserve placed on the GDOE represents a fair and just
9 use of such authority granted to the Executive Branch by *I Liheslatura* as seen in
10 FY 2013 and that the authority provided to the Executive Branch over the
11 management of GDOE allotments needs to be adjusted in order for the GDOE to
12 be provided the necessary financial resources it needs to plan and provide an
13 adequate education to every public school student, inclusive of the students of
14 SSHS.

15 *I Liheslaturan Guåhan* understands the importance of providing the
16 Executive Branch with the financial management tools it needs to execute the
17 budget of the government of Guam. Such was evident in FY 2014 when *I*
18 *Liheslatura* provided *I Maga'låhen Guåhan* with a lump-sum budget and transfer
19 authority which provides flexibility in managing the finances of the government.
20 But in the interest of prioritizing education and the needs of the GDOE, *I*
21 *Liheslatura* finds that limiting the authority of *I Maga'låhen Guåhan's* and the
22 BBMR's reserve of appropriation authority of the GDOE appropriations will
23 provide a more equitable and fair treatment of the GDOE by the Executive Branch,
24 will ensure steady and adequate flow of critical financial resources to GDOE, and
25 will fully prioritize the education of every public school student.

26 Furthermore, as the necessary funds are provided to the GDOE, *I*
27 *Liheslaturan Guåhan* intends on dedicating approximately Four Million Dollars

1 (\$4,000,000) of the GDOE appropriation for FY 2014 that was reserved by the
2 BBMR to the Facilities and Maintenance Division of the GDOE toward the repair
3 and/or renovation of SSHS and other facilities and maintenance needs of the
4 GDOE.

5 **Section 2.** Section 19 is hereby *added* to Part I, Chapter II of Public Law 32-
6 068 to read:

7 **“Section 19.** The sum of Four Million Dollars (\$4,000,000) *shall* be
8 allocated and allotted from the General Fund appropriation in Section 1 of this Part
9 of this Chapter to the Facilities and Maintenance Division of the GDOE for the
10 repair and/or renovation of the Simon Sanchez High School campus and auxiliary
11 facilities. Any remaining balance *shall* be for other facilities and maintenance
12 needs of the GDOE for FY 2014; §1303 of Chapter 1, Article 3, Title 5 GCA, *shall*
13 *not* apply to the appropriation allocated and allotted in this Section. The funds
14 allocated and allotted in this Section are *not* subject to *I Maga’låhen Guåhan’s*
15 *transfer authority.*”

16 **Section 3.** Section 1303, Division 1, Chapter 1, Article 3, Title 5 of the
17 Guam Code Annotated is hereby *amended* to read:

18 **“§ 1303. Management of Allotments.**

19 In the release of monthly or quarterly allotments by the Bureau of
20 Budget & Management Research from appropriation acts, the Director
21 thereof shall base such allotments on anticipated cash receipts so that the
22 obligations incurred pursuant to such release of periodic allotments shall
23 have sufficient cash for their payment, provided that sufficient cash shall
24 always been released to the Department of Education to provide an
25 adequate public education to every public school student and that *no more*
26 *than three percent (3%) from the Department of Education aggregate fiscal*
27 *year General Fund and Special Fund appropriations may be reserved by the*

1 BBMR. If, by the end of the third quarter of each fiscal year, the actual,
2 aggregate revenue collections of the General and Special Funds
3 appropriated to the Department of Education are not three percent (3%) or
4 more, less than the estimates for that fiscal year, the BBMR shall release all
5 reserves placed on the appropriations of the Department of Education and
6 the BBMR shall not be authorized to reserve from any of the appropriations
7 to the Department of Education for the remainder of the fiscal year.

8 No agency shall contract or agree to spend any money for goods or services
9 or in settlement of a lawsuit or claim in excess of the amount appropriated by the
10 Legislature to that Agency for such goods, services, claim, or settlement, and
11 BBMR shall not allot funds to that agency for the payment of any amount towards
12 such goods, services, claim, or settlement if the total amount of the goods, services,
13 claim, or settlement is more than the amount appropriated or amount allotted by
14 BBMR. Any contract or agreement made in violation hereof shall be void. Any
15 agency head or certifying officer who knowingly contracts or agrees to spend any
16 money in excess of said allotments shall be guilty of a misdemeanor.”

17 **Section 4. Allotment Schedule.** The GDOE shall provide an allotment
18 schedule of the allocation in Section 19, Part I, Chapter II of Public Law 32-068 to
19 the BBMR *no later than* twenty (20) days after the enactment of this Act. Such
20 allotment schedule shall reflect the priorities of the GDOE to include the repair
21 and/or renovation of SSHS and other facilities and maintenance needs of the
22 GDOE. A copy of such allotment schedule shall be provided to the Speaker of *I*
23 *Liheslaturan Guåhan.*

24 **Section 5. Effective Date.** This Act shall be effective upon enactment.

25 **Section 6. Severability.** If any provision of this Act or its application to any
26 person or circumstance is held invalid, the invalidity shall not affect other

- 1 provisions or applications of this Act which can be given effect without the invalid
- 2 provision or application and to this end the provisions of this Act are severable.