

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

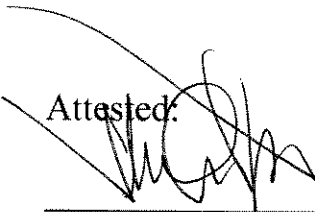
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that Substitute Bill No. 235-32 (COR), "AN ACT TO ADD A NEW SECTION 19 TO PART I, CHAPTER II OF PUBLIC LAW 32-068; TO AMEND § 1303 OF ARTICLE 3, CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED; AND TO ADD SECTIONS 15 AND 16 TO PART 1, CHAPTER II OF PUBLIC LAW 31-233, 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 TO ADDRESS THE DEFERRED MAINTENANCE NEEDS OF THE GEORGE WASHINGTON HIGH SCHOOL, THE RETROFITTING OF UNUSED BUILDINGS AND FACILITIES AT SOUTHERN HIGH SCHOOL FOR GDOE CENTRAL OFFICES, AND FOR OTHER FACILITIES AND MAINTENANCE NEEDS OF THE GDOE," was on the 1st day of February, 2014, duly and regularly passed.



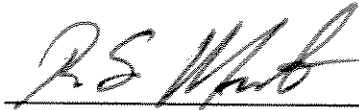
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 1st day of FEB,
2014, at
10:50 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 235-32 (COR)

As substituted on the Floor.

Introduced by:

Vicente (ben) C. Pangelinan

T. C. Ada

V. Anthony Ada

FRANK B. AGUON, JR.

B. J.F. Cruz

Chris M. Dueñas

Michael T. Limtiaco

Brant T. McCreadie

Tommy Morrison

T. R. Muña Barnes

R. J. Respicio

Dennis G. Rodriguez, Jr.

Michael F. Q. San Nicolas

Aline A. Yamashita, Ph.D.

Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW SECTION 19 TO PART I, CHAPTER II OF PUBLIC LAW 32-068; TO *AMEND* § 1303 OF ARTICLE 3, CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED; AND TO ADD SECTIONS 15 AND 16 TO PART 1, CHAPTER II OF PUBLIC LAW 31-233, RELATIVE TO UPHOLDING THE INTENT OF *LIHESLATURA'S* ANNUAL APPROPRIATIONS TO THE GUAM DEPARTMENT OF EDUCATION (GDOE) FOR EVERY FISCAL YEAR AND FOR FUNDING TO ADDRESS THE DEFERRED MAINTENANCE NEEDS OF THE GEORGE WASHINGTON HIGH SCHOOL, THE RETROFITTING OF UNUSED BUILDINGS AND FACILITIES AT SOUTHERN HIGH SCHOOL FOR GDOE CENTRAL OFFICES, AND FOR OTHER

**FACILITIES AND MAINTENANCE NEEDS OF THE
GDOE.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

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

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

1 *I Liheslaturan Guåhan* further finds that this reserve on the GDOE
2 appropriation for FY 2014 equates to almost Twenty Two Million Dollars
3 (**\$22,000,000**), and that such reserve not only places a burden on the GDOE’s
4 ability to plan and provide adequate facilities and maintenance for the students,
5 teachers, and administrators of the GDOE, but also impedes the GDOE’s ability to
6 continue to provide the best education it can to the students of Guam. Such issues
7 have been seen with the facilities and maintenance issues at George Washington
8 High School (GWHS), which continues to experience deferred maintenance issues
9 related to its facilities in the amount of over Eight Million Five Hundred Sixty Six
10 Thousand Eight Hundred Fifty Three Dollars (**\$8,566,853**), according to the most
11 recent Insular Schools Assessment of Buildings and Classrooms conducted by the
12 United States Department of the Interior Office of Insular Affairs.

13 § 1303 of Article 3, Chapter 1 of Title 5, Guam Code Annotated, provides
14 the authority of budget allotment control to the BBMR, which has been utilized to
15 impose the ten percent (10%) reserve on the GDOE in FY 2014. *I Liheslatura*
16 further finds that although this Section of the Guam Code Annotated is a financial
17 management tool provided by *I Liheslatura* to the Executive Branch, such use of
18 this authority toward the GDOE has *not* been justified as seen with the reserving of
19 the GDOE appropriation in FY 2013, even though actual revenues were collected
20 in excess of estimates. Furthermore, this same Section of the Guam Code
21 Annotated which provides such authority to the BBMR to manage allotments
22 states, “that sufficient cash *shall* always be released to the Department of
23 Education to provide an adequate public education to every public school student.”

24 *I Liheslaturan Guåhan* does not believe that the use of the management of
25 allotments and the continued reserve placed on the GDOE represents a fair and just
26 use of such authority granted to the Executive Branch by *I Liheslatura* as seen in
27 FY 2013, and that the authority provided to the Executive Branch over the

1 management of GDOE allotments needs to be adjusted in order for the GDOE to
2 be provided the necessary financial resources it needs to plan and provide an
3 adequate education to every public school student, inclusive of the students of
4 GWHS.

5 *I Liheslaturan Guåhan* understands the importance of providing the
6 Executive Branch with the financial management tools it needs to execute the
7 budget of the government of Guam. Such was evident in FY 2014 when *I*
8 *Liheslatura* provided *I Maga'lahen Guåhan* with a lump-sum budget and transfer
9 authority which provides flexibility in managing the finances of the government.
10 But in the interest of prioritizing education and the needs of the GDOE, *I*
11 *Liheslatura* finds that limiting the authority of *I Maga'lahen Guåhan's* and the
12 BBMR's reserve of appropriation authority of the GDOE appropriations will
13 provide a more equitable and fair treatment of the GDOE by the Executive Branch,
14 will ensure steady and adequate flow of critical financial resources to GDOE, and
15 will fully prioritize the education of every public school student.

16 Furthermore, as the necessary funds are provided to the GDOE, *I*
17 *Liheslaturan Guåhan* intends on dedicating approximately Four Million Dollars
18 **(\$4,000,000)** of the GDOE appropriation for FY 2014 that was reserved by the
19 BBMR to the Facilities and Maintenance Division of the GDOE toward addressing
20 the deferred maintenance needs of the GWHS, and other facilities and maintenance
21 needs of the GDOE.

22 **Section 2.** A new Section 19 is hereby *added* to Part I, Chapter II of Public
23 Law 32-068 to read:

24 **“Section 19.** The sum of *up to* Four Million Dollars
25 **(\$4,000,000)** shall be allocated and allotted from the General Fund
26 appropriation in Section 1 of this Part of this Chapter to the Facilities and
27 Maintenance Division of the GDOE for the repair and/or renovation of the

1 George Washington High School campus and auxiliary facilities. Any
2 remaining balance *shall* be used first for the retrofitting of the unused
3 buildings and facilities at Southern High School (SHS) to be utilized as the
4 GDOE Central Offices, and any remaining balance thereafter *shall* be for
5 other facilities and maintenance needs of the GDOE for FY 2014. In
6 preparation for moving the GDOE Central Offices to the unused buildings
7 and facilities at SHS, the GDOE *shall* maximize the educational use of the
8 existing SHS buildings and facilities. §1303 of Article 3, Chapter 1, Title 5
9 GCA, *shall not* apply to the appropriation allocated and allotted in this
10 Section. The funds allocated and allotted in this Section are *not* subject to *I*
11 *Maga'lahaen Guåhan's* transfer authority.”

12 **Section 3.** § 1303 of Article 3, Division 1, Chapter 1 of Title 5, Guam
13 Code Annotated, is hereby *amended* to read:

14 **“§ 1303. Management of Allotments.**

15 In the release of monthly or quarterly allotments by the Bureau of
16 Budget and Management Research from appropriation acts, the Director
17 thereof *shall* base such allotments on anticipated cash receipts so that the
18 obligations incurred pursuant to such release of periodic allotments *shall*
19 have sufficient cash for their payment; provided, that sufficient cash *shall*
20 always be released to the Department of Education to provide an adequate
21 public education to every public school student, and that *no more than* three
22 percent (3%) from the Department of Education aggregate fiscal year
23 General Fund and Special Fund appropriations may be reserved by the
24 BBMR. If, by the end of the third quarter of each fiscal year, the actual,
25 aggregate revenue collections of the General and Special Funds appropriated
26 to the Department of Education are *not* three percent (3%) or more, less than
27 the estimates for that fiscal year, the BBMR *shall* release all reserves placed

1 on the appropriations of the Department of Education, and the BBMR *shall*
2 *not* be authorized to reserve from any of the appropriations to the
3 Department of Education for the remainder of the fiscal year.

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

15 **Section 4. Allotment Schedule.** The GDOE *shall* provide an allotment
16 schedule of the allocation in Section 19, Part I, Chapter II of Public Law 32-068 to
17 the BBMR *no later than* twenty (20) days after the enactment of this Act. Such
18 allotment schedule *shall* reflect the priorities of the GDOE, to include addressing
19 the deferred maintenance needs of the GWHS, the retrofitting of the unused
20 buildings and facilities at Southern High School to be utilized as the GDOE
21 Central Offices, and other facilities and maintenance needs of the GDOE. A copy
22 of such allotment schedule *shall* be provided to the Speaker of *I Liheslaturan*
23 *Guåhan*.

24 **Section 5.** New Sections 15 and 16 are hereby *added* to Part I, Chapter II
25 of Public Law 31-233 to read:

26 “**Section 15. Continuing Appropriation.** The appropriation in
27 Section 2 of this Part of this Chapter *shall not* lapse and *shall* continue until

1 fully expended, to include payment of prior year obligations of the Guam
2 Department of Education.

3 **Section 16. Release of Reserve and Allotment.** The Bureau of
4 Budget and Management Research *shall* release any and all reserves placed
5 on the FY 2013 appropriation in Section 2 of this Part of this Chapter, to the
6 Guam Department of Education (GDOE) and *shall* release allotments for all
7 appropriations that were previously held in reserve to the GDOE.”

8 **Section 6. Effective Date.** This Act *shall* be effective upon enactment.

9 **Section 7. Severability.** If any provision of this Act or its application to
10 any person or circumstance is held invalid, the invalidity *shall not* affect other
11 provisions or applications of this Act which can be given effect without the invalid
12 provision or application and to this end the provisions of this Act are severable.