


I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. 337-33 (LS)

Introduced by:

Michael F.Q. San Nicolas 

**AN ACT TO *AMEND* SUBSECTION (I) OF §22425,
ARTICLE 4, CHAPTER 22, TITLE 5, GUAM CODE
ANNOTATED; RELATIVE TO ENSURE FULL
FUNDING OF EDUCATIONAL PROGRAMS AND
FACILITIES APPROPRIATED FROM THE
TERRITORIAL EDUCATIONAL FACILITIES FUND.**

2016 JUN 16 PM 3:28

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

2 **Section 1. Short Title.** This Act *shall* be cited as the “Territorial
3 Educational Facilities Fund Protection Act.”

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
5 that the Territorial Educational Facilities Fund is established to provide funding for
6 educational programs and facilities, particularly of the Guam Department of
7 Education. These funds are intended to be a reliable source of revenue for
8 education expenditures, but that purpose is undermined when over-projection of
9 such revenues cause operational shortfalls of educational programs and facilities.
10 Instead of providing additional resources, the funding appropriated from this
11 source becomes a cause of deprivation.

12 *I Liheslaturan Guåhan* further finds that the 2013 fiscal year budget
13 projected thirty million four hundred eighty-three thousand five hundred sixty-six
14 dollars (\$30,483,566) in revenue for the Territorial Educational Facilities Fund, but
15 the audited financial statements for fiscal year 2013 stated that property tax
16 revenues of twenty-one million two hundred sixty-three thousand two hundred
17 sixty-seven dollars (\$21,263,267), a variance of nine million two hundred twenty

1 thousand two hundred ninety-nine dollars (\$9,220,299). In the 2014 fiscal year
2 budget, twenty-seven million two hundred seven thousand eight hundred ninety
3 dollars (27,207,890) was projected in revenue, but the audited statements showed
4 only twenty-three million two hundred sixty-three thousand one hundred fifty
5 dollars (\$23,263,150) in revenue, with a variance of three million nine hundred
6 forty-four thousand seven hundred forty dollars (\$3,944,740). The most recently
7 ended fiscal year, 2015, was projected at twenty-eight million five hundred sixty-
8 eight thousand two hundred eighty-five dollars (\$28,568,285), but the Bureau of
9 Budget Management and Research estimated actual revenues in the year to be only
10 twenty-five million seven hundred seventy-eight thousand three hundred thirty-six
11 dollars (\$25,778,336), which is two million seven hundred eighty-nine thousand
12 nine hundred forty-nine dollars less than the projection. These annual deficiencies
13 passed on a cumulative deficit of fifteen million nine hundred fifty-four thousand
14 nine hundred eighty-eight dollars (\$15,954,988) compared to the amount of
15 revenue projected and appropriated for educational programs and facilities.

16 It is therefore the intent of *I Liheslaturan Guåhan* to provide for the deposit
17 of the projected revenue amounts from the General Fund into the Territorial
18 Educational Facilities Fund in equal prorated monthly installments to ensure that
19 educational programs and facilities provided by the Territorial Educational
20 Facilities Fund are fully-funded annually.

21 **Section 3. Territorial Educational Facilities Fund.** Subsection (l) of
22 §22425, Article 4, Chapter 22, Title 5, Guam Code Annotated, is hereby amended,
23 to read:

24 “(l) Territorial Educational Facilities Fund. There is continued in
25 existence, separate and apart from other funds of the government of Guam, a
26 fund known as the 'Territorial Educational Facilities Fund' (the TEF Fund).
27 The TEF Fund shall not be commingled with the General Fund or any other

1 fund of the government of Guam. The TEF Fund shall be held in an account
2 or accounts at a Guam financial institution or institutions separate and apart
3 from all other accounts and funds of the government of Guam. All real
4 property tax revenues received by or on behalf of the government of Guam
5 pursuant to § 24103, Title 11, Guam Code Annotated, shall be deposited in
6 the General Fund and accounted for as a separate revenue category in each
7 fiscal year budget. The Department of Administration shall deposit, on the
8 last day of each month, a sum equal to the real property tax revenue amounts
9 as adopted in each fiscal year budget, as amended, in equal prorated monthly
10 installments over the course of the fiscal year, to the TEF Fund. The
11 amounts to be deposited into the TEF Fund pursuant to this Act shall not be
12 subject to any administrative reserve prior to or subsequent to their deposit.
13 The TEF Fund and shall be accounted for and used periodically only for the
14 following purposes and in the following order:

15 (1) On the dates on which monies are remitted from the General
16 Fund to any trustee, co-trustee or paying agent for bonds issued
17 pursuant to this Section or pursuant to § 22435, Chapter 22 of Title 5
18 Guam Code Annotated, for the purpose of either (A) paying the
19 principal of and interest on the bonds designated as having been
20 issued for the capital projects enumerated in items (1), (2), (3), (4),
21 (6), (7) and (8) of subsection (m) of this Section, or paying the
22 principal of and interest on the bonds issued pursuant to § 22435,
23 Chapter 22 of Title 5 Guam Code Annotated, or (B) accumulating the
24 amounts necessary to pay the principal of or interest on such bonds,
25 there shall be transferred from the TEF Fund to the General Fund
26 amounts equal to, but not in excess of, the amounts remitted from the
27 General Fund for such purposes, and in the event that the amount so

1 transferred on any such date is insufficient to fully reimburse the
2 amount so remitted, the amount of the insufficiency shall be
3 transferred as soon thereafter as it becomes available in the TEF Fund,
4 together with interest from such remittance date to such date of
5 transfer at a rate equal to the yield on the bonds.

6 (2) On the dates on which monies are transferred to the General
7 Fund pursuant to paragraph (1) of this subsection (1) of this Section, if
8 such transfer is sufficient to fully reimburse the General Fund, (with
9 interest, if required), the balance remaining in the TEF Fund shall
10 remain in the TEF Fund and shall only be appropriated by *I*
11 *Liheslatura* for the purpose of constructing, refurbishing, replacing
12 and funding educational facilities and to fund the operations of the
13 Guam Community College.

14 Such tax collections shall not be pledged to the payment of
15 amounts due on such bonds and this subsection (1) may be amended at
16 any time by subsequent act of *I Liheslatura*. Nothing in this Section or
17 § 22435 of Chapter 22 of Title 5 Guam Code Annotated shall be
18 construed to prevent the government of Guam from issuing, after
19 appropriate enabling legislation, for the benefit of the government of
20 Guam, other general obligations or revenue obligations of the
21 government secured by said real property tax revenues.

22 The repayment obligation of the University of Guam described
23 Title 5 GCA § 22425 (k) shall continue.”

24 **Section 4. Effective Date.** The effective date of this Act shall be October 1,
25 2016.

26 **Section 5. Severability.** If a provision of this act or its application to any
27 person or circumstance is held invalid, the invalidity does not affect other

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