EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

FEB 0 2 2017

Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåtro Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

GL#34-17-161
Speaker Benjamin J.F. Cruz

FEB 0 2 2017
Time: 4:24 [ ] AM [ ] PM File No. ____
Received By: ____

Dear Mr. Speaker:

Attached unsigned is Bill No. 337-33 (LS) which was passed by the 33rd Guam Legislature and transmitted on December 30, 2016. The adjournment of the 33rd Guam Legislature prevented the return of the bill and more than thirty days have passed since its presentation. As set forth in Section 1423i of the Organic Act of Guam, the withholding of my signature has precluded the bill from becoming law.

Senseramente,

EDDIE BAZA CALVO

0161

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

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

This is to certify that **Bill No. 337-33 (LS), "AN ACT TO *AMEND* § 22425(l) OF ARTICLE 4, CHAPTER 22, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ENSURING FULL FUNDING OF EDUCATIONAL PROGRAMS AND FACILITIES APPROPRIATED FROM THE TERRITORIAL EDUCATIONAL FACILITIES FUND,"** was on the 30th day of December 2016, 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'låhen Guåhan* this 30 m day of DEC, 2016, at 8:50 o'clock P .M.

PATRICK G. CORPUZ #374
Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date:_____

Public Law No._____

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

Bill No. 337-33 (LS)
As amended on the Floor.

Introduced by: Michael F. Q. San Nicolas
Judith T. Won Pat, Ed. D.
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
B. J.F. Cruz
James V. Espaldon
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Mary Camacho Torres
N. B. Underwood, Ph.D.

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act *shall* be cited as the "Territorial Educational Facilities Fund Protection Act."

Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Territorial Educational Facilities Fund was established to provide funding

for educational programs and facilities, particularly of the Guam Department of Education. These funds are intended to be a reliable source of revenue for education expenditures, but that purpose is undermined when over-projection of such revenues causes operational shortfalls of educational programs and facilities. Instead of providing additional resources, the funding appropriated from this source becomes a cause of deprivation.

I Liheslaturan Guåhan further finds that the 2013 fiscal year budget projected Thirty Million Four Hundred Eighty-three Thousand Five Hundred Sixty-six Dollars ($30,483,566) in revenue for the Territorial Educational Facilities Fund, but the audited financial statements for Fiscal Year 2013 stated that the property tax revenues was Twenty-one Million Two Hundred Sixty-three Thousand Two Hundred Sixty-seven Dollars ($21,263,267), a variance of Nine Million Two Hundred Twenty Thousand Two Hundred Ninety-nine Dollars ($9,220,299). In the 2014 fiscal year budget, Twenty-seven Million Two Hundred Seven Thousand Eight Hundred Ninety Dollars (27,207,890) was projected in revenue, but the audited statements showed only Twenty-three Million Two Hundred Sixty-three Thousand One Hundred Fifty Dollars ($23,263,150) in revenue, with a variance of Three Million Nine Hundred Forty-four Thousand Seven Hundred Forty Dollars ($3,944,740). During the most recently ended Fiscal Year 2015, revenue was projected at Twenty-eight Million Five Hundred Sixty-eight Thousand Two Hundred Eighty-five Dollars ($28,568,285), but the Bureau of Budget and Management Research estimated actual revenues in the year to be only Twenty-five Million Seven Hundred Seventy-eight Thousand Three Hundred Thirty-six Dollars ($25,778,336), which is Two Million Seven Hundred Eighty-nine Thousand Nine Hundred Forty-nine Dollars ($2,789,949) less than the projection. These annual deficiencies passed on a cumulative deficit of Fifteen Million Nine Hundred Fifty-four Thousand Nine Hundred Eighty-eight Dollars

($15,954,988) compared to the amount of revenue projected and appropriated for educational programs and facilities.

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

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

"(l) Territorial Educational Facilities Fund. There is continued in existence, separate and apart from other funds of the government of Guam, a fund known as the "Territorial Educational Facilities Fund" (TEF Fund). The TEF Fund *shall not* be commingled with the General Fund or any other fund of the government of Guam. The TEF Fund *shall* be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. All real property tax revenues received by or on behalf of the government of Guam pursuant to § 24103, Title 11, Guam Code Annotated, *shall* be deposited in the General Fund and accounted for as a separate revenue category in each fiscal year budget. The Department of Administration *shall* deposit, on the last day of each month, a sum equal to the real property tax revenue amounts as adopted in each fiscal year budget, as amended, in equal prorated monthly installments over the course of the fiscal year, to the TEF Fund. The amounts to be deposited into the TEF Fund pursuant to this Act *shall not* be subject to any administrative reserve prior to or subsequent to the deposit. The TEF Fund *shall* be accounted for and used periodically *only* for the following purposes and in the following order:

(1) On the dates on which monies are remitted from the General Fund to any trustee, co-trustee, or paying agent for bonds issued pursuant to this Section or pursuant to § 22435, Chapter 22, Title 5, Guam Code Annotated, for the purpose of either (A) paying the principal of and interest on the bonds designated as having been issued for the capital projects enumerated in Items (1), (2), (3), (4), (6), (7) and (8) of Subsection (m) of this Section, or paying the principal of and interest on the bonds issued pursuant to § 22435, Chapter 22 of Title 5, Guam Code Annotated; or (B) accumulating the amounts necessary to pay the principal of or interest on such bonds, there *shall* be transferred from the TEF Fund to the General Fund amounts equal to, but not in excess of, the amounts remitted from the General Fund for such purposes, and in the event that the amount so transferred on any such date is insufficient to fully reimburse the amount so remitted, the amount of the insufficiency *shall* be transferred as soon thereafter as it becomes available in the TEF Fund, together with interest from such remittance date to such date of transfer at a rate equal to the yield on the bonds.

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

Such tax collections *shall not* be pledged to the payment of amounts due on such bonds and this Subsection (l) may be amended at any time by subsequent act of *I Liheslatura*. Nothing in this Section or § 22435 of this Chapter shall be construed to prevent the government of Guam from issuing, after appropriate enabling legislation, for the benefit of the government of Guam, other general obligations or revenue obligations of the government secured by said real property tax revenues.

The repayment obligation of the University of Guam described in Subsection (k) of this Section *shall* continue."

Section 4. Effective Date. The effective date of this Act *shall* be October 1, 2017.

Section 5. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity *shall not* affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.