

*I Mina'trentai Singko Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
319-35 (COR)	Telo T. Taitague Louise B. Muña William M. Castro	AN ACT TO ADD A NEW § 26202.2 TO ARTICLE 2 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; TO ADD A NEW § 26203(K)(38) AND A NEW § 26203(K)(39) TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; TO ADD A NEW § 28106(I) AND A NEW § 28106(J) TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; TO CREATE THE INCOME TAX REFUND DEPOSIT FUND AND MAKING APPROPRIATIONS THERETO; TO AUTHORIZE TEMPORARY REDUCTIONS IN THE LEVELIZED ENERGY ADJUSTMENT CLAUSE (LEAC) RATES; AND, TO PROVIDE ADDITIONAL SUPPORT TO THE MARIANAS REGIONAL FUSION CENTER; ALL RELATIVE TO PROVIDING IMMEDIATE ECONOMIC RELIEF TO FAMILIES AND BUSINESSES AFFECTED BY THE COVID-19 PANDEMIC.	3/24/20 1:18 p.m.					5/15/20	

Senator Régine Biscoe Lee,  
Chair

Senator Amanda L. Shelton,  
Vice Chair

Speaker Tina Rose Muña Barnes,  
Member

Vice Speaker Telen Cruz Nelson,  
Member

Senator Kelly Marsh (Taitano), PhD,  
Member

Senator Sabina Flores Perez,  
Member



**COMMITTEE ON RULES**  
*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
35<sup>TH</sup> GUAM LEGISLATURE

May 15, 2020

Senator Clynton E. Ridgell,  
Member

Senator Joe S. San Agustin,  
Member

Senator Jose "Pedo" Terlaje,  
Member

Senator Therese M. Terlaje,  
Member

Senator James C. Moylan,  
Member

Senator Mary Camacho Torres,  
Member and Chair, Subcommittee on Protocol

# MEMO

**To:** **Rennae Meno**  
Clerk of the Legislature

**From:** **Senator Régine Biscoe Lee**  
Chair, Committee on Rules

**Re:** **Fiscal Notes on Bill Nos. 319-35 (COR) and 348-35 (COR)**

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*Buenas yan Håfa adai.*

Attached, please find the fiscal notes for the following bills:

**Bill No. 319-35 (COR)**

**Bill No. 348-35 (COR)**

Please forward the same to Management Information Services (MIS) for posting on our website.

For any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.



**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 319-35 (COR)**

**AN ACT TO ADD A NEW §26202.2 TO ARTICLE 2 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; TO ADD A NEW §26203(k)(38) AND A NEW §26203(k)(39) TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; TO ADD A NEW §28106(i) AND A NEW §28106(j) TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; TO CREATE THE INCOME TAX REFUND DEPOSIT FUND AND MAKING APPROPRIATIONS THERETO; TO AUTHORIZE TEMPORARY REDUCTIONS IN THE LEVELIZED ENERGY ADJUSTMENT CLAUSE (LEAC) RATES; AND TO PROVIDE ADDITIONAL SUPPORT TO THE MARIANAS REGIONAL FUSION CENTER; ALL RELATIVE TO PROVIDING IMMEDIATE ECONOMIC RELIEF TO FAMILIES AND BUSINESSES AFFECTED BY THE COVID-19 PANDEMIC.**

**Department/Agency Appropriation Information**

<b>Dept./Agency Affected:</b> Government of Guam Wide	<b>Dept./Agency Head:</b> Lourdes A. Leon Guerrero, Governor
<b>Department's General Fund (GF) appropriation(s) to date:</b>	<b>\$645,038,669</b>
<b>Department's Other Fund (Specify) appropriation(s) to date:</b> All Special Funds per P.L. 35-36	<b>\$246,417,630</b>
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$891,456,299</b>

**Fund Source Information of Proposed Appropriation**

	<b>General Fund:</b>	<b>(Specify Special Fund):</b>	<b>Total:</b>
<b>FY 2019 Unreserved Fund Balance</b>		\$0	\$0
<b>FY 2020 Adopted Revenues</b>	\$0	\$0	\$0
<b>FY 2020 Appro. (P.L. 35-36 thru )</b>	\$0	\$0	\$0
<b>Sub-total:</b>	\$0	\$0	\$0
<b>Less appropriation in Bill</b>	\$0	\$0	\$0
<b>Total:</b>	\$0	\$0	\$0

**Estimated Fiscal Impact of Bill**

	<b>One Full Fiscal Year</b>	<b>For Remainder of FY 2020 (if applicable)</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>General Fund</b>	1/	\$0	\$0	\$0	\$0	\$0
<b>Special Fund</b>	1/	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	1/	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / / Yes / X/ No  
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? / X/ N/A / / Yes / / No  
If no, what is the additional amount required? \$ / X/ N/A
- Does the Bill establish a new program/agency? / X/ Yes / / No  
If yes, will the program duplicate existing programs/agencies? / / N/A / / Yes / X/ No  
Is there a federal mandate to establish the program/agency? / / Yes / X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes / X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes / X/ No  
/ / Requested agency comments not received by due date / / Other:

<b>Analyst:</b> <u>Jason Baza</u> Jason Baza, BMA IV	<b>Date:</b> <u>5/14/20</u>	<b>Director:</b> <u>Lester L. Carlson, Jr.</u> Lester L. Carlson, Jr., Director	<b>Date:</b> <u>MAY 15 2020</u>
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**Notes:**  
1/ See attached comments.



**BUREAU OF BUDGET AND MANAGEMENT RESEARCH**  
**COMMENTS ON BILL NO. 319-35 (COR)**

The proposed legislation seeks to implement a multitude of measures. The following notes are prepared in sequence with the legislation.

Section 2 of the proposed legislation would impose a temporary reduction of the Business Privilege Tax (BPT) from 5% to 4% effective April 1, 2020 through December 31, 2020. Per the March 2020 Consolidated Revenue & Expenditure Report (CRER), BPT is tracking to collect \$321.2M at the current tax levy of 5%, or \$6.3M above the adopted level of \$314.9M in FY 2020. However, the General Fund as a whole is projecting to experience a shortfall of \$8.2M due to the COVID-19 pandemic, primarily from reduced withholding taxes. Per the March 2020 CRER, actual BPT collections amounted to \$161.2M from October 2019 to March 2020. This means the remaining BPT to be collected from April 2020 through September 2020 is estimated to be approximately \$160M at the current tax levy of 5%. Should the tax levy be reduced to 4% for the remainder of FY 2020, the estimated reduction in BPT is approximately \$32M.

The Bureau notes that the Governor's FY 2021 Executive Budget Request (EBR) projects BPT to be \$330.9M, which was prepared at the 5% tax levy and prior to the COVID-19 pandemic. Based solely on the projected BPT level contained in the FY 2021 EBR and continuing the proposed BPT tax levy amendment from 5% to 4% until December 31, 2020, the estimated reduction in FY 2021 is approximately \$16.5M.

Sections 3 and 4 of the proposed legislation intend to create the Income Tax Refund Deposit Fund (ITRDF), separate from the Income Tax Refund Reserve Fund, and appropriate \$20M from the unappropriated FY 2019 General Fund balance as well as all funds received by the Government of Guam as reimbursement from the Federal Government for war claims paid pursuant to P.L. 35-61 to the ITRDF.

As reflected in the September 2019 Consolidated Revenue & Expenditure Report (CRER), total gross General Fund (GF) revenue collections in FY 2019 was approximately \$798,066,773, or \$22,437,805 over the adopted GF level of \$775,628,968 in P.L. 34-116. However, it is important to note that the FY 2018 Government of Guam Audit reflects a cumulative deficit of \$83,448,863. Due to the cumulative General Fund deficit, the Bureau does not recommend any appropriation of revenues collected in excess of the adopted FY 2019 General Fund levels contained in P.L. 34-116 as it is not fiscally prudent. Appropriating from such source will hinder the Government of Guam's ability to reduce the cumulative deficit.

War claim payments have been drawn from the General Fund. To date, \$12.4M has been paid to war claimants for all adjudicated claims from the War Claims Commission. The Memorandum of Agreement between the Government of Guam and the U.S. Department of Interior authorizes reimbursement of such payments from Section 30 Funds that were owed to the Government of Guam but held by the Department of Interior until claims had been adjudicated. The Bureau notes that such reimbursements will also assist in reducing the cumulative General Fund deficit noted above.

Sections 5 and 6 of the proposed legislation intend to exempt prescription medicines, pharmaceuticals, and medical equipment from the BPT and Use Tax levies until December 31, 2020. The Guam Economic Development Authority (GEDA) has testified on previous measures relative to further BPT exemptions, namely Bill 1-35 (LS), stating there may be potential violation of the Business Privilege Tax bond indenture. The indenture states: "as long as any Bonds remain outstanding, the Government shall not reduce the rate of levy and collection of the pledged business privilege tax below three percent (3%), nor shall the Government reduce the services, products or activities to which the pledged business privilege tax applies, nor shall the Government upwardly adjust any exception or exclusion, or otherwise impair, the pledged business privilege tax." The Bureau is noting similar concerns from GEDA may be brought up regarding Bill 319-35 (COR). Further, the Bureau notes that any proposed exemptions to the BPT may affect potential collections to be received by the General Fund.

Section 7 of the proposed legislation authorizes the Governor to approve recommendations from the Public Utilities Commission relative to reductions of rates charged for fuel recovery costs under the Guam Power Authority's (GPA) Levelized Energy Assessment Clause (LEAC). The Bureau recognizes that GPA is an autonomous agency whose revenues

and appropriations are not incorporated in the annual budget acts. As such, the Bureau notes that any revenue impact as a result in a reduction of rates charged for fuel recovery would need to be addressed by GPA.

Section 8 of the proposed legislation would authorize the Governor to transfer up to \$500K from available FY 2020 General Fund appropriations to the Guam Homeland Security/Office of Civil Defense for the Marianas Fusion Center to strengthen emergency communications, intelligence gathering and emergency response and preparedness. The Bureau notes that the Governor currently has General Fund transfer authority per Section 8, Chapter 13, Part 2, of P.L. 35-36.