

I Mina'trentai Sietta Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
234-37 (COR)	Joe S. San Agustin Tina Rose Muña Barnes Roy A. B. Quinata Dwayne T.D. San Nicolas	AN ACT TO AMEND §90.308 ARTICLE 7, CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO INCREASING THE PLEDGE OR RESERVATION OF REVENUES OF THE DEPARTMENT OF CORRECTIONS MODERNIZATIONACT OF 2021.	1/29/24 12:37 p.m.	1/31/24	Committee on General Government Operations and Appropriations	Request: 1/31/24 2/28/24			




COMMITTEE ON RULES

Senator Chris Barnett, Chairperson
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

February 28, 2024

To: **Joaquin P. Taitague**
Clerk of the Legislature

From: **Senator Chris Barnett** 
Chairperson, Committee on Rules

Subject: **Fiscal Note for Bill No. 234-37 (COR)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 234-37 (COR).

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly forward the same to Management Information Services (MIS) for posting on our website.



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 234-37 (COR)**

AN ACT TO AMEND §90.308 ARTICLE 7, CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO INCREASING THE PLEDGE OR RESERVATION OF REVENUES OF THE DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021.

Department/Agency Appropriation Information	
Dept./Agency Affected: Corrections	Dept./Agency Head: Fred E. Bordallo, Director
Department's General Fund (GF) appropriation(s) to date: FY2024 General Fund (\$32,860,546); Audited Excess General Fund Revenue for FY2022 (\$5,450,000)	\$38,310,546
Department's Other Fund appropriation(s) to date: DOC Inmate Revolving Fund (\$1,502,625); Safe Streets Fund (\$25,062)	<u>\$1,527,687</u>
Total Department/Agency Appropriation(s) to date:	\$39,838,233

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2023 Unreserved Fund Balance		\$0	\$0
FY 2024 Adopted Revenues	\$0	\$0	\$0
FY 2024 Appro. (P.L. 37-42)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2024 (if applicable)	FY 2025	FY 2026	FY 2027	FY 2028
General Fund 1/	\$0	\$15,000,000	\$15,000,000	\$15,000,000	\$15,000,000	\$15,000,000
Special Fund	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$15,000,000	\$15,000,000	\$15,000,000	\$15,000,000	\$15,000,000

- 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? / / N/A /X/ Yes / / No
If no, what is the additional amount required? \$ _____ /X/ N/A
- Does the Bill establish a new program/agency? / / Yes /X/ No
If yes, will the program duplicate existing programs/agencies? / / 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? /X/ Yes / / No
- Was Fiscal Note coordinated with the affected dept./agency? If no, indicate reason: /X/ Yes / / No
/X/ Requested agency comments not received by due date / / Other:

Analyst: <u>William P. Taitingfong</u> Date: <u>2/28/24</u>	Director: <u>Lester L. Carlson, Jr.</u> Date: <u>FEB 28 2024</u>
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Notes:
1/ See attached comments.

Bureau of Budget and Management Research
Comments on Bill No. 234-37 (COR)

The proposed legislation seeks to amend §90.308 Article 7, Chapter 90, Title 9 Guam Code Annotated relative to increasing the pledge or reservation of revenues of the Department of Corrections Modernization Act of 2021. As such, the current pledge or reservation of revenues under subsection (a) (2) of §90.308 is amended from the current annual appropriation of \$5.0M from the General Fund to now be \$15.0M from the General Fund, an increase of \$10.0M annually.

According to comments received from the Department of Corrections (DOC), the DOC is in support of the proposed legislation as the intent of the passage of the DOC Modernization Act of 2021 was to ensure that the construction of a new prison for Guam would be accomplished with the necessary financial resources to address the challenges of existing antiquated infrastructure, and an increased prison inmate population. The increase in funding proposed demonstrates an effort to secure more revenues necessary for the financial cost of construction of the new prison with expanded space, and modernize infrastructure security systems.

It should be noted that §90.308 (a) provides that rental payments under the lease and the lease-back may be secured by a pledge or other reservation of revenues collected by the government of Guam, and that (a) (1) identifies the sum of no more than \$5.0M from the revenues received pursuant to 11 GCA Chapter 42, Earned Income Tax Credit (EITC) will be available for Fiscal Year 2022 only. And that (a) (2) further identifies the sum of no more than \$5.0M from the General Fund shall be appropriated thereafter. §90.308 (b) stipulates that any amounts reserved or pledged as provided in this Section shall be subject to annual appropriations for the purpose of making lease-back payments. However, there are no legislative appropriations made pursuant to this section.

Per the January 2024 Consolidated Revenue and Expenditure Report, the current projected surplus reported is \$46,996,089. However, the Bureau notes that the passage of Public Law 37-49 and Public Law 37-58 appropriated \$15,828,000 and \$7,823,735 from this fund source, respectively. Further, the Bureau notes an anticipated General Fund coverage for shortfalls within the Healthy Futures Fund (\$5,985,454). This results in an unobligated FY 2024 General Fund revenue balance of \$17,358,900. Additionally, as listed below, there is \$16,368,000 in legislative appropriations recently passed by *I Liheslaturan Guåhan* and of which Bill No. 208-37 is now enacted as Public Law 37-66. As such, if the passed bills become public law, this will reduce the unobligated FY2024 General Fund revenue balance to \$990,900 or \$1,530,900 should Bill No. 107-37 and Bill No. 114-37 instead be funded by American Rescue Plan funds which funding was also allocated by *I Maga'hågan Guåhan*.

- 1) Bill No. 107-37 - \$500,000 to Guam Housing Corporation
- 2) Bill No. 114-37 - \$40,000 to Office of Veterans Affairs
- 3) Bill No. 208-37 - \$15,828,000 to Guam Power Authority

Furthermore, there are a total of \$21,850,000 in additional legislative appropriation measures seeking to also tap into either the FY 2024 General Fund revenues collected in excess of the adopted levels indicated in Public Law 37-42 or the projected unobligated FY 2024 General Fund revenues:

- 1) Bill No. 221-37 - \$350,000 to Guam Community College
- 2) Bill No. 225-37 - \$5,000,000 to Guam Memorial Hospital Authority
- 3) Bill No. 231-37 - \$1,500,000 to Department of Chamorro Affairs
- 4) Bill No. 234-37 - \$15,000,000 to Department of Corrections

The total amount of the competing measures combined is approximately \$38,218,000, or \$20,859,100 more than the cited projected unobligated GF revenues for FY 2024 after the passage of Public Law 37-58, Public

Law 37-49, and the estimated General Fund coverage of the Healthy Futures Fund shortfall. As such, the proposed increase of \$10.0M more above the current appropriation pledged or reservation of General Fund revenues of \$5.0M to \$15.0M will likely be dependent on the legislative action taken on the other noted appropriation measures introduced that are seeking to tap into the above noted funding sources.

The Bureau recommends that the *I Liheslaturan Guåhan* consider funding the start of this annual appropriation for the purpose of making lease-back payments in FY 2025 and from FY2025 General Fund revenues instead from FY2024 General Fund revenues due to recently passed and other competing measures noted.

The Bureau also notes the Guam Economic Development Authority's concern that such annual appropriation from the General Fund will impact debt service and future bond borrowing.