

*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
19-35 (COR)	James C. Moylan	AN ACT TO ADD §54102(1) OF ARTICLE 1, CHAPTER 54 OF TITLE 5 GUAM CODE ANNOTATED RELATIVE TO PROHIBITING THE AUTHORIZATION OF ANY WITHDRAWAL OR TRANSFER OF CASH OR FUNDS FROM THE TERRITORIAL HIGHWAY FUND TO THE GENERAL FUND FOR ANY NON-PRESCRIBED PURPOSE, AND TO MAKE SUCH AN ACT A MISDEMEANOR.	1/14/19 3:42 p.m.						

1 *I MINA'TRENTAI SINGKO NA LIHESLATURAN GUAHAN*  
2 2019 (FIRST) Regular Session  
3  
4

5 BILL NO: 19-35 (COR)

6  
7 INTRODUCED BY:

James C. Moylan *JCM*

8  
9 AN ACT TO ADD §54102(1) OF ARTICLE 1, CHAPTER 54 OF TITLE 5  
10 GUAM CODE ANNOTATED RELATIVE TO PROHIBITING THE  
11 AUTHORIZATION OF ANY WITHDRAWAL OR TRANSFER OF  
12 CASH OR FUNDS FROM THE TERRITORIAL HIGHWAY FUND TO  
13 THE GENERAL FUND FOR ANY NON-PRESCRIBED PURPOSE, AND  
14 TO MAKE SUCH AN ACT A MISDEMEANOR.  
15

16 BE IT ENACTED BY THE PEOPLE OF GUAM.

17 **Section 1: Legislative Intent and Findings:**

18 *I Liheslaturan Guahan* find's that the Territorial Highway Fund receives  
19 monies from Liquid Fuel Taxes, licenses, fees and permits, paid for by  
20 residents of Guam, with the intent of providing the territorial monies for  
21 maintenance, repairs and construction of roads. While the fund has existed  
22 for decades with clear mandates on its objectives, in recent times, the fund  
23 has unfortunately been utilized to fund other expenditures in the  
24 government of Guam, including bond pledges, public education,  
25 transportation and the mass transit.

26 In Fiscal Years 2016 and 2017, the fund even transferred an average of  
27 \$2.15M annually to the General Fund for other government expenditures.  
28 The fund has generated nearly \$20M annually over recent years, with a  
29 very small percentage truly being utilized for its intent, which are road

1 repairs. In 2017 the taxpayers were asked to pay more at the pumps, as the  
2 Liquid Fuel Tax was increased at the start of 2018.

3 The expenditures of the Territorial Highway Fund need additional scrutiny  
4 with those expenses not related to the funds objectives, and those not in  
5 accordance must eventually be removed. In the last 2 years, we have seen  
6 public laws enacted to provide more scrutiny to the mismanagement of  
7 other funds like the Guam Cancer Trust Fund and the E911 Funds, and it is  
8 only vital to take similar steps to protecting the Territorial Highway Fund,  
9 and taking the steps to providing our residents improved roads and  
10 highways.

11 **Section 2: §54102(1) of Chapter 54, Title 5, Guam Code Annotated, is**  
12 **hereby *added* to read as follows:**

13 **§ 54102. Territorial Highway Fund.**  
14

15 (a) For the purpose of securing the for the entire Territory proper  
16 maintenance and construction of existing highways, including roads and  
17 city and village streets and for implementing all highway-safety related  
18 plans, programs and projects, there is hereby established a fund to be  
19 known as the Territorial Highway Fund, which fund to be maintained  
20 separate and apart from any other funds of the government of Guam, and  
21 independent records shall be kept in connection therewith.  
22

23 (b) For the period beginning July 1, 1971, all monies received under 11  
24 GCA Finance & Taxation, Chapter 26, Article 4 and 16 GCA § 7160 and  
25 monies and revenue made available from the Federal Government for  
26 public highway purposes and highway safety related plans, programs and  
27 projects shall be deposited with the Territorial Highway Fund, provided  
28 further that any increase of tax revenue pursuant to 11 GCA Chapter 26,  
29 Article 4 shall revert to the General Fund to the extent that the increase of  
30 tax imposed. Accounting procedures for the funds shall be prescribed by

1 the Director of Administration and suitable reserves shall be maintained  
2 for tax drawbacks under this Article which shall be paid from the Fund.

3  
4 (1). No authorization for the withdrawal or transfer of cash or funds  
5 shall be made from the Territorial Highway Fund account to the  
6 General Fund, other than for purposes enumerated in §54102(a),  
7 §54102(b), §54102(c), §54102(d) and §54102(e), as well as any bond  
8 pledges towards capital improvement funds. Notwithstanding any  
9 other provisions of the law, any person in violation of withdrawing  
10 or transferring any cash or funds from the Territorial Highway Fund  
11 to the General Fund, for purposes not in accordance to any rules and  
12 regulations governing the Territorial Highway Fund and the  
13 provisions of this sub-section, shall be guilty of a misdemeanor.  
14

15 (c) Monies deposited in the Territorial Highway Fund shall be expended  
16 only after appropriation thereof is made by the Legislature and upon  
17 vouchers properly certified by the Director of Public Works for the  
18 purposes of acquisition of right-of-ways, planning, designing, constructing,  
19 reconstructing, improving, repairing, and maintaining of public highways,  
20 including roads and city and village streets. The Director of Public Works  
21 shall quarterly render an accounting of transactions of the Fund to the  
22 Governor and the Legislature. Accounting procedures for the Fund shall be  
23 prescribed by the Director of Administration.  
24

25 (d) Monies deposited in the Territorial Highway Fund shall also be used to  
26 implement Title 23, United States Code, as it applies to Guam and the  
27 provisions of P.L. 10-109, Tenth Guam Legislature.  
28

29 (e) No part or portion of the monies in the Territorial Highway Fund or  
30 from whatever source derived shall be used for the maintenance or  
31 operation of a public transit system.  
32

33 **SECTION 4. Effective Date.** This Act *shall* be effective on October 1, 2019.

1 **SECTION 5: Severability.** If any provision of this Act or its application to  
2 any person or circumstances is found to be invalid or contrary to law, such  
3 invalidity *shall* not affect other provisions or applications of this Act that  
4 can be given effect without the invalid provision or application, and to this  
5 end the provisions of this Act are severable.