

**Twenty-Second Northern Marianas Commonwealth Legislature**

**IN THE HOUSE OF REPRESENTATIVES**

\_\_\_\_\_ Session, 2022

H. B. 22-105

**A BILL FOR AN ACT**

To offset FAC increases with revenue derived from the Liquid Fuel Tax.

**BE IT ENACTED BY THE TWENTY SECOND NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

1           **Section 1. Findings and Purpose.** The Legislature finds that the  
2 Commonwealth Utilities Corporation (CUC) has increased the applicable Fuel  
3 Adjustment Charge (FAC) from \$0.36225 per kWh to \$0.43285 per kWh effective  
4 July 1, 2022. This increase to the FAC will result in higher utility rates for CNMI  
5 ratepayers. In order to mitigate the adverse effects that will follow this increase of  
6 nearly 20 percent, the Legislature hereby mandates that the applicable fees and  
7 taxes on fuel collected by Revenue and Taxation shall be used to offset the increase  
8 in the FAC. This legislation will transfer tax revenues collected on liquid fuel to  
9 CUC for the benefit of their residential and commercial ratepayers. Tapping this  
10 local tax revenue will ensure that there is local funding source directly related to  
11 the FAC and the rising cost of utilities.

12           The Legislature considered alternative measures such as a suspending taxes  
13 and fees or mandating a rate change. However, suspending applicable fees

1 and taxes on fuel collected by Revenue and Taxation does not guarantee that the  
2 fuel distributors will pass along the savings. Moreover, a tax suspension may also  
3 cause issues with respect to how funds from the American Rescue Plan Act of 2021  
4 (ARPA) may cover the shortfall that may be caused by appropriation of the liquid  
5 fuel tax.

6 Similarly, because CUC's base rates are not the actual issue, a rate  
7 adjustment will not address changes in the FAC. Moreover, there are no guarantees  
8 that CUC will pass on any savings that it will incur by the suspension or exemption  
9 of any fuel tax. Commonwealth law already exempts CUC from paying the Liquid  
10 Fuel Tax so the FAC for fuel used for power generation that CUC applies to its  
11 ratepayers already violates the intent and spirit of the exemption when CUC  
12 assesses the FAC to its customers. *See* Title 4 section 1403 (c).

13 Based on the foregoing, notwithstanding any provision of law to the  
14 contrary, the Legislature hereby mandates that the revenues collected from fuel  
15 taxes and fees shall be deposited into a Special Account that will be used to offset  
16 any future increases in FAC. At its discretion, CUC can pool or accumulate this  
17 revenue to establish a practicable balance and allow for a reasonable and  
18 meaningful decrease in the applicable monthly rate or to the FAC applicable to  
19 ratepayers. This is consistent with the recent announcement titled, "FAC Relief for  
20 Residential Electric Customers" released on June 30, 2022, that CUC has received

1 funds from the CNMI Office of the Governor that will cause a credit to each  
2 ratepayer's account in the amount of \$150.00.

3 This mitigation measure may also result the price reduction of commodities  
4 and the cost of goods when retailers pay less for their respective utilities in a manner  
5 consistent with the Commonwealth Disaster Price Freeze Act of 1996. Lastly, this  
6 legislation is temporary and will expire or sunset at the end of Fiscal Year 2023.

7 **Section 2. Enactment.** Title 4, Economic Resources, Division 1, Revenue  
8 and Taxation, section 1403 is hereby amended by the addition of the following new  
9 subsections (d), (e), and (f):

10 (d) Notwithstanding any law, rule, or regulation to the  
11 contrary, and subject to the termination of this subsection via its  
12 sunset clause on October 1, 2023, the Secretary of the Department  
13 of Finance and the Commonwealth Utilities shall comply with the  
14 following:

15 1) establish a special account for the benefit of CUC  
16 residential and commercial ratepayers; and

17 2) deposit into said special account all revenue collected  
18 from Title 4, section 1403, "Liquid Fuel Tax" from the period of  
19 July 1, 2022 to September 30, 2023 into the special account. During  
20 this period of time, said revenue shall be used exclusively for the

1           benefit of CUC residential and commercial ratepayers for the  
2           purpose of off-setting any increases to the applicable Fuel  
3           Adjustment Charge and/or reducing or subsidizing the applicable  
4           base rates that are incurred or charged retroactive to July 1, 2022.

5           (e) Revenues collected in the special account established by  
6           subsection (d) shall be transferred to CUC on a monthly basis. CUC  
7           shall utilize said revenue to offset FAC charges and may implement  
8           a new rate structure after the funds have been applied to address the  
9           FAC charges. Provided that, CUC may allow the special account  
10          balance to accumulate, prior to any offset or reduction, in order to  
11          effectuate a reasonable reduction in FAC charges in excess of \$0.05  
12          per month or at least 50% of the planned net FAC increase per month  
13          or other reduction in the applicable base rate .

14           (f) The provisions of subsections (d) and (e) shall not apply  
15          to the CNMI government, including its branches, agencies, and  
16          instrumentalities.”

17          **Section 3. Sunset.** This provision shall expire and cease to be effective  
18          without further legislative action on October 1, 2023.

19          **Section 4. Severability.** If any provision of this Act or the application of  
20          any such provision to any person or circumstance should be held invalid by a court  
21          of competent jurisdiction, the remainder of this Act or the application of its

1 provisions to persons or circumstances other than those to which it is held invalid  
2 shall not be affected thereby.

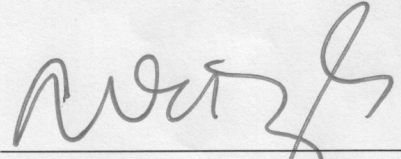
3 **Section 5. Savings Clause.** This Act and any repealer contained herein  
4 shall not be construed as affecting any existing right acquired under contract or  
5 acquired under statutes repealed or under any rule, regulation or order adopted  
6 under the statutes. Repealers contained in this Act shall not affect any proceeding  
7 instituted under or pursuant to prior law. The enactment of this Act shall not have  
8 the effect of terminating, or in any way modifying, any liability civil or criminal,  
9 which shall already be in existence at the date this Act becomes effective.


10 **Section 6. Effective Date.** This Act shall take effect upon its approval by  
11 the Governor or upon its becoming law without such approval.

Prefiled: 7/11/2022

Date: 7/11/2022


Introduced by:

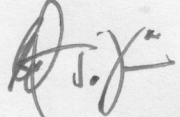
  
Rep. Donald M. Manglona

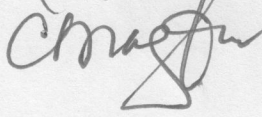
  
Rep. Ralph N. Yumul - BJ ATTAD

Reviewed for legal sufficiency by:

  
House Legal Counsel

 7/11/22 - Edmund Villagomez

 - Richard Lizama

 - Corina Magofka