

I Mina'trentai Sais Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
290-36 (LS)	James C. Moylan	AN ACT TO ADD A NEW § 26203(k)(39), §26201(a), (b), (c), (d), AND (e) TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO A TEMPORARY EXEMPTION OF BUSINESS PRIVILEGE TAXES ON THE AMOUNTS RECEIVED FROM THE RETAIL SALES OF LIQUID FUEL, AND TO MANDATE A VISIBLE BUSINESS PRIVILEGE TAX ON GROSS RECEIPTS OF LIQUID FUEL TRANSACTIONS.	4/7/22 1:14 p.m.	4/8/22	Committee on General Government Operations, Appropriations, and Housing			Request: 4/11/22 4/20/22 6/29/22 Revised	



Vice Speaker

TINA ROSE MUÑA BARNES

CHAIRPERSON, COMMITTEE ON RULES

I Mina'trentai Sais Na Liheslaturan Guåhan

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June 29, 2022

MEMO

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

From: **Senator Amanda L. Shelton**
Acting Chairperson, Committee on Rules

Re: **Revised Fiscal Note on Bill No. 290-36 (LS)**

Håfa adai,

Attached, please find the **revised fiscal note** for the following bill:

Bill No. 290-36 (LS)

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

If you have 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. 290-36 (LS) Revised as of 6/29/22

AN ACT TO ADD A NEW § 26203(k)(39), § 26201(a), (b), (c), (d), AND (e) TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO A TEMPORARY EXEMPTION OF BUSINESS PRIVILEGE TAXES ON THE AMOUNTS RECEIVED FROM THE RETAIL SALES OF LIQUID FUEL, AND TO MANDATE A VISIBLE BUSINESS PRIVILEGE TAX ON GROSS RECEIPTS OF LIQUID FUEL TRANSACTIONS.

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Revenue and Taxation (DRT)	Dept./Agency Head: Dafne Mansapit-Shimizu, Director
Department's General Fund (GF) appropriation(s) to date:	\$12,065,785
Department's Other Fund appropriation(s) to date: Banking and Insurance Enforcement Fund (\$478,857); Better Public Service Fund (\$1,291,037); Tax Collection Enhancement Fund (\$808,767)	<u>\$2,578,661</u>
Total Department/Agency Appropriation(s) to date:	\$14,644,446

Fund Source Information of Proposed Appropriation

	General Fund:	Special Fund:	Total:
FY 2021 Unreserved Fund Balance	\$0	\$0	\$0
FY 2022 Adopted Revenues	\$0	\$0	\$0
FY 2022 Appro. (P.L. 36-54)	\$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 2022 (if applicable)	FY 2023	FY 2024	FY 2025	FY 2026
General Fund	\$0	1/	1/	1/	\$0	\$0
Special Fund	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	1/	1/	1/	\$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? // Yes /X/ No
If yes, will the program duplicate existing programs/agencies? /X/ N/A // Yes // 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 // No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /X/ Yes // No
// Requested agency comments not received by due date: // Other

Analyst: <u>Raymond Rieta, BMA II</u> Date: <u>6/29/22</u>	Director: <u>Lester L. Carlson, Jr., Director</u> Date: <u>JUN 29 2022</u>
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Notes:
1/ See additional Comments.

Bureau of Budget & Management Research
Comments on Bill No. 290-36 (LS)
Revised as of 6/29/22

Bill No. 290-36 is an act to temporarily exempt Business Privilege Taxes (BPTs) on the amounts received from the retail sales of liquid fuel and to mandate a visible BPT on gross receipts of liquid fuel transactions. Referencing comments received from the Department of Revenue and Taxation (DRT) regarding the Bill, the department utilized current price and the historical increases in the price of regular unleaded gasoline to reasonably approximate a reduction in BPTs based on previously provided liquid tax receipts and quantity data for prior fiscal years.

As for the potential impact (loss) to General Fund Revenues should the Bill become law, DRT approximates decreases in BPTs dependent on the following assumptions **which are derived from a REDUCTION of the BPT assessment from 5% to 3% given that an Exemption/Elimination of BPT for liquid fuel taxes would violate BPT Bond Covenants:**

- A) Assuming there are no future increases in the price of gasoline (Diesel, Regular, Premium):
Estimated Annual Impact (loss) on BPT: ~~\$10.9M to \$13.7M~~ -~~\$4.36M~~ to -~~\$5.48M~~
- B) Assuming future increases in Diesel, Regular, and Premium will follow actual increases in price of regular unleaded gasoline from May 6, 2020 through April 12, 2022;
 - 1) Estimated Annual Impact (loss) Year 1 (41% increase from Base (Current) Year): ~~\$15.4M~~ to ~~\$19.3M~~ -~~\$9.24M~~ to -~~\$11.58M~~
 - 2) Estimated Annual Impact (loss) Year 2 (82% increase from Base (Current) Year): ~~\$19.9M~~ to ~~\$25M~~ -~~\$11.94M~~ to -~~\$15M~~

Additionally, DRT concludes that should Bill No. 290-36 become law, the department will incur the following estimated administrative costs to implement the Bill:

- A) The equivalent of 2 FTE positions at the BPT Branch (including benefits): \$106,288
- B) Creation and programming of BR (Business Registration) forms for online use for this purpose: \$30,000 to \$50,000
- C) Total estimated administrative cost range: \$136,288 to \$156,288

Expanding on DRT's comments, the estimated administrative costs by DRT to implement the Bill should also incorporate the additional requirements of the department to effectively implement and enforce the additions to § 26201 whereas BPT amounts from liquid fuel transactions are to be shown on receipts or displayed at retail businesses for persons retailing liquid fuel.

On page 4 Section (c) of Public Law 36-9 the Committee can find the Statutory reference /description of the Pledge of Business Privilege Tax Revenues which limits any reduction of the current 5% to no less than 3%.

Additionally the Bureau was asked for our interpretation of 11 GCA, Chapter 26, Section 26203(8). The Bureau is of the opinion that this Section avoids Double Taxation and makes it clear that any Exemption of BPT taxes applies only to the retail distribution of liquid fuel. While a "distributor" is cited, it appears clear that in this case "distributor" and "wholesaler" (not specifically mentioned in this Section) can be used to state the same thing. The BPT is not applied to the distributor/wholesaler and only at the retail level as stated in this Section "This exemption shall not apply to the sale by a retailer or a retailing subdivision of a distributor of any liquid fuel on which a tax is levied under Article 4 of the Chapter."