



**The Senate**  
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE  
P.O. BOX 500129  
SAIPAN, MP 96950

**STANDING COMMITTEE REPORT NO. 23-59**  
**Date: October 2, 2023**  
**RE: House Bill No. 23-9, HS1**

Honorable Edith E. DeLeon Guerrero  
President of the Senate  
Twenty-Third Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

Dear Madam President:

Your Committee on Fiscal Affairs, to which was referred House Bill No. 23-9, HS1, entitled:

“To require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands”,

begs leave to report as follows:

**I. RECOMMENDATION:**

After considerable discussion and deliberation, your Committee recommends the passage of the proposed legislation in the form of House Bill No. 23-9, HS1, Senate Draft 1.

**II. ANALYSIS:**

A) Purpose:

The purpose of House Bill No. 23-9, HS1 is to require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands.

B) Committee Findings:

Your Committee finds that the expenditure authority of non-locally sourced funds is determined by each respective state's interpretation of its statutory and constitutional mandates. Currently, absent any statutory or constitutional provisions of how such funds are to be appropriated in the Commonwealth, the practice of allocating such funds has been at the sole discretion of the Executive Branch.

Your Committee further finds that House Bill No. 23-9, House Substitute 1 seeks to reinstate the checks and balances of the government by requiring legislative approval of any non-locally sourced funds, especially for unanticipated federal funds identified to benefit the Commonwealth of the Northern Mariana Islands. As defined in the proposed legislation, "Non-Locally-Sourced Funds" include any funds intended to benefit the Commonwealth that have been identified outside of the general and local revenues of the Commonwealth, with the exemption of federal funds specifically earmarked for certain agencies and public programs of the Commonwealth government.

Your Committee met on October 2, 2023, and continued deliberation on October 3, 2023, to formally discuss the proposed legislation and review the comments submitted to the Committee. Your Committee unanimously supports the intent of the proposed legislation to include additional amendments that would require legislative approval of total cash donations or cash community chest benefits in excess of \$200,000, the exemption of the Department of Public Lands, and several technical amendments for clarity purposes. During deliberation, your Committee agreed that cash donations in excess of \$200,000 made to the CNMI should require legislative approval consistent with the Budget Act in regard to a change in revenue as codified under 1 CMC § 7604.

During the meeting, no member objected to the passage of the proposed legislation, as amended. It is for these reasons that your Committee recommends the passage of the proposed legislation in the form of House Bill No. 23-9, HS1, Senate Draft 1.

C) Legislative History:

House Bill No. 23-9 was formally introduced by Representative Denita K. Yangetmai on February 3, 2023, and was subsequently referred to the House Standing Committee on Ways and Means for disposition. The House Standing Committee on Ways and Means adopted Standing Committee Report No. 23-21 recommending the passage of the proposed legislation in the form of House Bill No. 23-9, House Substitute 1. On June 20, 2023, House Bill No. 23-9, HS1 was passed by the House of Representatives during its First Day, Third Special Session. House Bill No. 23-9, HS1 was transmitted to the Senate on June 21, 2023, and subsequently referred to the Senate Standing Committee on Fiscal Affairs for disposition.

During the Twenty-Second Northern Marianas Commonwealth Legislature, a similar legislation, House Bill No. 22-97 was formally introduced by Representative Corina L.

Magofna on March 29, 2022, and was referred to the House Standing Committee on Ways and Means for disposition. No further action was taken.

D) Public Hearing and Comment:

1. Public Hearing. No public hearing was scheduled for House Bill No. 23-9, House Substitute 1. However, a Committee Meeting, which is open to the public, was held on October 2, 2023, and continued the following day. See below for further details.
2. Committee Meeting. The proposed legislation made its first appearance during the scheduled committee meeting convened on October 2, 2023. The Committee Meeting notices and agenda, as amended, were officially posted on September 27, 2023, on various legislative forums and social media sites to invite members of the general public to provide comments as indicated under *Item No. III. Public Comments* of the Committee Agenda. However, no public comment was received on the proposed legislation by your Committee.
3. Written Comment. Your Committee requested comments with a deadline to respond by August 31, 2023. To date, the status of comments received from the forgoing government/private entities are as follows:
  - a. Office of the Attorney General, not received.
  - b. Department of Finance, not received.

E) Estimated Fiscal Cost:

The enactment of House Bill No. 23-9, HSI, Senate Draft 1, may result in additional expenses to the CNMI government for associated administrative costs to effectuate the intent of the proposed legislation. However, in the spirit of transparency and accountability, it is the intent of the proposed legislation to require the legislative approval of non-locally sourced funds, especially unanticipated federal funds identified for the benefit of the Commonwealth.

F) Summary of Committee Amendments:

Your Committee agreed to the proposed amendments, as follows:

1. Section 3. Enactment. 101. Legislative Expenditure Authority. Clarified language to include a minimum of \$200,000 in cash donations or community chest benefits to require legislative approval, beginning on page 3, lines 7-17, to read:

**“101. Legislative Expenditure Authority.** Notwithstanding any Commonwealth law to the contrary, and unless otherwise preempted by federal law, the expenditure of the Non-Locally-Sourced Funds shall be appropriated pursuant to CNMI law.

~~Except As used herein, the term “Non-Locally-Sourced Funds” shall mean all funds, exclusive of the General Fund or funds already subject to legislative appropriation such as locally-sourced general or specific revenue, the term “Non-Locally-Sourced Funds” shall mean all funds~~ that directly or indirectly benefit the Commonwealth of the Northern Mariana Islands that originate from either outside the Commonwealth, or from the United States Federal Government or any of its programs, policies, or enactments, that are subject to expenditure by the Commonwealth of the Northern Mariana Islands Governor or Office of the Governor. In addition, a total cash donation or cash community chest benefits in excess of \$200,000 is considered non-locally-sourced funds.”

2. Section 3. Enactment. 102. Legislative Review of Proposed Certification of Non-Locally Sourced Funds. Deleted language referencing unanticipated federal funds that are already included under the definition of “Non-Locally-Sourced Funds”, beginning on page 3, line 21 through page 4, line 3, that read:

**“102. Legislative Review of Proposed Certification of Non-Locally Sourced Funds.** Prior to submitting any certification of use for Non-Locally-Sourced Funds appropriated for the Commonwealth of the Northern Mariana Islands by the U.S. Congress ~~to include all funds including but not limited to those funds originating from Title VI of the Social Security Act (42 U.S.C. 801 et seq.) as amended by U.S. PL 117-2 [the American Rescue Plan],~~ the Governor shall submit a proposed certification to the CNMI House of Representatives and the CNMI Senate. Said proposal shall be timely submitted for passage by legislation enacted by the Northern Mariana Islands Legislature.”

3. Section 3. Enactment. 104. Exemptions. Amended the provision to include the Department of Public Lands, beginning on page 4, line 21 through page 5, line 1, to read:

**“104. Exemptions.** The provisions governing the use of Non-Locally-Sourced Funds set forth herein shall not apply to the following entities and the funds that said entities may receive or expend:

- (1) The CNMI Public School System;
- (2) The CNMI Office of Public Auditor;
- (3) The Northern Marianas College;
- (4) All CNMI Autonomous Entities and Public Corporations;
- (5) Northern Marianas Housing Corporation; ~~and~~
- (6) Department of Public Lands; and

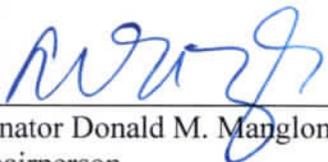
~~(6)~~ Any funds provided directly to specific grantees under the terms and conditions of a federal grant or program except when the CNMI Governor or the CNMI Office of the Governor is the direct expenditure authority.”

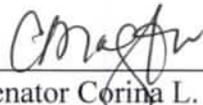
4. Inserted several technical amendments throughout the bill.

**III. CONCLUSION:**

Your Committee agrees with the intent and purpose of the proposed legislation and recommends passage in the form of House Bill No. 23-9, HS1, Senate Draft 1.

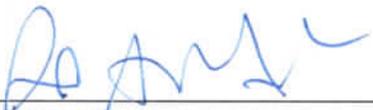
Respectfully submitted,

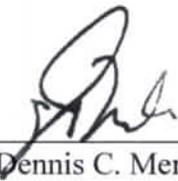
  
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Senator Donald M. Manglona  
Chairperson

  
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Senator Corina L. Magofna  
Vice Chairperson

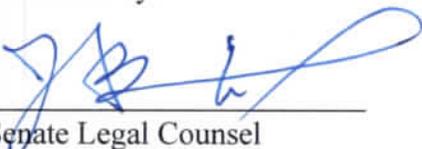
  
\_\_\_\_\_  
Senator Celina R. Babauta  
Member

\_\_\_\_\_  
Senator Karl R. King-Nabors  
Member

  
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Senator Paul A. Manglona  
Member

  
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Senator Dennis C. Mendiola  
Member

Reviewed by:

  
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Senate Legal Counsel

**TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH**

**LEGISLATURE**

**IN THE HOUSE OF REPRESENTATIVES**

**FEBRUARY 3, 2023**

**First Regular Session, 2023**

**H. B. 23-9, HS1, SD1**

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**A BILL FOR AN ACT**

To require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands.

**BE IT ENACTED BY THE 23<sup>RD</sup> NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

1           **Section 1. Findings.** Currently, the Legislature finds that legislation should  
2 be enacted that mandates that any expenditure of non-locally sourced funding,  
3 especially from the federal government must be approved by the Commonwealth  
4 Legislature. Current reconciliation language requires states and territories receiving  
5 assistance to provide certain guarantees and certifications concerning the use of  
6 these funds. For instance, in order to receive a payment a State, territory, or Tribal  
7 government shall provide the Secretary of the United States Treasury with a  
8 certification signed by the authorized officer that the funds shall be spent in a  
9 manner that is consistent with the intent of the granting entity.

10           Respectful of the fact that federal programs are well-established and that  
11 there are established relationships between federal agencies and their respective  
12 local grantees, this Act expressly exempts federal grant money that is earmarked

1 for certain beneficiaries where the provisions of the grant are clear and not subject  
2 to reprogramming by the Governor. For instance, this Act shall not apply to the  
3 Public School System and its federal grants, Northern Marianas College, and other  
4 autonomous agencies. Likewise, this act shall not apply to federal funds where  
5 federal law pre-empts local law in terms of the expenditure authority or the  
6 appropriation of funds.

7 In addition, to ensure compliance, the Public Auditor shall establish a task  
8 force to monitor the expenditure of all Non-Locally-Sourced Funds for compliance  
9 with the terms of certification and shall report on the task force's findings quarterly  
10 to the Legislature.

11 Next, this Act, unlike other budgetary provisions that are without penalties  
12 or any form of legal consequences, provides that anyone ~~that~~ who violates the  
13 provisions regarding expending funds shall be guilty of a felony punishable by not  
14 less than 5 years and not more than 20 years imprisonment and/or a fine of not less  
15 than \$10,000, or both in addition to being jointly or severally liable for the amounts  
16 that were expended in violation of this Act. Moreover, anyone ~~that~~ who fails to  
17 comply with the certification provisions shall be guilty of a misdemeanor  
18 punishable by at least one year in prison and a fine of not less than \$1,000.

19 **Section 2. Short Title.** This Act may be cited as the “Legislative  
20 Appropriations of Non-Locally-Sourced Funds Act.”

1           **Section 3. Enactment.** Subject to codification by the CNMI Law Revision  
2 Commission, the following is hereby enacted into law:

3                   **“101. Legislative Expenditure Authority.** Notwithstanding any  
4 Commonwealth law to the contrary, and unless otherwise preempted by  
5 federal law, the expenditure of the Non-Locally-Sourced Funds shall be  
6 appropriated pursuant to CNMI law.

7                   Except As used herein, the term “Non-Locally-Sourced Funds” shall  
8 mean all funds, exclusive of the General Fund or funds already subject to  
9 legislative appropriation such as locally-sourced general or specific  
10 revenue, the term “Non-Locally-Sourced Funds” shall mean all funds that  
11 directly or indirectly benefit the Commonwealth of the Northern Mariana  
12 Islands that originate from either outside the Commonwealth, or from the  
13 United States Federal Government or any of its programs, policies, or  
14 enactments, that are subject to expenditure by the Commonwealth of the  
15 Northern Mariana Islands Governor or Office of the Governor. In addition,  
16 a total cash donation or cash community chest benefits in excess of  
17 \$200,000 is considered non-locally-sourced funds.

18                   **102. Legislative Review of Proposed Certification of Non-**  
19 **Locally Sourced Funds.** Prior to submitting any certification of use for  
20 Non-Locally-Sourced Funds appropriated for the Commonwealth of the  
21 Northern Mariana Islands by the U.S. Congress ~~to include all funds~~

1       ~~including but not limited to those funds originating from Title VI of the~~  
2       ~~Social Security Act (42 U.S.C. 801 et seq.) as amended by U.S. PL 117-2~~  
3       ~~[the American Rescue Plan]~~, the Governor shall submit a proposed  
4       certification to the CNMI House of Representatives and the CNMI Senate.  
5       Said proposal shall be timely submitted for passage by legislation enacted  
6       by the Northern Mariana Islands Legislature.

7               **103. Legislative Approval of Certification of Non-Locally**  
8       **Sourced Funds.** Unless expressly exempted by this Act, the Governor or  
9       any officer of the Commonwealth of the Northern Mariana Islands, must  
10      obtain approval by law enacted by the Legislature as a precondition of  
11      providing any certification required by federal law or policy. This provision  
12      applies to all Non-Locally-Sourced Funds.

13              **104. Exemptions.** The provisions governing the use of Non-  
14      Locally-Sourced Funds set forth herein shall not apply to the following  
15      entities and the funds that said entities may receive or expend:

- 16              (1) The CNMI Public School System;
- 17              (2) The CNMI Office of Public Auditor;
- 18              (3) The Northern Marianas College;
- 19              (4) All CNMI Autonomous Entities and Public Corporations;
- 20              (5) Northern Marianas Housing Corporation; ~~and~~
- 21              (6) Department of Public Lands; and

1           (~~67~~) Any funds provided directly to specific grantees under the  
2 terms and conditions of a federal grant or program except when the CNMI  
3 Governor or the CNMI Office of the Governor is the direct expenditure  
4 authority.

5           **105. Office of Public Auditor Oversight and Audit.** The Office of  
6 Public Auditor shall establish a task force to monitor the expenditure of all  
7 Non-Locally-Sourced Funds for compliance with the terms of the  
8 certification mandated by this Act and shall report on the task force's  
9 findings quarterly to the Legislature.

10           **106. Civil and Criminal Penalties. Unauthorized Expenditure.**  
11 In addition to any other civil or criminal penalties, any person who violates  
12 this Act by causing the unauthorized expenditure of Non-Locally-Sourced  
13 Funds shall be deemed to have committed a felony punishable by not less  
14 than 5 years and not more than 20 years imprisonment and/or a fine of not  
15 less than \$10,000, or both in addition to being jointly or severally liable for  
16 the amounts that were expended in violation of this Act.

17           **107. Civil and Criminal Penalties. Failure to Obtain Legislative**  
18 **Certification.** In addition to any other civil or criminal penalties, any person  
19 who violates this Act by failing to obtain legislative certification of Non-  
20 Locally-Sourced Funds as provided by the Act, shall be deemed to have  
21 committed a misdemeanor punishable by not less than 1 year and not more

**HOUSE BILL 23-9, HS1, SD1**

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1           than 5 years imprisonment and/or a fine of not less than \$1,000, or both in  
2           addition to being jointly or severally liable for the amounts that were  
3           expended in violation of this Act.”

4           **Section 4. Severability.** If any provisions of this Act or the application of  
5           any such provision to any person or circumstance should be held invalid by a court  
6           of competent jurisdiction, the remainder of this Act or the application of its  
7           provisions to persons or circumstances other than those to which it is held invalid  
8           shall not be affected thereby.

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

16          **Section 6. Effective Date.** This Act shall take effect upon its approval by  
17          the Governor, or it becoming law without such approval.

Prefiled: 1/19/2023

Date: 1/19/2023

Introduced by: /s/ Rep. Denita Kaipat Yangetmai

Reviewed for Legal Sufficiency by:

/s/ Joseph L.G. Taijeron, Jr.

House Legal Counsel