



TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

# HOUSE OF REPRESENTATIVES

## COMMITTEE ON WAYS AND MEANS

P.O. BOX 500586 SAIPAN, MP 96950

RALPH N. YUMUL

CHAIRMAN

STANDING COMMITTEE REPORT NO. 23-21

DATE: May 11, 2023

RE: HOUSE BILL No. 23-9

The Honorable Edmund S. Villagomez  
Speaker of the House of Representatives  
Twenty-Third Northern Marianas  
Commonwealth Legislature  
Capitol Hill  
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Ways and Means to which was referred:

**House Bill No. 23-9:** "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, your Committee recommends that H. B. No. 23-9 be passed by the House in the form of House Substitute 1.

HOUSE CLERK'S OFFICE  
RECEIVED BY *[Signature]*  
DATE *6/16/2023* TIME *1:43pm*

## II. ANALYSIS:

### A. Purpose:

The purpose of this Act is to require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands.

### B. Committee Substitute:

Your Committee adopted House Substitute 1, which included the following amendments:

#### 1. Section 1:

~~Of particular note, the Legislature finds that prior to submitting any certification of use for Non-Locally-Sourced Funds appropriated for the Commonwealth of the Northern Mariana Islands, the Governor shall be required to request the approval of such certification by joint resolution of the Northern Mariana Islands Legislature. Further, this Act shall also mandate that the expenditure of the Non-Locally-Sourced Funds shall be subject to appropriation by the Legislature.~~

#### 2. Section 3:

**“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, via either House Joint Resolution or Senate Joint Resolution.”

~~“Said proposal shall be timely submitted for review, revision, and approval by joint resolution passage by legislation enacted by the Northern Mariana Islands Legislature.”~~

**“103. Legislative Approval of Certification of Non-Locally Sourced Funds.** Unless expressly exempted by this Act, the Governor or any officer of the Commonwealth of the Northern Mariana Islands, must obtain approval by ~~joint resolution of law enacted by the~~ Legislature as a precondition of providing any certification required by federal law or policy. This provision applies to all Non-Locally-Sourced Funds. ~~and specifically to the certification required in Sec. 602(d) of Title VI of the Social Security Act (42 U.S.C. 801 et seq.), as amended by the U.S. PL 117-2 [American Rescue Plan], with respect to the spending, obligating, transferring, allocating, or any use of said Non-Locally-Sourced Funds for the purposes specified in Sec. 602(e) of the Act.”~~

3. Included the following entities to the list of Exemptions:

Public Corporations and the Northern Marianas Housing Corporation.

C. Committee Findings:

Your Committee finds that House Bill 23-9, House Substitute 1, will mandate that any expenditure of non-locally-sourced funding, especially from the federal government must be approved by the Commonwealth Legislature. 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, 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.

Your Committee is cognizant that there are established relationships between federal agencies and their respective local grantees and this Act expressly exempts federal grant money that is earmarked for certain beneficiaries where the provisions of the grant are clear and not subject to reprogramming by the Governor. For instance, this Act shall not apply to the Public School System and its federal grants, the Northern Marianas College, the CNMI Office of the Public Auditor, and other autonomous agencies and public corporations. Likewise, this Act shall not apply to federal funds where federal law pre-empts local law in terms of the expenditure authority or the appropriation of funds.

Your Committee further finds that the Office of the Public Auditor shall establish a taskforce to monitor expenditure of all Non-Locally-Sourced Funds for compliance with the terms of the certification mandated by this Act and shall report on the taskforce's findings quarterly to the Legislature. This provision will ensure compliance to this Act. Furthermore, this Act creates civil and criminal penalties for unauthorized expenditure and failure to obtain legislative certification. Any person who violates this Act by causing the unauthorized expenditure of Non-Locally-Sourced Funds shall be deemed to have committed a felony punishable by not less than 5 years and not more than 20 years imprisonment and/or a fine of not less than \$10,000, or both in addition to being jointly or severally liable for the amounts that were expended in violation of this Act. Any person who violates this Act by failing to obtain legislative certification of Non-Locally-Sourced Funds as provided by the Act, shall be deemed to have committed a misdemeanor punishable by not less than 1 year and not more than 5 years imprisonment and/or a fine of not less than \$1,000, or both in addition to being jointly or severally liable for the amounts that were expended in violation of this Act.

In conclusion, your Committee is committed to improving transparency and accountability in public expenditure of locally and non-locally-sourced funds, therefore your Committee agrees with the intent and purpose of House Bill No. 23-09 and recommends that the House pass the legislation in the form of House Substitute 1.

C. Public Comments/Public Hearing:

The Committee did not solicit comments for House Bill 23-09, House Substitute 1.

D. Legislative History:

House Bill No. 23-9 was introduced by Representative Denita Kaipat Yangetmai on February 03, 2023 and was subsequently referred to the House Standing Committee's on Ways and Means, and Judiciary and Governmental Operations for disposition. Moreover, on May 10, 2023, House Bill No. 23-9 was referred to the Special Committee on Federal Assistance and Disaster Related Funding for disposition.

A similar legislation was introduced in the Twenty-Second House of Representatives.


E. Cost-Benefit Analysis:


The enactment of House Bill No. 23-9, HS1 will result in minimal costs to the CNMI Government in the form of administrative costs and other resources needed to effectively carry out the intent of the proposed legislation. However, the proposed legislation will mandate that any expenditure of non-locally-sourced funding, especially from the federal government must be approved by the Commonwealth Legislature to ensure transparency and accountability.

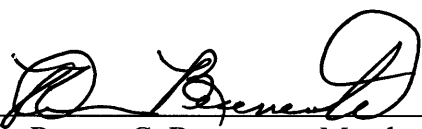
**III. CONCLUSION:**


The Committee is in accord with the intent and purpose of H. B. NO. 23-9 and recommends its passage in the form of House Substitute 1.

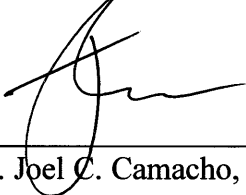
Respectfully submitted,

  
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Rep. Ralph N. Yumul, Chairman


  
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Rep. Blas Jonathan "BJ" T. Attao, Vice Chair


  
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Rep. Roman C. Benavente, Member

  
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Rep. Angelo A. Camacho, Member

  
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Rep. Joel C. Camacho, Member

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Rep. Vicente C. Camacho, Member

  
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Rep. Manny Gregory T. Castro, Member

  
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Rep. Joseph A. Flores, Member

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Rep. Thomas John DLC. Manglona, Member



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Rep. Julie Marie A. Ogo, Member



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Rep. John Paul P. Sablan, Member

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Rep. Patrick H. San Nicolas, Member

Reviewed by:



6-16-23

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House 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**

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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  
8 taskforce to monitor expenditure of all Non-Locally-Sourced Funds for compliance  
9 with the terms of certification and shall report on the taskforce'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 violates the provisions  
13 regarding expending funds shall be guilty of a felony punishable by not less than 5  
14 years and not more than 20 years imprisonment and/or a fine of not less than  
15 \$10,000, or both in addition to being jointly or severally liable for the amounts that  
16 were expended in violation of this Act. Moreover, anyone that fails to comply with  
17 the certification provisions shall be guilty of a misdemeanor punishable by at least  
18 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                   As used herein, the term, “Non-Locally-Sourced Funds” shall mean  
8 all funds, exclusive of the General Fund or funds already subject to  
9 legislative appropriation such as locally-sourced general or specific  
10 revenue, that directly or indirectly benefit the Commonwealth of the  
11 Northern Mariana Islands that originate from either outside the  
12 Commonwealth, or from the United States Federal Government or any of  
13 its programs, policies, or enactments, that are subject to expenditure by the  
14 Commonwealth of the Northern Mariana Islands Governor or Office of the  
15 Governor.

16                   **102. Legislative Review of Proposed Certification of Non-**  
17 **Locally Sourced Funds.** Prior to submitting any certification of use for  
18 Non-Locally-Sourced Funds appropriated for the Commonwealth of the  
19 Northern Mariana Islands by the U.S. Congress to include all funds  
20 including but not limited to those funds originating from Title VI of the  
21 Social Security Act (42 U.S.C. 801 et seq.) as amended by U.S. PL 117-2

1 [the American Rescue Plan], the Governor shall submit a proposed  
2 certification to the CNMI House of Representatives and the CNMI Senate.  
3 Said proposal shall be timely submitted for passage by legislation enacted  
4 by the Northern Mariana Islands Legislature.

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

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

- 14 (1) The CNMI Public School System;  
15 (2) The CNMI Office of Public Auditor;  
16 (3) The Northern Marianas College;  
17 (4) All CNMI Autonomous Entities and Public Corporations;  
18 (5) Northern Marianas Housing Corporation; and  
19 (6) Any funds provided directly to specific grantees under the terms  
20 and conditions of a federal grant or program except when the CNMI

1 Governor or the CNMI Office of the Governor is the direct expenditure  
2 authority.

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

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

15 **107. Civil and Criminal Penalties. Failure to Obtain Legislative**  
16 **Certification.** In addition to any other civil or criminal penalties, any person  
17 who violates this Act by failing to obtain legislative certification of Non-  
18 Locally-Sourced Funds as provided by the Act, shall be deemed to have  
19 committed a misdemeanor punishable by not less than 1 year and not more  
20 than 5 years imprisonment and/or a fine of not less than \$1,000, or both in

1 addition to being jointly or severally liable for the amounts that were  
2 expended in violation of this Act.”

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

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

15 **Section 6. Effective Date.** This Act shall take effect upon its approval by  
16 the Governor, or its 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