

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2021

H. B. 22- 29

A BILL FOR AN ACT

To amend 1 CMC § 121 in order to eradicate the unconstitutional public purpose presumption for legislative expenditures.

BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that the public
2 purpose presumption for legislative expenditures contained in 1 CMC § 121(i) is
3 unconstitutional because it allows the Legislature to essentially define expenditures
4 for a public purpose by legislative rules. The Constitution mandates that the
5 definition of public purpose must be defined by law. The relegating of the definition
6 of public purpose from a law to a legislative rule improperly evades the veto power
7 of the governor, evades judicial review, and evades the Constitutional mandate that
8 the definition of public purpose must be established by law. Accordingly, the public
9 purpose presumption for expenditures authorized and regulated by legislative rules

1 should be eradicated from the Commonwealth's definition of public purpose as set
2 forth in 1 CMC § 121, specifically at 1 CMC § 121(i).

3 Amendment 28 to the Second Constitutional Convention amended the NMI
4 Constitution by granting the power to the Legislature to define public purpose. In
5 granting that power, the members of the Second Constitutional Convention set forth
6 intended limitations to guide the Legislature in defining public purpose by stating
7 that a public purpose is one that directly and substantially benefits the public
8 welfare in a manner that is reasonably foreseeable and reasonably likely to occur.
9 A public purpose is not met when the objective only brings a benefit to a few
10 persons or corporations, when the results are profits most of which are not enjoyed
11 in the Commonwealth and instead benefit persons in other countries, or when the
12 objective redresses private wrongs or improves private property.

13 Public Law 11-84, which was subsequently amended through Public Law
14 12-2, codified at 1 CMC § 121, includes a presumption in 1 CMC § 121(i) that all
15 expenditures authorized and regulated by legislative rules are presumed to be for a
16 public purpose unless proven otherwise by clear and convincing evidence that the
17 expenditure was for personal or political activity. The Legislature finds that this
18 provision creating a presumption of public purpose for expenditures authorized and
19 regulated by legislative rules runs counter to the Constitutional mandate that public
20 purpose must be defined by law, and not by legislative rules. The Legislature further
21 finds that the public purpose presumption for legislative expenditures in 1 CMC §

1 121(i) undermines the intent of the Second Constitutional Convention, which
2 sought to limit the expansion of public purpose, and has resulted in a lack of firm
3 guidance to legislators in determining a truly public purpose of an expenditure, and
4 further has created conditions of poor public accountability.

5 **Section 2. Amendment.** Subsection (i) of Article 2 of Chapter 1 of Title 1
6 (1 CMC § 121(i)) is hereby deleted in its entirety.

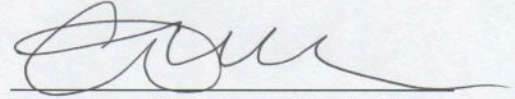
7 **Section 3. Severability.** If any provisions of this Act or the application of
8 any such provision to any person or circumstance should be held invalid by a court
9 of competent jurisdiction, the remainder of this Act or the application of its
10 provisions to persons or circumstances other than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

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

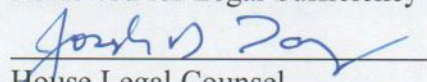
19 **Section 5. Effective Date.** This Act shall take effect upon its approval by
20 the Governor, or its becoming law without such approval.

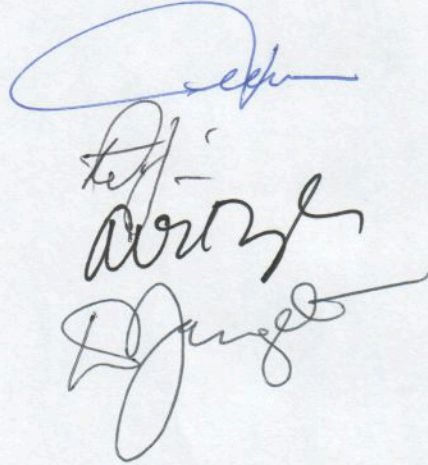
Prefiled: 3/9/2021

Date: 3/8/2021 Introduced by:


Rep. Rep. Christina M.E. Sablan

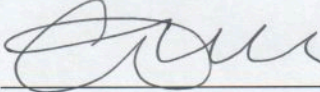
Reviewed for Legal Sufficiency by:


House Legal Counsel

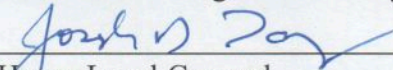

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