

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

_____ Session, 2022

H. B. 22- 97

A BILL FOR AN ACT

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

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

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

1 request the approval of such certification by joint resolution of the Northern
2 Mariana Islands Legislature. Further, this Act shall also mandate that the
3 expenditure of the Non-Locally-Sourced Funds shall be subject to appropriation by
4 the Legislature.

5 Respectful of the fact that federal programs are well-established and there
6 is an established relationship between federal agency and their local grantees, this
7 Act expressly exempts federal grant money that is earmarked for certain
8 beneficiaries where the provisions of the grant are clear and not subject to
9 reprogramming by the Governor for instance, this Act shall not apply to the Public
10 School System and its federal grants, Northern Marianas College, and other
11 autonomous agencies. This act shall not apply to federal funds where federal law
12 pre-empts local law in terms of the expenditure authority or the appropriation of
13 funds.

14 In addition, to ensure compliance, the Public Auditor shall establish a
15 taskforce to monitor expenditure of all Non-Locally-Sourced Funds for compliance
16 with the terms of certification and shall report on the taskforce's findings quarterly
17 to the Legislature.

18 Next, this Act, unlike other budgetary provisions that are without penalties
19 or any form of legal consequences, this Act provides that anyone that violates the
20 provisions regarding expending funds shall be guilty of a felony punishable by not
21 less than 5 years and not more than 20 years imprisonment and/or a fine of not less

1 than \$10,000, or both in addition to being jointly or severally liable for the amounts
2 that were expended in violation of this Act.

3 Anyone that fails to comply with the certification provisions shall be guilty
4 of a misdemeanor punishable by at least one year in prison and a fine of not less
5 than \$1,000.

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

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

10 **“101. Legislative Expenditure Authority.** Notwithstanding any
11 Commonwealth law to the contrary, and unless otherwise preempted by
12 federal law, the expenditure of the Non-Locally-Sourced Funds shall be
13 pursuant to appropriation via either House Joint Resolution or Senate Joint
14 Resolution.

15 As used herein, the term, “Non-Locally-Sourced Funds” shall mean
16 all funds, exclusive of the General Fund or funds already subject to
17 legislative appropriation such as locally-sourced general or specific
18 revenue, that directly or indirectly benefit the Commonwealth of the
19 Northern Mariana Islands that originate from either outside the
20 Commonwealth, or from the United States Federal Government or any of
21 its programs, policies, or enactments, that are subject to expenditure by the

1 Commonwealth of the Northern Mariana Islands Governor or Office of the
2 Governor.

3 **102. Legislative Review of Proposed Certification of Non-**
4 **Locally Sourced Funds.** Prior to submitting any certification of use for
5 Non-Locally-Sourced Funds appropriated for the Commonwealth of the
6 Northern Mariana Islands by the U.S. Congress to include all funds
7 including but not limited to those funds originating from Title VI of the
8 Social Security Act (42 U.S.C. 801 et seq.) as amended by U.S. PL 117-2
9 [the American Rescue Plan], the Governor shall submit a proposed
10 certification to the CNMI House of Representatives and the CNMI Senate.
11 Said proposal shall be timely submitted for review, revision, and approval
12 by joint resolution of the Northern Mariana Islands Legislature.

13 **103. Legislative Approval of Certification of Non-Locally**
14 **Sourced Funds (ARPA).** Unless expressly exempted by this Act, the
15 Governor or any officer of the Commonwealth of the Northern Mariana
16 Islands, must obtain approval by joint resolution of the Legislature as a
17 precondition of providing any certification required by federal law or
18 policy. This provision applies to all Non-Locally-Sourced Funds and
19 specifically to the certification required in Sec. 602(d) of Title VI of the
20 Social Security Act (42 U.S.C. 801 et seq.), as amended by the U.S. PL 117-
21 2 [American Rescue Plan], with respect to the spending, obligating,

1 transferring, allocating, or any use of said Non-Locally-Sourced Funds for
2 the purposes specified in Sec. 602(c) of the Act.

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

- 6 1. The CNMI Public School System;
- 7 2. The CNMI Office of Public Auditor;
- 8 3. The Northern Marianas College;
- 9 4. All CNMI Autonomous Entities;
- 10 5. Any funds provided directly to specific grantees under the terms
11 and conditions of a federal grant or program except when the CNMI
12 Governor or the CNMI Office of the Governor is the direct expenditure
13 authority.

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

19 **106. Civil and Criminal Penalties. Unauthorized Expenditure.**
20 In addition to any other civil or criminal penalties, any person who violates
21 this Act by causing the unauthorized expenditure of Non-Locally-Sourced

1 Funds shall be deemed to have committed a felony punishable by not less
2 than 5 years and not more than 20 years imprisonment and/or a fine of not
3 less than \$10,000, or both in addition to being jointly or severally liable for
4 the amounts that were expended in violation of this Act.

5 **107. Civil and Criminal Penalties. Failure to Obtain Legislative**
6 **Certification.** In addition to any other civil or criminal penalties, any
7 person who violates this Act by failing to obtain legislative certification of
8 Non-Locally-Sourced Funds as provided by the Act, shall be deemed to
9 have committed a misdemeanor punishable by not less than 1 year and not
10 more than 5 years imprisonment and/or a fine of not less than \$1,000, or
11 both in addition to being jointly or severally liable for the amounts that were
12 expended in violation of this Act.”

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

18 **Section 5. Savings Clause.** This Act and any repealer contained herein shall
19 not be construed as affecting any existing right acquired under contract or acquired
20 under statutes repealed or under any rule, regulation, or order adopted under the
21 statutes. Repealers contained in this Act shall not affect any proceeding instituted

1 under or pursuant to prior law. The enactment of the Act shall not have the effect
2 of terminating, or in any way modifying, any liability, civil or criminal, which shall
3 already be in existence on the date this Act becomes effective.

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

Prefiled: *3/9/2022*

Date: *3/9/2022*

Introduced by: *CMagofna*
Rep. Corina L. Magofna
R. J. ...
Qe SA

Reviewed for Legal Sufficiency by:

John D. ...
House Legal Counsel