

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

THIRD REGULAR SESSION, 1995

H. B. NO. 9-356

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**A BILL FOR AN ACT**

To make special appropriations for Fiscal Year 1994 and 1995 and for other purposes.

**BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

Section 1. General Findings. The Legislature finds that --

(1) there has not been an adopted budget since Fiscal Year 1992 and, since that fiscal year, obligations have been incurred at the level for that year pursuant to Article III, Section 9(a), of the Constitution; and,

(2) as described in Sections 2 through 4 of this Act, a number of special circumstances have arisen since Fiscal Year 1992 that have required or will require payments from the Commonwealth Treasury, particularly the settlement of the Public School System lawsuit, the payments of amounts in arrears to Mitsubishi Electric Company for electric generators, and the salary increase for the judges of the courts of the Commonwealth; and

(3) the need for these payments was unforeseen in the Fiscal Year 1992 budget and appropriations acts; and

(4) the judiciary has publicly advised and admonished the executive and legislative branches to find a political solution to the legal and financial problems raised by reprogramming, rather than through litigation; and

(5) due to the general language of Article III, Section 9(a) of the Constitution, it is prudent for the Legislature to ratify the actions taken to respond to such special circumstances and to appropriate funds for such payments, to the extent that such appropriations may be necessary; and

(6) the Legislature and the Governor agree that the expenditure of Public funds as

described in sections 2 through 4 of this Act should have been appropriated by the Legislature.

## Section 2. Public School System Lawsuit

(a) The Legislature finds that a lawsuit against the Commonwealth and the Public School System was settled during Fiscal Year 1994, giving rise to a claim against judgement of \$2,250,000.00, and on September 30, 1994, the Governor, through the Special Assistant for Management and Budget, reprogrammed funds for the purpose of paying such claim;

(b) The Legislature ratifies such reprogramming and, to the extent that appropriations are necessary to pay such claim, appropriates \$2,250,000.00 for such purpose out of any funds available for Fiscal Year 1994 pursuant to Article III, Section 9(a) of the Constitution and not otherwise obligated.

## Section 3. Payments for Generators.

(a) The Legislature finds that during Fiscal Year 1994, Commonwealth Utilities Corporation (hereafter referred to in this Act as "CUC") was in arrears in its loan payments to Mitsubishi Electric Company in an amount of up to \$9.1 million and did not have the capacity to bring its account into good standing. Pursuant to Section 10406(b) of 4 CMC and other applicable provisions of law, the Commonwealth Development Authority (hereafter referred to in this Act as "CDA") protected its investment in CUC by transferring \$6,235,258.20 of its funds to the Commonwealth for payment to Mitsubishi. Because these funds were momentarily in the Treasury, they may require appropriation by the Legislature. In addition, the Governor and the Department of the Interior agreed that \$10,000,000 in bond interest held in trust for CDA could be used for payments to Mitsubishi by or on behalf of CUC. The Legislature takes note that Senate Joint Resolution No. 7-9 stated that the full faith and credit of the Commonwealth was pledged as security for it is necessary to assure that CDA can continue to protect its investment by making its funds available as necessary to pay the remaining amount in arrears, either from its regular funds or from the trust account. It is further necessary to assure that any amount paid by CDA from its regular funds can be repaid from the trust fund.

(b) The Legislature ratifies the payment of \$6,235, 258.20 by CDA, and, to the extent that appropriations are necessary, appropriates this amount for such purpose out of funds

deposited in the Treasury by CDA in Fiscal Year 1994.

(c) To the extent that appropriations are necessary, any amount deposited in the Commonwealth Treasury during Fiscal Year 1995 by CDA out of its regular funds for payment of any additional debt in arrears to Mitsubishi Electric Company for electric generators at CUC is appropriated to the Secretary of Finance for such purpose.

(d) To the extent that appropriations are necessary, \$10,000,000 (Ten Million Dollars) is appropriated to CDA out of the trust fund derived from bond interest and currently held by the Bank of Guam. Such funds may be used either for the payment of any additional debt in arrears to Mitsubishi Electric Company for electric generators at CUC, or to repay CDA for any amount paid from its regular funds for the purpose of paying such debt (including all monies paid in to the Commonwealth Treasury for such purpose during Fiscal Year 1994), provided that CDA shall report to the Governor and the Legislature when it has completed these transactions and any unobligated portion of such appropriation shall thereupon be rescinded.

Section 4. Judges' Salary Increase.

(a) Pursuant to Public Law No. 8-15, the salaries of the judges of the courts of the Commonwealth were increased effective February 26, 1993. The Legislature finds that the Governor, through the Special Assistant for Management and Budget, reprogrammed sufficient funds to the Judiciary's account to enable the judges to be paid the higher salaries established by law.

(b) The Legislature ratifies such reprogramming and, to the extent that appropriations are necessary to pay the increased portion of such salaries, appropriates for such purpose \$399,300 for Fiscal Year 1994 and an additional \$399,300 for Fiscal Year 1995 out of any funds available for such fiscal years pursuant to Article III, Section 9(a) of the Constitution and not otherwise obligated.

Section 5. Effect on Budget. The Governor and the Legislature shall take the appropriations made by this Act into consideration when adopting a budget for Fiscal Year 1995.

Section 6. Civil Liability. No civil liability shall attach to any employee of the Commonwealth government for having carried out or assisted in the reprogramming of funds for the aforementioned Public School System lawsuit, payments for the CUC generators, or Judges' salary increase, nor for

having exceeded the overall budgetary spending limit during the period of continuing appropriations beginning October 1, 1992.

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

Section 8. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED BY:**

/s/ Diego T. Benavente  
DIEGO T. BENAVENTE  
Speaker  
House of Representatives

/s/ Evelyn C. Fleming  
EVELYN C. FLEMING  
House Clerk

APPROVED this 24th day of JANUARY, 1995

/s/ Jesus C. Borja  
~~FROILAN C. TENORIO~~ JESUS C. BORJA  
Acting Governor  
Commonwealth of the Northern Mariana Islands