

ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 11-78

H. B. NO. 11-380, SD3

THIRD REGULAR SESSION, 1999

AN ACT

To provide appropriations for the implementation of the CNMI's Covenant Section 702 CIP Projects Plan for Fiscal Year 1999; and for other purposes.

BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This Act may be cited as the Capital Improvement Projects Appropriation Act of 1999.

Section 2. Findings and Purpose. The Legislature finds that the Commonwealth has certain funds available from federal appropriations pursuant to the 1992 Agreement of the Special Representatives on the Future Federal Financial Assistance for the Northern Mariana Islands, in the amount of 44 million dollars (\$44,000,000) for capital improvement projects for Fiscal Years 1996 through 1999. In order for the CNMI to make use of these funds, the CNMI must, among other things, (1) develop a list of capital improvement projects to be funded, and (2) match the federal appropriation with CNMI local funds on a dollar for dollar basis. The CNMI has completed its capital improvement project list, and has identified local resources to match federal appropriations through Fiscal Year 1999. The purpose of this Act is to appropriate \$22,920,000 of these funds to fund the capital improvement projects contained in this bill. These projects are listed in the Covenant Section 702 Projects Plan for the FY 1996 - FY 2000 Grant Period. Funds for the remaining projects will be appropriated in subsequent legislation.

Section 3. Appropriation of Funds. There is hereby appropriated for Fiscal Year 1999 an aggregate amount of \$22,920,000. Any other provision of law with respect to such funds notwithstanding, the funds appropriated herein shall be available from the sources identified under Section 4 of this Act for the specific line item appropriations for capital improvement projects enumerated in Section 6 of this Act. Any shortfall in receipt or collection of the funds identified in Section 4 shall not affect any particular appropriation under this Act but any shortfalls in available funds shall be borne by all three senatorial districts in proportion to the

amount the funds appropriated for projects in the respective senatorial districts bears to the total appropriated by this Act. Funds shall be drawn from the sources in Section 4 without fiscal year limitation until the amounts indicated have been realized, and the funds appropriated by this Act shall likewise remain available without fiscal year limitation until expended. Use of public land lease payments for the purposes of this Act shall have priority over Public Law 11-41, and the amount identified herein shall be excluded from the resources available for expenditure pursuant to Public Law 11-41. Section 10 of Public Law 10-29 is not affected by this Act, except that notwithstanding such section, the Secretary of Finance shall be required to maintain in the special trust fund only such amounts of the moneys received from public lands as the Marianas Public Land Trust (MPLT) determines will provide MPLT with adequate security for loans made pursuant to Public Law 10-29, as amended, and the remainder shall be available as resources for the purposes of this Act and as otherwise provided by law.

Section 4. Sources of Funds. The funds appropriated under Section 3 of this Act shall become available from the following sources:

A. Commonwealth funds as follows:

1) CDA Past Bond Interest and Income	\$ 5,800,000
2) CDA Loan Repayment Proceeds	1,400,000
3) Developer's Infrastructure Tax - Saipan	1,900,000
4) Developer's Infrastructure Tax - Tinian	100,000
5) Developer's Infrastructure Tax - Rota	100,000
6) Poker/Pachinko Slot Machine Licensing Fees - Saipan	1,300,000
7) Public Land Lease Payments	<u>860,000</u>
Sub-total	\$11,460,000

B. Covenant Section 702 Funding

11,460,000

C. Total

\$22,920,000

The Legislature recognizes that the use of public land lease revenues is restricted by Article XI, Section 5(g) of the Commonwealth Constitution. Consistent with the Constitution, it is intended that the public land lease revenues identified by this Act be used for projects related to homestead development. In the event qualifying projects funded by this Act are insufficient to utilize the full amount of public land lease payments identified by this section, or in the event MPLT fails to make available all or any part of the revenues so identified, the

Governor is authorized to release the unused or unavailable portion of the public land lease payments identified herein and to substitute an equal amount of revenues from any other source(s), notwithstanding any provision of other law, except where the funds are required to meet contractual obligations of the Commonwealth or where use for other purposes is expressly prohibited by law.

Section 5. CIP Projects Plan Adopted. The Covenant Section 702 CIP Projects Plan for the FY1996-FY2002 Grant Period, prepared by the Governor's Multi-Agency 702 CIP Task Force and transmitted to the presiding officers of the Legislature by the Governor's letter of January 5, 1999, is hereby approved, adopted, and incorporated herein by reference. Appropriations for Capital Improvement Projects during the grant period shall conform to this plan and CIP projects shall be undertaken, implemented, and administered in accordance with the plan. Accordingly, during the grant period not less than \$30,800,000 is reserved for projects in the First Senatorial District, not less than \$30,800,000 is reserved for projects in the Second Senatorial District, and not less than \$92,400,000 is reserved for projects in the Third Senatorial District. Modifications to the plan with respect to projects for any given senatorial district may be made or approved by resolution of the legislative delegation of the senatorial district concerned.

Section 6. Application of Funds. The funds appropriated herein are appropriated and shall be available for capital improvement projects as follows:

(a) First Senatorial District:

(1) Health Center Expansion and Improvement	\$1,810,000
(2) Rota Airport Runway (New) - Non-Skid -	\$1,290,000
(3) Road Improvement Songsong/Sinapalo	
(Phase 1)	\$ 300,000
Total First Senatorial District	\$3,400,000

(b) Second Senatorial District:

(1) Tinian West International Airport Expansion/ Renovation and Construction Project	\$3,400,000
Total Second Senatorial District	\$3,400,000

(c) Third Senatorial District:

(1) Nan Ocha Road	\$1,200,000
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(2) Chinatown Sewage System (Project Reinstatement)	\$1,720,000
(3) Kanat Tabla Road Replacing Waserak Road	\$ 610,000
(4) Marianas High School Gymnasium -	\$1,800,000
(5) Existing Prison Facilities Improvements -	\$1,540,000
(6) Adult Prison/Crime Lab, Immigration Detention Facility and Youth Facility (design and partial construction Phase I) -	\$8,840,000
(7) Classroom: Oleai and Garapan Elementary Schools	\$410,000
Total Third Senatorial District	<u>\$16,120,000</u>

Section 7. Projects Accounting. The Secretary of Finance shall establish separate accounting for all CIP projects covered under this Act.

Section 8. Expenditure Authority. Expenditure authority for the funds appropriated by this Act is vested in the Secretary of Public Works except as follows:

- (a) Expenditure authority for Public School System projects shall be the Chairman of the Board of Education;
- ~~(b) Expenditure authority for Commonwealth Utilities Corporation projects shall be the Chairman of the Board, CUC;~~
- ~~(c) Expenditure authority for Commonwealth Ports Authority projects shall be the Chairman of the Board, CPA;~~
- ~~(d) Expenditure authority for projects in the first and second senatorial districts, including PSS, CUC, and CPA projects, shall be the Mayor in consultation with the legislative delegation of the respective senatorial district.~~

Section 9. Reprogramming.

(a) Except as provided herein, 1 CMC § 7302 shall not apply to this Act. Funds appropriated by this Act shall not be reprogrammed except in accordance with this section. The funds appropriated by this Act may be reallocated, by the legislative delegation for the senatorial district for which the funds are appropriated, all or in part among the projects funded by this Act or to any other project included in the CIP Plan adopted by Section 5 of this Act. In the event of a tie vote in the legislative delegation on a reprogramming resolution, the Mayor of the senatorial district concerned shall

have authority to break the tie, in which case the reprogramming resolution shall take effect if approved by the Mayor.

(b) Any funds remaining from the Third Senatorial District after the completion a project shall be reprogrammed by the Governor pursuant to 1 CMC § 7302 for roads, roads improvement, and sewer projects in the Third Senatorial District. Such reprogrammed funds shall be available without fiscal year limitation.

Section 10. Waiver of Procurement Requirements. Notwithstanding any other law or regulation, with respect to any procurement pursuant to the appropriations in Section 6(c)(5) and (6) of this Act, the Governor may waive any or all requirements of the CNMI Procurement Regulations if he determines in writing that such waiver is necessary to comply with the correction facilities consent decree entered in Federal District Court or with any other legal requirement that may be placed upon the Commonwealth by law or court action, or if he finds that such waiver is necessary to expedite construction of urgently needed facilities whether or not required by law or court order, provided, however, that any contract entered into shall contain all certifications and be executed by all officials required under Section 2-104 of the CNMI Procurement Regulations. In addition, the Attorney General or his designee shall certify for each contract that the items to be procured will be in compliance with all requirements imposed on the Commonwealth pursuant to any requirement imposed by court order or consent decree.

Section 11. Audit Authority. The audit powers granted to federal auditor and the Public Auditor pursuant to the Planning and Budget Act of 1983, as amended (1 CMC Section 7701 et seq.) shall apply to this Act.

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

Section 13. Severability. If any provision of this Act or the application of any such provision to any person or circumstances 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 which is held invalid shall not be affected thereby.

Section 14. Effective Date. This Act shall take effect upon approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

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

ATTESTED BY:

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

Approved this 6th day of April, 1999

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands