

ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 11-79

H. B. NO. 11-408, H.D.1, S.D.1

SECOND SPECIAL SESSION, 1999

AN ACT

To correct technical deficiencies in Public Law 11-78; to appropriate the balance of the funds identified but not allocated in Public Law 11-78 for the implementation of the CNMI's Covenant Section 702 CIP Plan for Fiscal Year 1999; to appropriate additional funds; make amendments to the source of funds and the allocation of funds for the Adult Prison/Crime Lab, Immigration Detention Facility and Youth Facility in Public Law 11-78; 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 Supplemental Capital Improvements Projects Appropriations Act of 1999.

Section 2. Findings and Purpose. On April 6, 1999, Governor Tenorio signed Public Law 11-78, the Capital improvements Projects Appropriations Act of 1999, subject to line item veto. Consequently, although \$22,920,000 was the aggregate appropriations amount, only \$12,180,000 worth of specific projects was approved under the line item veto of the bill. The Covenant Section 702 CIP Plan was also approved under Public Law 11-78.

The primary purpose of this Act is to correct technical deficiencies contained in Public Law 11-78 and to resolve the issues associated with the line item veto of that law. Therefore, this Act clarifies issues regarding the source of funds identified in Public Law 11-78 and appropriates the remaining money not specifically allocated to a particular capital improvement project under Public Law 11-78 to the capital improvement project contained in this Act. Subsequent to the passage of Public Law 11-78, it was discovered that the CDA source of funds specified in that law was reduced and was not available in the amounts originally set forth. This Act also amends the sources of funds sections of Public Law 11-78 to remedy this change. This Act also adds additional source of funds which were subsequently identified from the public land lease payments and adds homestead specific projects for these funds.

This Act also amends the funds appropriated for the Adult Prison/Crime Lab, Immigration Detention Facility and Youth Facility in Public Law 11-78 because of the subsequently discovered reduced matching fund availability from CDA which was set forth as a source of funds under Public Law 11-78 for this project. If necessary, additional funds can be appropriated to this project at a later date when additional funds are identified that can be appropriate to this project.

Public Law 11-27 reappropriated \$3,800,000 from the sanitary landfill project to specific Public School Projects. However, at the same time it committed to reinstatement of the funds from the FY 1996 Covenant funds. The Legislature recognizes the critical importance of the sanitary landfill project to the Commonwealth's environmental health. The Governor's Solid Waste Task Force, in conjunction with the Department of Public Work's Division of Solid Waste Management, has prepared projections of when they will be spending these funds and will need to have these funds reinstated to the solid waste project. Given that they have indicated that there are sufficient funds to carry them through their FY 1999 projections without the \$3,800,000, this Act sets back the reinstatement date for the funds reappropriated by Public Law 11-27 to the Covenant FY 2000 funding so that the \$3,800,000 can be utilized for currently needed CIP projects to get this money circulated into the CNMI's economy. However, this in no way compromises the recognition of the Legislature of the importance of the solid waste landfill project and the necessity to maintain the commitment to reinstate these funds when they are required for the landfill project.

The projects contained in this Act are listed in the Covenant Section 702 CIP Projects Plan for the FY 1995-2002 Grant Period or are projects that are formally being added to the plan through the plan amendment process. The remaining projects to be funded will be appropriated in subsequent legislation.

Section 3. Amendment. The first Sentence of Section 3 of Public Law 11-78 is amended to read:

"There is hereby appropriated for Fiscal Year 1999 an aggregate amount of \$24,209,308."

Section 4. Amendment. Section 4 of Public Law 11-78 is repealed and reenacted to read:

Section 6. Appropriation and Application of Funds. From the source of funds identified by Section 3 of Public Law 11-78, as repealed and reenacted by Section 4 of this Act, but not specifically allocated to a CIP project under the line item veto of Public Law 11-78, \$13,840,000 is hereby appropriated and shall be available for construction of the various capital improvement projects as follows:

(a) <u>First Senatorial District.</u>	
(1) Health Center Expansion and Improvement	\$1,310,000
(2) Rota Airport Runway (New) - Non-Skid	\$1,290,000
(3) Road Improvement - Songsong/Sinapalo (Phase I)	\$ 800,000
Total - First Senatorial District	<u>\$3,400,000</u>
(b) <u>Second Senatorial District.</u>	
(1) Tinian West International Airport Expansion/ Renovation and Construction Project	\$3,400,000
Total - Second Senatorial District.	<u>\$3,400,000</u>
(c) <u>Third Senatorial District.</u>	
(1) Nang Ocha Road	\$1,200,000
(2) Chinatown Sewerage System (Project Reinstatement)	\$1,720,000
(3) Koblerville Homestead - New Power, Water and Wastewater System (Phase I)	\$2,120,000
(4) Tanapag Homestead - New Power, Water and Wastewater Systems (Phase I)	\$2,000,000
Total - Third Senatorial District	<u>\$7,040,000</u>

Section 7. Expenditure Authority. Expenditure authority shall be as specified by Public Law 11-78, except expenditure authority for specific projects listed below shall be as indicated below.

(a) Rota Airport Runway (New) - Non-Skid and the Tinian West International Airport Expansion/Renovation and Construction Project: Expenditure authority shall be the Secretary of the Department of Public Works with concurrence by the Executive Director of the Commonwealth Ports Authority.

(b) Koblerville Homestead - New Power, Water and Wastewater Systems (Phase I) and Tanapag Homestead - New Power, Water and Wastewater Systems (Phase I): Expenditure Authority shall be the Secretary of the Department of Public Works with concurrence of the Executive Director of the Commonwealth Utilities Corporation.

Section 8. Reprogramming. Funds appropriated by this Act shall not be reprogrammed except in accordance with this section. The funds appropriated by this Act may be reprogrammed by an appropriation bill of the CNMI Legislature or pursuant to the process specified in or 1 CMC 7302, all or in part among the projects funded by this Act to alternative projects included in the CIP Plan adopted by Section 5 of Public Law 11-78. However, notwithstanding other provisions of law, funds can only be reprogrammed from one project in a senatorial district to another project in the same senatorial district. Reprogramming of funds to alternative projects not included in the CIP Plan, must comply with the Plan Amendment Process as specified in Section VII of the CIP Plan.

Section 9. Amendment. Section 9(a) of Public Law 11-78 is repealed and reenacted as follows:

"(a) Funds appropriated by this Act shall not be reprogrammed except in accordance with this section. The funds appropriated by this Act may be reprogrammed by an appropriation bill of the CNMI Legislature or pursuant to the process specified in or 1 CMC 7302, all or in part among the projects funded by this Act to alternative projects included in the CIP Plan adopted by Section 5 of this Act. However, notwithstanding other provisions of law, funds can only be reprogrammed from one project in a senatorial district to another project in the same senatorial district. Reprogramming of funds to alternative projects not included in the CIP Plan, must comply with the Plan Amendment Process as specified in Section VII of the CIP Plan and Section 5 of this Act."

Section 10. Amendment. Section 3 of Public Law 11-27 is hereby repealed and reenacted as follows:

"Section 3. Reappropriations. Out of the \$16 million appropriated for the construction of the sanitary landfill project by Public Law 9-1, \$2.5 million is hereby re-appropriated to the Public School System for the construction of new schools, classrooms, collateral equipment

and other related "facilities at Kagman and \$1.3 million dollars is hereby re-appropriated for the Dan Dan School, provided however, that the \$3.8 million shall be reinstated to the sanitary landfill project from the FY 2000 Covenant Funding.”

Section 11. Waiver of Procurement Regulations. Notwithstanding any other law or regulation, with respect to any procurement pursuant to appropriations in Section 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 any 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 or her 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 or court order or consent decree.

Section 12. 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 13. Projects Accounting. The Secretary of Finance shall establish separate accounting for all CIP projects covered under this Act.

Section 14. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired 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 15. 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 16. Effective Date. Upon the approval by the Governor or upon its becoming law without such approval, this Act shall take effect as follows:

- (1) Section 10 shall take effect August 14, 1998, and
- (2) the remainder of this Act shall take effect upon this Act becoming law.

CERTIFIED BY:

ATTESTED BY:

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

/s/ Joan P. Kaipat
JOAN P. KAIPAT
Acting House Clerk

Approved this 8th day of June, 1999

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