

A BILL FOR AN ACT

TO PROVIDE GUIDELINES FOR THE EXPENDITURE OF FUNDS FROM
LEGISLATORS' OPERATIONAL ACCOUNTS BY AMENDING 1 CMC SECTION
121 AND 1 CMC SECTION 1271, AND BY REPEALING AND REENACTING 1
CMC SECTION 1251; AND FOR OTHER PURPOSES.

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

Section 1. Findings and purpose. The Commonwealth Legislature finds that
Article II, Section 16(b) of the Constitution provides each member of the Legislature with
an operational account to cover office and related expenses including travel.
Significantly, although Article II, Section 16(f) prohibits the use of legislative funds for
personal or political purposes, there is no clear definition set forth by law of what may or
may not be considered an authorized operational expense. The purpose of this Act is to
address this lack of clarity and provide clear guidelines for legislative operational
expenditures.

As set forth by this Act, legislative operational accounts shall not be used in any
way to circumvent the legislative appropriations process. The guidelines set forth herein
will provide that permissible legislative operational expenses shall include office
supplies, office equipment, official travel, office staff, and professional services.
Conversely, these guidelines also hold that all other expenditures, for instance, in-kind or
financial contributions to individuals, organizations, events, or causes, charitable or
otherwise, using funds from legislators' operational accounts shall be considered personal
or political. Accordingly, because they are impermissible legislative operational
expenses, they shall be prohibited.

Furthermore, recognizing that constituents and the public in general may not be
deterred by laws affecting only the conduct of the elected official, this Act, in addition to
governing the expenditures of legislative funds, provides that the solicitation of members

1 of the Legislature by individuals or organizations of impermissible legislative operational
2 expenses shall be prohibited.

3 The Legislature also finds that the current system of documentation, accounting,
4 and compensation for legislative travel must be clarified. Historically, the Legislature
5 has authorized by rule the provision of subsistence allowances, including housing, for
6 members traveling away from their home islands within the Commonwealth. In 2002,
7 the CNMI Public Auditor conducted a review of legislative subsistence allowances and
8 concluded that such monthly allowances constituted an unjustified personal benefit in
9 violation of public purpose, and further recommended that more stringent documentation
10 requirements be established for legislative travel. Accordingly, this Act shall prohibit
11 subsistence allowances, including housing allowances, for legislators, and shall further
12 require that government-rate compensation for travel, ground transportation, and
13 accommodations shall apply to legislators, including government rates for travel, ground
14 transportation, and accommodations within the Commonwealth for legislators traveling
15 away from their home islands. Government documentation and reporting requirements
16 shall also apply to legislators in order to promote accountability.

17 In addition, due to the fiscal condition of the government, the Legislature finds
18 that legislative operational account funds should not be used to fund leases or purchases
19 of vehicles for individual members. Furthermore, the practice whereby members can
20 personally benefit at the end of a lease by having an option to buy a leased vehicle at
21 reduced price shall be prohibited. This Act will require that legislators use their own
22 mode of transportation to get to and from work, as all government employees do, but will
23 provide for the reimbursement of itemized fuel expenses based on miles traveled and
24 documented on official business. In addition, government-paid mobile phone service for
25 legislators and their staff shall no longer be authorized, except that members may submit
26 to the Secretary of Finance mobile phone bills itemizing and justifying official phone call
27 expenditures for reimbursement.

28 **Section 2. Amendment.** Section 121 of Title 1, subsection (i) is hereby
29 amended as follows:

30 (i) ~~Notwithstanding any other provision of this act or other law to the contrary,~~
31 ~~expenditures authorized and regulated by legislative rules are expressly declared to be for~~

1 ~~a public purpose, unless proved by clear and convincing evidence that the expenditure in~~
2 ~~fact was for a personal or political activity.~~—Operational Expenditures of the Legislature.

3 The following items shall be presumed to be for a public purpose and are therefore
4 permissible legislative operational expenses:

- 5 1. office supplies;
- 6 2. office equipment;
- 7 3. official travel;
- 8 4. office staff;
- 9 5. professional services;
- 10 6. reimbursement of itemized fuel expenses based on miles traveled and
11 documented on official business; and
- 12 7. reimbursement of itemized mobile phone expenses incurred and documented
13 on official business.

14 *Impermissible Legislative Operational Expenditures.* Subject to proof by clear
15 and convincing evidence that the expenditure in fact was not for a personal or political
16 activity, all other expenditures are expressly prohibited. In particular, the following
17 expenditures from legislators' operational accounts are presumed to be personal or
18 political in nature and as such are prohibited:

- 19 1. in-kind or financial contributions to individuals, organizations, events, or
20 causes, charitable or otherwise;
- 21 2. mobile phone expenses other than mobile phone expenses incurred on official
22 business and properly itemized, documented and submitted for reimbursement
23 to the Secretary of Finance; and
- 24 3. leases or purchases of vehicles for the use of individual members, other than
25 rentals of vehicles for members at the established government rate for the
26 duration of official travel off-island or within the Commonwealth but away
27 from home islands on official business; this restriction on leases or purchases
28 of vehicles shall include but not be limited to any transactions whereby
29 members can personally benefit at the termination of a lease by having an
30 option to purchase the leased vehicle, regardless of price.

1 Bar on Solicitation. Consistent with the purpose and intent of this Act, the
 2 solicitation of any member of the Legislature, or any member's respective office or staff,
 3 for an in-kind or financial contribution from the member's operational account to an
 4 individual, organization, event, or cause, charitable or otherwise, is expressly prohibited
 5 and subject to civil penalties as set forth herein.

6 Sanctions and Penalties. In addition to any sanctions and penalties set forth in
 7 legislative rules and set forth by law, any member of the Legislature, and any individual
 8 or organization that knowingly violates the provisions of this Act, either by action or
 9 omission, whether or not public funds were expended, shall be guilty of a civil infraction
 10 punishable by a fine not less than \$100.00 but not more than two (2) times the amount of
 11 the expenditure solicited for the first offense; and \$500 or two (2) times the amount of the
 12 expenditure solicited, whichever is greater, for any subsequent violations.

13 ~~To determine whether a specific appropriation or expenditure is for a public purpose the~~
 14 ~~foremost test shall be whether it confers a direct benefit to a culturally or traditionally significant~~
 15 ~~part of the community as opposed to an incidental or secondary benefit and whether the~~
 16 ~~community has an interest in having the individual or individuals benefited. Tradition and custom~~
 17 ~~as well as the particular facts and circumstances of each case shall be taken into consideration~~
 18 ~~when determining whether a public purpose is being served by a specific appropriation or~~
 19 ~~expenditure. Each and every governmental, agency, departmental, commission, board, authority~~
 20 ~~and public corporation official or employee with expenditure authority shall be governed by this~~
 21 ~~test.~~

22 **Section 3. Amendment.** Section 1251 of Title 1, is hereby repealed and re-
 23 enacted as follows:

24 **1251. Per Diem For Travel.**

25 The government-rate compensation for travel, ground transportation, and
 26 accommodations shall apply to legislators, including government rates for travel, ground
 27 accommodations shall apply to legislators, including government rates for travel, ground
 28 transportation, and accommodations within the Commonwealth for legislators traveling
 29 away from their home islands on official business.

30 **Section 4. Amendment.** Section 1271 of Title 1 is hereby amended as follows:

31 The members of the legislature shall receive an annual salary of \$39,300 and no official
 32 representation allowance, housing allowance, or subsistence allowance."

33 **Section 5. Severability.** If any provision of this Act or the application of any

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

5 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not
6 be construed as affecting any existing right acquired under contract or acquired under
7 statutes repealed or under any rule, regulation, or order adopted under the statutes.
8 Repealers contained in this Act shall not affect any proceeding instituted under or
9 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
10 or in any way modifying, any liability, civil or criminal, which shall already be in
11 existence on the date this Act becomes effective.

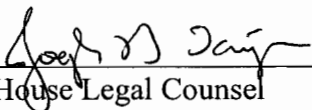
12 **Section 7. Effective Date.** This Act shall take effect upon its approval by the
13 Governor or becoming law without such approval.

Prefiled: 7-15-09

Date: _____

Introduced By: 
Rep. Christina M. Sablan

Reviewed for legal sufficiency by:


House Legal Counsel