



The Senate
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500129
SAIPAN, MP 96950

STANDING COMMITTEE REPORT NO. 24-04
Date: April 9, 2025
RE: Senate Bill No. 24-18

Honorable Dennis James C. Mendiola
President of the Senate
Twenty-Fourth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President:

Your Committee on Fiscal Affairs, to which Senate Bill No. 24-18 was referred, entitled:

“To amend 1 CMC § 2803 regarding the budget submission of the Department of Public Lands; and for other purposes”,

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion and deliberation, your Committee recommends the passage of the proposed legislation in the form of Senate Bill No. 24-18, Senate Draft 1.

II. ANALYSIS:

A. Purpose:

The purpose of Senate Bill No. 24-18 is to amend 1 CMC § 2803 as it pertains to the budget submission of the Department of Public Lands.

B. Committee Findings:

Your Committee finds that the CNMI Supreme Court ruling in *DPL v. CNMI, 2010 MP 14* (Oct. 4, 2010) determined that Section 5 of Article XI of the CNMI Constitution is no longer operative. This court ruling further clarifies the authority of the Commonwealth Legislature to establish fundamental policies governing public lands that do not interfere with the functions of another constitutional entity throughout the Commonwealth.

Your Committee further finds that given the scarcity of economic revenue in the Commonwealth, there is a need to amend the statutory provisions of the Department of Public Lands (DPL) to enhance its fiscal transparency and accountability of reasonable administrative and management expenses. It is the intent of Senate Bill No. 24-18 to ensure that DPL's budget aligns with its actual costs for personnel and operational needs to prevent further inflation of its annual budget and unduly retain any surplus revenues from being remitted to the Marianas Public Land Trust (MPLT). Such practices have hindered the timely investment of net revenue remitted by DPL, resulting in a substantial loss of revenue intended for the benefit of the Commonwealth.

Your Committee met on April 9, 2025, to review the proposed legislation and comments officially received by the Committee. During discussion, a proposed draft was presented by Legal Counsel Jose A. Bermudes upon further review of Senate Bill No. 24-18, following the MPLT Legislative Summit held on April 3, 2025, to clarify reasonable expenses as it pertains to the homestead program and remittance of funds from DPL to MPLT in a timely manner.

During the Legislative Summit, MPLT highlighted *Marianas Public Land Trust v. Marianas Public Land Corporation*, Civil Action No. 84-119, Commonwealth Trial Court (1984), which held that:

"Expenses of administration does not include capital expenditures or capital improvements such as constructing roads, water lines, sewers, etc., on public land designated within the homestead program." *MPLC v. MPLA*, Civ. Action No. 84-119, para. 5 (1984).

Furthermore, MPLT also highlighted CNMI Supreme Court opinion, *DPL v. CNMI 2010 MP 14* (Oct. 4, 2010), which rendered the requirement to satisfy land compensation judgments through DPL's operating budget unconstitutional. Additionally, MPLT proposed that the legislature establish a deadline for the remittance of net revenue by DPL to capture immediate investment of these funds following the end of each fiscal year.

These specific concerns raised during the MPLT Legislative Summit were incorporated into the draft prepared by Legal Counsel Bermudes, which your Committee agreed with to include additional amendments to clarify accountability of all revenues and other funds, regardless of the source, received by DPL and several technical amendments. It is for these reasons that your Committee supports the intent of the proposed legislation, as amended, and recommends its passage in the form of Senate Bill No. 24-18, Senate Draft 1.

C. Legislative History:

Senate Bill No. 24-18 was formally introduced by Senator Karl R. King-Nabors on February 11, 2025, and was subsequently referred to the Senate Standing Committee on Fiscal Affairs for disposition

D. Public Hearing and Comment:

1. Public Hearing. No public hearing was scheduled for Senate Bill No. 24-18. However, a committee meeting, which is open to the public, was held on April 9, 2025. See below for further details.
2. Committee Meeting. The proposed legislation made its first appearance during the scheduled committee meeting on Wednesday, April 9, 2025. The committee meeting notices and agenda were officially posted on April 4, 2025, on various legislative forums and social media sites to invite members of the general public to provide comments as indicated under *Item No. IV. Public Comment* on the Committee Agenda. However, no oral testimony in support or opposition of Senate Bill No. 24-18 was stated before your Committee.
3. Written Comment. Your Committee requested comments with a deadline to respond by March 25, 2025, and March 26, 2025. To date, the status of comments received from the following government and private entities are as follows:
 - a. *Teresita Santos, Secretary, Department of Public Lands- Received: March 12, 2025*
 - b. *Honorable Aubry M. Hocog, Mayor of the Municipality of Rota- Received: March 27, 2025*
 - c. *Tracy B. Norita, Secretary, Department of Finance- Received: March 27, 2025*
 - d. *Phillip M. Long, Chairperson, Board of Trustees, Marianas Public Land Trust - Received: March 27, 2025*
 - e. *Cameron S. Nicholas, Special Advisor to the Secretary, Department of Lands & Natural Resources- Received: April 1, 2025*
 - f. *Mayor of the Municipality of Tinian and Aguiguan, no comment received*
 - g. *Mayor of the Municipality of Saipan, no comment received*
 - h. *Northern Islands Mayor's Office, no comment received*
 - i. *Office of Budget and Management, no comment received*

E. Estimated Fiscal Cost:

The enactment of Senate Bill No. 24-18, as amended, will not impose any additional costs to the CNMI government. Rather, the proposed legislation aims to streamline the budgetary process for the Department of Public Lands, ensuring financial transparency and

accountability of all funds received. Additionally, the proposed legislation intends to support the Marianas Public Land Trust in its mission to yield additional investments for the future of the Commonwealth through the timely remittance of net revenue by DPL to MPLT.

F. Summary of Committee Amendments:

For reference purposes, single underlines and ~~single strikethroughs~~ are the original amendments proposed; double underlines and ~~double strikethroughs~~ are amendments adopted by the Committee. Therefore, your Committee agreed to the following amendments:

1. Section 2. Amendment. 1 CMC § 2803 (b). Deleted the inclusion of homestead infrastructure in accordance with *MPLC v. MPLA*, Civ. Action No. 84-119, beginning on page 2, lines 12-22, to read:

“(b) The Department shall submit each year, for legislative approval, a proposed annual budget ~~for the next fiscal year in accord with following~~ the budgeting and planning procedures applicable to all departments of the Executive Branch. Within its proposed budget, the Department shall itemize all personnel, travel, and other expenses for the fiscal year in question; the sums required to be expended during the year ~~with respect to~~ for its leasing responsibilities and the homestead program, ~~including homestead road, power, and water infrastructure;~~ sums required to be held in reserve for approved homesteads or other Department programs in the next two fiscal years; a detailed statement of all other Department assets, liabilities, revenues and expenditures; and the ~~estimated~~ sum to be transferred at the end of the fiscal year to the Marianas Public Land Trust.”

2. Section 2. Amendment. 1 CMC § 2803 (c). Inserted language to clarify the inclusion of all other funds received in addition to revenues generated by DPL; deleted reference to land compensation judgments in accordance with *DPL v. CNMI 2010 MP 14 (Oct. 4, 2010)*; and several technical amendments, beginning on page 2, line 23 through page 3, line 12, to read:

“(c) There is hereby established a fund to be known as the “DPL Operations Fund” which shall be maintained by the Department of Finance. The bank account(s) for the DPL Operations Fund shall be

separate and apart from the General Fund Bank Account(s) and other funds of the Commonwealth Government. All records and accounts shall be maintained in connection herewith.

(1) All revenues and other funds received by the Department, from whatever source shall be deposited in the DPL Operations

Fund bank account(s) in banks located in the Commonwealth that are insured by the FDIC.

(2) All appropriations by the Commonwealth Legislature shall be allotted for authorized disbursement of expenditures as approved in the budget.

(3) All debts, liabilities, obligations, and operational expenses of the Department ~~including land compensation judgments~~ shall be paid from the DPL Operations Fund bank account(s).

(4) No expenditures not included in the approved budget, and no debt, obligation, or liability shall be incurred or created in any fiscal year, in excess of the amounts specified ~~therein for each purpose in~~ the DPL budget.

(5) The expenditure authority of ~~all the funds collected by the Department or~~ appropriated to the Department by the Commonwealth Legislature shall be the Secretary of the Department, or designee.”

3. Section 2. Amendment. NEW 1 CMC § 2803 (f). Inserted a new subsection (f) to establish a timely remittance of net revenue to MPLT, beginning on page 3, lines 23-28, to read:

“(f) The DPL Secretary shall remit the net revenue to the Marianas Public Land Trust within forty-five (45) calendar days of the end of each fiscal year. “Net revenue” is defined as the amount of funds collected by DPL over the DPL budget including surplus funds from lease agreements, interest on accounts, and fees or royalties from public land permits. “Net revenue” shall not include any security deposits held by DPL under existing land lease agreements.”

4. Section 2. Amendment. RENUMBERED 1 CMC § 2803 (g). Renumbered 1 CMC § 2803 (f) to subsection (g), inserted language to clarify submission of the detailed report, and made a technical amendment, beginning on page 3, lines 23-28, to read:

“(fg) ~~The effective date of this Act shall be retroactive to February 22, 2006.~~ The DPL Secretary shall provide a detailed report of all the revenues collected and expenditures to the presiding officers of the legislature within 30 calendar days at the end of ~~its~~ each quarter.”


III. CONCLUSION:

Your Committee agrees with the intent and purpose of the proposed legislation, as amended, and recommends its passage in the form of Senate Bill No. 24-18, Senate Draft 1.


Respectfully submitted,




Senator Jude U. Hofschneider
Chairperson



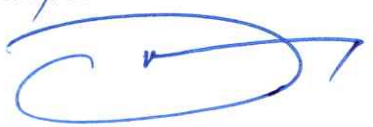
Senator Karl R. King-Nabors
Vice Chairperson



Senator Ronnie M. Calvo
Member



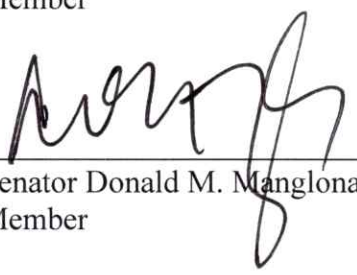
Senator Manny Gregory T. Castro
Member



Senator Francisco Q. Cruz
Member

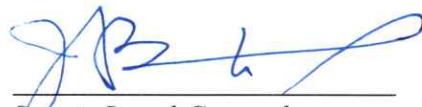


Senator Corina L. Magofna
Member



Senator Donald M. Manglona
Member

Reviewed by:



Senate Legal Counsel

Attachments:

1. *Written Comments Officially Received by the Committee*
 - a. *Teresita Santos, Secretary, Department of Public Lands- Received: March 12, 2025*
 - b. *Honorable Aubry M. Hocog, Mayor of the Municipality of Rota- Received: March 27, 2025*
 - c. *Tracy B. Norita, Secretary, Department of Finance- Received: March 27, 2025*
 - d. *Phillip M. Long, Chairperson, Board of Trustees, Marianas Public Land Trust - Received: March 27, 2025*
 - e. *Cameron S. Nicholas, Special Advisor to the Secretary, Department of Lands & Natural Resources- Received: April 1, 2025*

A BILL FOR AN ACT

To amend 1 CMC § 2803 regarding the budget submission of the Department of Public Lands; and for other purposes.

BE IT ENACTED BY THE TWENTY-FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.**

2 The Legislature finds that public land leases have been governed by the
3 fundamental policies outlined in Section 5 of Article XI of the CNMI Constitution and
4 Public Law 15-2. The Legislature, however, finds that based on the CNMI Supreme
5 Court ruling in *DPL v. CNMI*, 2010 MP 14 (Oct. 4, 2010), Section 5 of Article XI of the
6 CNMI Constitution is inoperative. Therefore, the Legislative and Executive Branches
7 have the authority to establish the fundamental policies governing public lands.
8 Specifically, the Supreme Court held that “the drafters of the NMI Constitution did not
9 intend for the restrictions contained in Article XI § 5 to bind the Commonwealth
10 Legislature in perpetuity. We further hold that the legislature possesses the constitutional
11 authority under Article III § 15 to redefine the functions of executive branch
12 departments—including DPL. The legislature cannot, however, pass a law that infringes
13 upon the functions of another constitutional entity.” *Id.* at ¶ 2.

14 The Legislature also finds that the Department of Public Lands must be more
15 fiscally transparent and accountable for its reasonable administrative and management
16 expenses. The legislature must clarify the reasonable administrative and management
17 expenses. Moreover, to prevent DPL from inflating its annual budget and unduly
18 withholding any surplus revenues from MPLT, the Legislature must approve DPL’s
19 annual Fiscal Year budget to ensure that DPL’s annual budget complements the
20 department’s actual personnel and operation requirements each fiscal year. However, the
21 Legislature finds it equally important to protect DPL revenues by prohibiting any
22 reprogramming, except reprogramming authorized by law.

1 Accordingly, the purpose of this Act is to amend 1 CMC § 2803.

2 **Section 2. Amendment.** 1 CMC § 2803 is amended to read:

3 “§ 2803. Powers and Duties of the Department of Public Lands.

4 (a) The Department shall be responsible for the administration, use, leasing,
5 development, and disposition of all those lands defined as public lands by N.M.I. Const.
6 art. XI, § 1 or any other ~~provision of~~ law, subject to the provisions of this chapter and
7 except as limited by transfers of freehold interests to individuals, entities, or other
8 government agencies. The Department’s authority does not extend to the issuance of land
9 use permits and licenses, except as specifically provided for in this Act, and does not
10 limit in any respect the authority of other Commonwealth agencies to issue permits and
11 licenses pursuant to their respective enabling legislation.

12 (b) The Department shall submit each year, for legislative approval, a proposed
13 annual budget ~~for the next fiscal year in accord with~~ following the budgeting and
14 planning procedures applicable to all departments of the Executive Branch. Within its
15 proposed budget, the Department shall itemize all personnel, travel, and other expenses
16 for the fiscal year in question; the sums required to be expended during the year ~~with~~
17 ~~respect to~~ for its leasing responsibilities and the homestead program, ~~including homestead~~
18 ~~road, power, and water infrastructure~~; ~~sums required to be held in reserve for approved~~
19 ~~homesteads or other Department programs in the next two fiscal years~~; a detailed
20 statement of all other Department assets, liabilities, revenues and expenditures; and the
21 ~~estimated~~ sum to be transferred at the end of the fiscal year to the Marianas Public Land
22 Trust.

23 (c) There is hereby established a fund to be known as the “DPL Operations Fund”
24 which shall be maintained by the Department of Finance. The bank account(s) for the
25 DPL Operations Fund shall be separate and apart from the General Fund Bank
26 Account(s) and other funds of the Commonwealth Government. All records and accounts
27 shall be maintained in connection herewith.

28 (1) All revenues and other funds received by the Department, from
29 whatever source shall be deposited in the DPL Operations Fund bank account(s)

1 in banks located in the Commonwealth that are insured by the FDIC.

2 (2) All appropriations by the Commonwealth Legislature shall be allotted
3 for authorized disbursement of expenditures as approved in the budget.

4 (3) All debts, liabilities, obligations, and operational expenses of the
5 Department ~~including land compensation judgments~~ shall be paid from the DPL
6 Operations Fund bank account(s).

7 (4) No expenditures not included in the approved budget, and no debt,
8 obligation, or liability shall be incurred or created in any fiscal year, in excess of
9 the amounts specified ~~therein for each purpose~~ in the DPL budget.

10 (5) The expenditure authority of ~~all the funds collected by the Department~~
11 ~~or~~ appropriated to the Department by the Commonwealth Legislature shall be the
12 Secretary of the Department, or designee.

13 (d) The DPL shall assess, manage, and collect all mining permit fees for the use
14 of CNMI public lands. If the DPL or any of its predecessors issued a Commercial Mining
15 Permit and received and accepted payment pursuant to said permit, such permit shall be
16 held valid and enforceable for the period covered by said payment(s), and shall not be
17 terminated or voided during said period except by the written consent of both the
18 permittee and the DPL.

19 (e) If the DPL delays or prevents the permit holder from performing any act
20 required by the permit without the fault and beyond the reasonable control of the permit
21 holder, the time to perform such act under said permit shall be excused, and the permit
22 holder shall be given reasonable time necessary to perform such act.

23 (f) The DPL Secretary shall remit the net revenue to the Marianas Public Land
24 Trust within forty-five (45) calendar days of the end of each fiscal year. "Net revenue" is
25 defined as the amount of funds collected by DPL over the DPL budget including surplus
26 funds from lease agreements, interest on accounts, and fees or royalties from public land
27 permits. "Net revenue" shall not include any security deposits held by DPL under
28 existing land lease agreements.

29 (~~fg~~) ~~The effective date of this Act shall be retroactive to February 22, 2006. The~~

1 DPL Secretary shall provide a detailed report of all the revenues collected and
2 expenditures to the presiding officers of the legislature within 30 calendar days at the end
3 of ~~its~~ each quarter.”

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

9 **Section 4. Savings Clause.** This Act and any repealer contained herein shall not
10 be construed as affecting any existing right acquired under contract or acquired under
11 statutes repealed or under any rule, regulation, or order adopted under the statutes.
12 Repealers contained in this Act shall not affect any proceeding instituted under or
13 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
14 or in any way modifying, any liability, civil or criminal, which shall already be in
15 existence on the date this Act becomes effective.

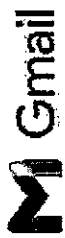
16 **Section 5. Effective Date.** This Act shall take effect upon its approval by the
17 Governor or becoming law without such approval.

Date: 02/11/25

Introduced By: /s/ _____
Senator Karl King-Nabors

Reviewed for Legal Sufficiency by:

/s/ Jose A. Bermudes _____
Senate Legal Counsel



Senator Hofschneider Staff <senator.juh.staff@gmail.com>

RFC on SB No. 24-10 & SB No. 24-18

Cameron Nicholas <cnicholas.dlnr@gmail.com>

To: senator.juh.staff@gmail.com, Sylvan Igisomar <sylvan.o.igisomar@gmail.com>

Cc: MICHAEL CRUZ <mpeteruz@gmail.com>, Jack T Ogunmoro <jlogumoro@gmail.com>, Jack Songorog <dlrs.crimi@gmail.com>, Rosemary Camacho <saipandfrose1@gmail.com>, Natasha Tomokane <ntomokane.dlnr@gmail.com>, Jo Ann Sablan <sablanj71@yahoo.com>

Tue, Apr 1, 2025 at 10:09 AM

Good Morning Donya,

I am writing to inform you that DLNR does not have any comment for both legislations (SB 24-10 & SB 24-18).

If you have any questions or concerns, please do not hesitate to contact me.

Thank you,
Cameron S. Nicholas
Special Advisor to the DLNR Secretary

On Fri, Mar 21, 2025 at 4:13 PM Cameron Nicholas <cnicholas.dlnr@gmail.com> wrote:
Good afternoon Directors and Program Manager,

These are the two senate legislations that was mentioned in the Directors' Meeting.

If you do plan to submit a comment on any or both of these legislations, I kindly ask that you please submit them to the Secretary's Office first.

The last day to submit your comment is March 26, 2025. That is a Wednesday.

On Wed, Mar 12, 2025 at 9:25 AM Jo Ann Sablan <sablanj71@yahoo.com> wrote:
Good morning...

Please see the email below from Senator Hofschneider's office. Soliciting for comments on SB 24-10 & 18, due by 03/26/2025.

Thank you.

Jo Ann T. Sablan
Executive Secretary
Dept. of Lands & Natural Resources
Office of the Secretary
Capitol Hill, Bldg. #1315
Telephone: (670) 322-9830/4

4/1/2025
2:10:20a.m

4/1/2025
THE OFFICE OF
SENATOR JUDE U. HORSCHNEIDER
TEL. NO. (670) 664-8869 FAX NO. (670) 664-8908



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS



March 12, 2025

AD25-0116

Honorable Jude U. Hofschneider
Senator
24th Northern Marianas Commonwealth Legislature
P.O. Box 500586
Saipan, MP 96950

Re: Comments on Senate Bill No. 24-18

3/12/25 2:39pm
THE OFFICE OF
SENATOR JUDE U. HOFSCHEIDER
TEL. NO. (670) 664-8868/FAX NO. (670) 664-8908

Dear Senator Hofschneider:

Thank you for the opportunity to comment on Senate Bill No. 24-18 ("S.B. 24-18"), which proposes "[t]o amend 1 CMC § 2803 regarding the budget submission of the Department of Public Lands"

The Department of Public Lands ("DPL") appreciates the legislature's attempts to clarify DPL's authority and its obligation to remit remaining revenues to the trust, subject to the following comments and clarifications.

The existing language at 1 CMC § 2803 establishes the powers and duties of DPL. DPL is primarily concerned with S.B. 24-18's proposed amendments to 1 CMC § 2803(b) and (f) as follows:

1 CMC § 2803(b)

The existing language at 1 CMC § 2803(b) provides:

The Department shall submit each year a proposed annual budget for the next fiscal year in accord with the budgeting and planning procedures applicable to all departments of the Executive Branch. Within its proposed budget, the Department shall itemize all personnel, travel, and other expenses for the fiscal year in question; the sums required to be expended during the year with respect to its leasing responsibilities and the homestead program; sums required to be held in reserve for approved homesteads or other Department programs in the next two fiscal years; a detailed statement of all other Department assets, liabilities, revenues and expenditures; and, the estimated sum to be transferred at the end of the fiscal year to the Marianas Public Land Trust. (Emphasis original).

S.B. 24-18 proposes to revise 1 CMC § 2803(b) to make the following changes:

The Department shall submit each year, for legislative approval, a proposed annual budget following the budgeting and planning procedures applicable to all departments of the Executive Branch. Within its proposed budget, the Department shall itemize all personnel, travel, and other expenses for the fiscal year in question; the sums required to be expended during the year for its leasing responsibilities and the homestead program, including homestead road, power, and water infrastructure; a detailed statement of all other Department assets, liabilities, revenues and expenditures; and the sum to be transferred at the end of the fiscal year to the Marianas Public Land Trust.

While DPL acknowledges that the Constitutional language in Article XI Section 5(g) requiring that “[t]he annual budget of the corporation shall be submitted to the legislature for information purposes only” is no longer constitutionally operative pursuant to *DPL v. Commonwealth*, 2010 MP 14, that court also held that the legislature may not act in a way that infringes on another constitutional office. If the legislature fails to approve DPL’s submitted budget, DPL may be unable to perform its duty to manage and dispose of public lands. This would prevent DPL from maximizing revenues from public lands – recognized by the framers of the Constitution as “the only significant asset that the people of the Commonwealth have, Analysis at 165 – with the result of defunding the Trust.

Second, DPL opposes the proposed revision to 1 CMC § 2803(b) requiring DPL to tap into the funds derived from public land leases to finance construction of homestead road, power, and water infrastructure.

In *DPL v. CNMI*, 2010 MP 14, at ¶ 34, the NMI Supreme Court held:

[T]he revenues generated from the management and disposition of public lands are trust funds that must go to the Public Land Trust to be held for the benefit of people who are of Northern Marianas descent. If the legislature wishes to add land compensation judgments to DPL’s operating budget it is free to do so, but it must appropriate the money to satisfy such judgments—it may not tap into the funds derived from public lands absent a constitutional amendment or absent the abolishment of the Public Land Trust. (Emphasis added).

For this same reason, DPL opposes the proposed addition of “homestead program development expenses” to the extent that it is intended to include expenses outside DPL’s jurisdiction. While certain homestead program development expenses (*i.e.*, surveying wages, costs of surveying equipment, recording fees, and other similar expenses required for DPL staff to implement the program) may properly be paid out of funds derived from public lands, the term “development expenses” is too broad and would be unconstitutional to the extent that it is intended to include other costs associated with homestead development, such as infrastructure expenses to develop roads and water, sewer, and power

The Court, at ¶ 35, further held:

The Department of Public Lands is now the entity tasked with the responsibility of managing and disposing of public lands. Article III § 15 allows the legislature to redefine the functions of the executive branch departments. Reading Article III § 15 in conjunction with Article XI § 4, we conclude that the legislature may redefine the functions of DPL. However, the legislature may not redefine the functions of any executive branch department in a manner that infringes upon another constitutional office. In this case, PL 16-31 infringes upon the Public Land Trust's constitutionally mandated functions of receiving and investing the revenues from public lands for the benefit of people of Northern Marianas descent. We therefore hold that PL 16-31 is unconstitutional. (Emphasis add).

Based on the Court's ruling in *DPL v. CNMI*, the Legislature can add expenses for construction of homestead road, power, and water infrastructure (like land compensation judgments) to DPL's operating budget if it wishes to do so, but it must appropriate the money to pay for such expenses. However, it may not tap into the remaining revenue received from public lands absent constitutional amendment or absent the abolition of MPLT.

Furthermore, the Legislature may not redefine functions of any executive branch department (e.g., DPL) in a manner that infringes upon another constitutional office (e.g., MPLT). In this case, S.B. 24-18 proposed amendment to 1 CMC §2803(b) infringes upon MPLT's constitutionally mandated functions of receiving and investing the revenues from public lands for the benefit of people of Northern Marianas descent.

Therefore, S.B. No. 24-18's proposed amendment to 1 CMC §2803(b) to tap into revenue derived from public lands is unconstitutional.

1 CMC § 2803(f)

S.B. 24-18 proposes to revise 1 CMC § 2803(f) by deleting the existing language in its entirety ("The effective date of this Act shall be retroactive to February 22, 2006.") and replacing it with the following language: "The DPL Secretary shall provide a detailed report of all the revenues collected and expenditures within 30 calendar days at the end of its quarter."

DPL opposes the proposed revision to 1 CMC § 2803(f) requiring the DPL Secretary's submission of a detailed report of all the revenues collected and expenditures within 30 calendar days at the end of its (sic) quarter. This proposed revision would infringe on DPL's powers and duties as an Executive Branch department under 1 CMC § 2803 and would place a huge burden on DPL's ability to manage its affairs because of legislative intrusion. Such intrusion would single out DPL from all other departments of the Executive Branch under the existing language at 1 CMC § 2803(b) which provides:

The Department shall submit each year a proposed annual budget for the next fiscal year in accord with the budgeting and planning procedures applicable to all departments of the Executive Branch. Within its proposed budget, the Department

shall itemize all personnel, travel, and other expenses for the fiscal year in question; the sums required to be expended during the year with respect to its leasing responsibilities and the homestead program; sums required to be held in reserve for approved homesteads or other Department programs in the next two fiscal years; a detailed statement of all other Department assets, liabilities, revenues and expenditures; and the estimated sum to be transferred at the end of the fiscal year to the Marianas Public Land Trust. (Emphasis added).

For the reasons stated above, the Department of Public Lands (DPL) respectfully opposes the passage of S.B. 24-18. Despite multiple attempts to advance this legislation, DPL remains steadfast in its objections. Should the proponent persist in asserting the merits of this measure, we recommend that it be introduced as a Senate Legislative Initiative (S.L.I.), thereby entrusting the decision to the electorate.

Thank you again for the opportunity to present our comments.

Respectfully,

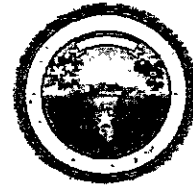


Teresita A. Santos
Secretary, DPL

cc: Honorable Governor Arnold I. Palacios
Honorable Lt. Governor David M. Apatang
Finance & Accounting Division, DPL
Land Claims Division, DPL
Planning Division, DPL



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE MAYOR
THE HONORABLE AUBRY MANGLONA HOCO
Mayor of the Municipality of Rota
Mailing Address: Post Office Box 537 Rota, MP 96951
Phone: 670.532.9451/9452 * Email: mayor.ahocog@gmail.com



MOR-2025-120

March 25, 2025

Senate Standing Committee on Fiscal Affairs
24th CNMI Legislature
Capitol Hill, Saipan, MP 96950

RE: Support for Senate Bill No. 24-18

28:15 am
via email
3/21/25
THE OFFICE OF
SENATOR JUDE U. HOFSCHEIDER
TEL. NO. (670)664-8888/FAX NO. (670)664-8908

Dear Honorable Members:

I am writing to express my full support for Senate Bill No. 24-18, which proposes to amend 1 CMC § 2803 regarding the budget submission requirements of the Department of Public Lands.

The proposed amendments address critical issues of fiscal transparency and accountability in the management of public lands. Following the CNMI Supreme Court ruling in *DPL v. CNMI* (2010), which rendered Section 5 of Article XI of the CNMI Constitution inoperative, these legislative changes are both timely and necessary.

I particularly support the provisions requiring:

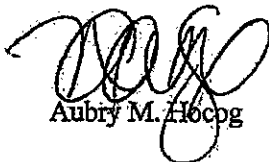
- Annual budget submission by the Department for legislative approval
- Establishment of a dedicated "DPL Operations Fund" maintained by the Department of Finance
- Assessment and collection of mining permit fees for the use of public lands
- Quarterly reporting of revenues and expenditures

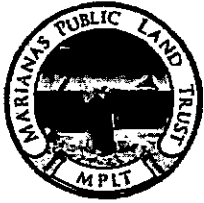
These measures will enhance oversight of public land resources and ensure that the Department's administrative and management expenses remain reasonable and transparent.

As Mayor of Rota, I recognize the importance of proper stewardship of our public lands for the benefit of our present and future generations. This legislation represents a significant step toward strengthening accountability in the management of these valuable resources.

I urge the Committee to expedite the passage of this important legislation.

Respectfully,


Aubry M. Hocog



MARIANAS PUBLIC LAND TRUST

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

March 27, 2025

Senator Jude U. Hofschneider
Chairman
Senate Committee on Fiscal Affairs
CNMI Senate

Rep. John Paul Sablan
Chairman
House Committee on Ways & Means

Rep. Angelo A. Camacho
Chairman
House Committee on Natural Resources
House of Representatives

24th CNMI Legislature
Capitol Hill, Saipan

11 AM
3/29/25
THE OFFICE OF
SENATOR JUDE U. HOFSCHEIDER
TEL. NO. (670) 664-8868 / FAX NO. (670) 664-8908

Via Hand Delivery

Subject: Consolidated Comments by the Marianas Public Land Trust re: Senate Bill 24-18 Regarding the Budget Submission of the Department of Public Lands and House Bill 24-8 Regarding the Annual Budget Submission for the Department of Public Lands and Establishment of MPLT Remittance Fund.

Dear Senator Hofschneider and Representatives Sablan and Camacho,

This is to provide the consolidated comments by the Marianas Public Land Trust regarding the proposed legislation before your respective committees. Recently we had a meeting with our colleagues Senator Corina Magofna and Representative Marissa A. Flores. The meeting related to the above legislation as well as the bill introduced by Senator Magofna regarding the land use plan funding for the Department of Public Lands as set forth in Senate Bill 24-12 (introduced by Senator Magofna). We very much appreciated the open and robust dialogue with them. We respectfully submit our comments for your consideration.

With our clearest expression, the MPLT Trustees absolutely support the proposed legislation which seek to place the Department of Public Lands ("DPL") as a line department subject to the budgeting authority of the Legislature and the Planning and Budgeting Act. We submit the following comments for your Committees' consideration and hope that reconciled legislation would be

approved by both houses to finally correct an untenable situation that will allow for accountability by DPL to the Legislature and the remittance of all net funds due to MPLT without delay.

A. Senate Bill 24-18 Considerations

Page 2 lines 17-18 include approval of a DPL annual budget that allows for "homestead road, power, and water infrastructure" among other authorizations. Unfortunately, this provision is unconstitutional as such capital improvement provisions are beyond the management and disposition of public lands functions of DPL. In addition, MPLT comments that the responsibility for power, water and sewer distribution in the CNMI is that of the Commonwealth Utilities Corporation. The function of DPL is to establish, survey and award homestead permits and lots where CUC and DPW would build the infrastructure as determined and funded by the Legislature. The legislation as drafted should have this provision removed as being constitutionally infirm.

Page 3 line 5 discusses the DPL Operations Fund and DPL obligations "including land compensation judgments" which shall be paid from the DPL Operations Fund bank accounts. This provision is unconstitutional. In *DPL v. CNMI* the CNMI Supreme Court specifically declared unconstitutional Public Law 16-41 which authorized the payment of land compensation claims/judgments from DPL public land lease funds. This provision is constitutionally defective and should be removed.

Your Trustees fully support the provision on Page 3 lines 23-25 which require the DPL Secretary to provide a detailed report of all the revenues collected and expenditures "within 30 calendar days at the end of its quarter." However, it seems to us that this actually is meant to say "at the end of each quarter." DPL has asserted that accounting for net funds due for remittance to MPLT requires an annual audit reconciliation process. This is incorrect. Even so, DPL has not had an audit completed since 2020 and the Planning and Budgeting Act does not require an audit for an agency such as DPL to remit the net revenues.

Lastly, your Trustees ask your Committees to note that Managaha island as a cultural and recreational preserve was established pursuant to Article XIV of the Constitution and so it is not public land. DPL's jurisdiction is over public lands pursuant to Article XI of the Constitution. As such, DPL cannot expend public land lease funds for Managaha and would only use the landing fees and net concession agreement funds for Managaha operations. Similarly, no public land lease funds may be used for Managaha as such use constitute unconstitutional diversion of land lease funds.

B. House Bill 24-8 Considerations

Your Trustees support the explicit purpose of the bill to subject DPL to the planning and budget process by amending its enabling legislation for this purpose. The Findings and Purpose discussion in the bill informs the Legislature that DPL is indeed a line agency subject to the Legislature's constitutional appropriation authority with one exception: the land lease revenue cannot be used for purposes other than DPL's operations and administration and thereafter for remittance to MPLT.

For this reason, H.B. 24-8 is important because it establishes the MPLT Remittance Fund on page 6 line 6-18 into which land lease revenues (excluding Managaha landing fees and concession fees) shall be deposited and remitted to MPLT at the end of each fiscal year. If enacted into law, this ends the

dubious and unconstitutional perennial practice of DPL in "reserving" funds which should be invested by MPLT and would generate interest income for appropriation by the Legislature.

A most recent disconcerting discussion that illustrates this point was the recent joint committee session and discussion regarding the Marianas Resort proposed lease with Eland on March 25, 2025. In that session DPL disclosed that as to "public benefits" the proposed Lessee would "contribute" \$2.5 million dollars for the As Gonno Homestead project. DPL personnel also disclosed the fact that in its lease for the now Crowne Plaza Hotel property a substantial amount of money was contributed for the Garapan Revitalization Project (at least \$500,000). What is the concern as to this revelation? Revenue diversion and unconstitutional misapplication of the public benefit clause of Public Law 15-2. Again, DPL has acted to circumvent the Legislature's appropriation authority by negotiating capital improvement projects as public benefit contributions by lessees.

DPL has no statutory or constitutional authority to continue to engage in creative and questionable "end runs" with diversion of public land lease revenues unto itself through public benefits contributions. In the legislative meetings regarding the recent Coral Ocean Point Golf Course property, the Legislature learned of DPL's scholarship program which it wanted the lessee to establish for persons of Northern Marianas Descent. The former DPL Secretary admitted that this effort was unconstitutional as discriminatory.

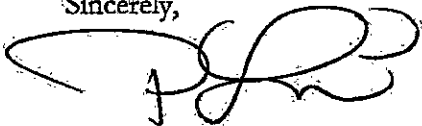
The import of the above discussion is that having DPL become subject to the Planning and Budgeting Act ensures accountability and constitutional compliance for that agency. Most importantly, the Executive Branch has explicitly recognized the significance of this in its Line of Credit Agreement by agreeing with MPLT to submit the DPL agency budget each year for Legislative approval. That is the reason why, for the first time, the Legislature held budget appropriation hearings for DPL and DPL was included in the CNMI Budget.

C. Suggested Conference Meetings to Reconcile Legislation Proposals.

For the MPLT Trustees, we see the proposed legislation as critical for passage into law. We respectfully suggest that your respective Committees consider a joint conference to have a workable bill that would meet approval and passage by both houses. For our part the Trustees are ready and able to provide your committees with the information, background and support for an agreed-upon bill that is in the best interest of the CNMI.

Thank you for your consideration of our comments. Please do not hesitate to contact us if you have any questions.

Sincerely,



PHILLIP MENDIOLA LONG
Chairman

Cc: MPLT Trustees
MPLT Administrator



Office of the Secretary
Department of Finance



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March 25, 2025

SFL 2025-107

Senator Jude U. Hofschneider
Chairman
Senate Committee on Fiscal Affairs
P.O. Box 500586
Saipan, MP 96950

DJ: Nam
3/27/25 via email
THE OFFICE OF
SENATOR JUDE U. HOFSCHEIDER
TEL. NO. (670) 664-9869/FAX NO. (670) 664-9908

Subject: Commonwealth of the Northern Mariana Islands (CNMI) Department of Finance
Comments and Recommendations on the following Senate Bill(s) (S.B.) No. 24-18, 24-26, 24-27 and 24-32.

Dear Chairman Jude U. Hofschneider,

On behalf of the CNMI Department of Finance ("DOF"), I thank you for the opportunity to provide our comments and recommendations on the following Senate Bill(s):

Senate Bill(s):

- **S.B. 24-18** – To amend 1 CMC § 2803 regarding the budget submission of the Department of Public Lands; and for other purposes. Please refer to the attached S.B. 24-18.
- **S.B. 24-26** – To amend 1 CMC § 28933 (d) to give the mayors of the First and Second Senatorial District authority to concur on all OGM-SC applications, programs and funding for the First and Second Senatorial District; and for other purposes. Please refer to the attached S.B. 24-26.
- **S.B. 24-27** – To amend 1 CMC § 8390 to allow the Settlement Fund to adjust benefit payments to reflect the correct calculation forward and authorize waivers of overpayments of retirement benefits; and for other purposes. Please refer to the attached S.B. 24-27.
- **S.B. 24-32** – To amend 2 CMC § 3551 to change the expenditure authority, management, and control of the solid waste sub-accounts for the First and Second Senatorial Districts to the mayor of each respective municipality; and for other purposes. Please refer to the attached S.B. 24-32.

Again, on behalf of the CNMI Department of Finance, I thank you for the opportunity to provide comments with respect to the Bill(s). Should you have any questions or need any additional information, please do not hesitate to contact me at (670) 664-1100 or email me at T.Norita@dof.gov.mp.

Sincerely,

Tracy B. Norita
Secretary of Finance



**Office of the Secretary
Department of Finance**

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Department of Finance Comments/Recommendations	LEGENDS:
Proposed Legislation: S.B. 24-18	Strikethrough To eliminate from the "Bill"
Findings & Purpose:	Underline To add to the "Bill"
<p>The Legislature finds that public land leases have been governed by the fundamental policies outlined in Section 5 of Article XI of the CNMI Constitution and Public Law 15-2. The Legislature, however, finds that based on the CNMI Supreme Court ruling in <i>DPL v. CNMI</i>, 2010 MP 14 (Oct. 4, 2010), Section 5 of Article XI of the CNMI Constitution is inoperative. Therefore, the Legislative and Executive Branches have the authority to establish the fundamental policies governing public lands. Specifically, the Supreme Court held that "the drafters of the NMI Constitution did not intend for the restrictions contained in Article XI § 5 to bind the Commonwealth Legislature in perpetuity. We further hold that the legislature possesses the constitutional authority under Article III § 15 to redefine the functions of executive branch departments including DPL. The legislature cannot, however, pass a law that infringes upon the functions of another constitutional entity." <i>Id.</i> at ¶12.</p> <p>The Legislature also finds that the Department of Public Lands must be more fiscally transparent and accountable for its reasonable administrative and management expenses. The legislature must clarify the reasonable administrative and management expenses. Moreover, to prevent DPL from inflating its annual budget and unduly withholding any surplus revenues from MPLT, the Legislature must approve DPL's annual Fiscal Year budget to ensure the DPL's annual budget complements the department's actual personnel and operation requirements each fiscal year. However, the Legislature finds it equally important to protect DPL revenues by prohibiting any reprogramming, except reprogramming authorized by law.</p>	
CMC	
To amend 1 CMC § 2803 regarding budget submission of the Department of Public Lands; and for other purposes.	
Section(s) Amendments	Feedbacks/Comments
<p>Section 2. Amendment. 1 CMC § 2803 is amended to read: "§.2803. Powers and Duties of the Department of Public Lands. (a) The Department shall be responsible for the administration, use, leasing, development, and disposition of all those lands defined as public lands by N.M.I. Const. art. XI, § 1 or any other provision of law, subject to the provisions of this chapter and except as limited by transfers of freehold interests to individuals, entities, or other government agencies. The Department's authority does not extend to the issuance of land use permits and licenses, except as specifically provided for in this Act; and does not limit in any respect the authority of other Commonwealth agencies to issue permits and licenses pursuant to their respective enabling legislation.</p>	N/A



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<p>Section 2. Amendment. 1 CMC §2803 is amended to read: "§ 2803. Powers and Duties of the Department of Public Lands. (b) The Department shall submit each year, for legislative approval, a proposed annual budget for the next fiscal year in accord with following the budgeting and planning procedures applicable to all departments of the Executive Branch. Within its proposed budget, the Department shall itemize all personnel, travel, and other expenses for the fiscal year in question; the sums required to be expended during the year with respect to for its leasing responsibilities and the homestead program, including homestead, road, power, and water infrastructure; sums required to be held in reserve for approved homesteads or other Department programs in the next two fiscal years; a detailed statement of all other Department assets, liabilities, revenues and expenditures; and the estimated sum to be transferred at the end of the fiscal year to the Marianas Public Land Trust.</p>	<p>DPL revenue forecast requirements must be specified by statute to appropriately determine the estimated or actual balance remaining at the end of the fiscal year to be transferred to MPLT. The DPL Secretary should be required to determine the available estimated balance and provide documentation to DOF for transfer of funds. Statute should consider an automatic enforcement of the transfer of funds by the Department of Finance by the transfer deadline. Upon submission of the 4th quarter report, DOF should ensure the timely transfer of funds. Penalty for the untimely transfer of funds should be considered in the legislation, such as suspension of available budget until funds transfer is completed.</p> <p>Suggest to include clear deadlines in the legislation for funds transferred to MPLT.</p>
<p>Section 2. Amendment. 1 CMC §2803 is amended to read: "§ 2803, Powers and Duties of the Department of Public Lands. (f) The effective date of this Act shall be retroactive to February 22, 2006. The DPL Secretary shall provide a detailed report of all the revenues collected and expenditures within 30 calendar days at the end of its quarter."</p>	<p>N/A</p>



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Department of Finance Comments/Recommendations	LEGENDS:
Proposed Legislation: S.B. 24-26	Strikethrough To eliminate from the "Bill"
Findings & Purpose	<u>Underline</u> To add to the "Bill"
<p>The Legislature finds that, among other things, the Office of Grants Management and State Clearinghouse (OGM-SC) was created to establish a database of those federal grants currently received by the CNMI, and to research all federal grants which the CNMI is eligible to receive but has not applied for. These OGM-SC mandates apply to the First and Second Senatorial Districts as well. Since the creation of the OGM-SC office, the mayors of the respective First and Second Senatorial Districts have submitted to OGM-SC countless requests for assistance, funding, equipment and training for their municipalities and employees. Although OGM-SC has provided some assistance, funding, equipment and training to the First and Second Senatorial Districts, the equipment, programs, funding or recipients of such benefits were not always consistent with the mayor's policies. The Legislature finds that the mayor's municipal policies are paramount over any other policy because the mayor is the head of each municipality. The mayor is responsible for the health, welfare and safety of the people. The mayor has the ultimate responsibility to provide essential public services to the people in their municipalities. The mayor should determine what OGM-SC assistance is needed and where such assistance will go. Accordingly, the purpose of this legislation is to authorize the respective mayors of the First and Second Senatorial Districts to concur on all OGM-SC applications, programs and funding for the First and Second Senatorial Districts.</p>	
CMC	
<p>To amend 1 CMC § 2893 (d) to give the mayors of the First and Second Senatorial District authority to concur on all OGM-SC applications, programs and funding for the First and Second Senatorial Districts; and for other purposes.</p>	



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Section(s) Amendments	Feedbacks/Comments
<p>Section 2. Amendment. 1 CMC § 2893 is amended to read as follows: <u>"(d) the Administrator of the CNMI OGM-SC shall have expenditure authority for all funds relating to CNMI OGM-SC; provided that the respective mayors of the First and Second Senatorial Districts shall concur on all OGM-SC applications, programs and grant funding for the First and Second Senatorial Districts. The Administrator shall also inform the respective mayors of the First and Second Senatorial Districts of the status of the submitted grant application; and"</u></p>	<p>Department of Finance is in support of the inclusion of the Mayors of the First and Second Senatorial Districts regarding grant writing objectives and management of grant funds awarded to the municipalities.</p>



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Department of Finance Comments/Recommendations	
Proposed Legislation: S.B. 24-27	LEGENDS:
Findings & Purpose.	Strikethrough To eliminate from the "Bill"
	<u>Underline</u> To add to the "Bill"
<p>The Legislature finds that the NMI Settlement Fund has served hundreds of retirees with notices of overpayments and retirement benefits adjustments after conducting a benefits audit. Some retirees have received the same benefits for ten years or more. Most, if not all, of the overpayment calculations were made by the former NMI Retirement Fund and through no fault of the retirees. Most retirees detrimentally rely on their monthly retirement benefits for their livelihood to pay for housing, food, debts, vehicles, medical expenses, and incidentals. Most retirees' income is their retirement pension, and any adjustments negatively affect their standard of living.</p> <p>The Legislature further finds that Settlement Fund's determination to recover overpayments of benefits has adversely shaken the lives of retirees subject to the overpayments. Retirees are bombarded with letters and notices about overpayments from the Settlement Fund. Retirees can't afford to pay back the overpayments, ranging from several thousand dollars to hundreds of thousands. The retirees are terrified of being sued in court to recover the overpayments. The retirees cannot afford to pay back the overpayments, let alone afford to pay for lawyers to defend them against recovery of such overpayments that were miscalculated through no fault of the retirees.</p> <p>The Legislature finds that it is unfair, unreasonable, and unconscionable for the retirees, who are not at fault, to be required to pay back the overpayments. The Settlement Fund should waive the recovery of overpayments based on fairness, equity, and good conscience. The laws of the United States government, as well as most states and territories, provide for waivers of overpayments of various benefits, including social security benefits, state retirement benefits, unemployment benefits, veteran's benefits, family and medical leave benefits. The general standard for waiver of recovery of overpayment of benefits is that the individual is not at fault and recovery or repayment is against equity and good conscience when the overpayment would cause financial hardship to the person for whom it is sought; or the recipient of the overpayment can show (regardless of their financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either they have relinquished a valuable right or changed positions for the worse; or recovery would be unconscionable, unreasonable, or unfair under the circumstances.</p> <p>Accordingly, the purpose of this Act is for the Settlement Fund to adjust retirement benefit payments to reflect the correct calculation and authorize waivers of recovery of overpayments of retirement benefits.</p>	
CMC	
To amend 1 CMC § 8390 to allow the Settlement Fund to adjust benefit payments to reflect the correct calculation forward and authorize waivers of overpayments of retirement benefits; and for other purposes.	
Section(s) Amendments	Feedbacks/Comments
Section 2. Amendment. 1 CMC § 8390 is hereby amended to read as follows: "§ 8390. Overpayment or Underpayment of Benefits. (a) Whenever the administrator finds that more or less than the correct amount of benefits have been paid with respect to any individual, proper adjustment or recovery shall be made by appropriate adjustments to future payments to the member or any survivors, or from the estate of any recipients of benefits.	N/A



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<p>Section 2. Amendment. 1 CMC § 8390 is hereby amended to read as follows: <u>"§ 8390. Overpayment or Underpayment of Benefits. (b) Unless fraud, misrepresentations, pension miscalculation by the Settlement Fund or its predecessor, or concealment of material information was involved in connection with an overpayment, an amount of no more than 50 percent of any benefit to be paid in any benefit period may be withheld and offset against previous overpayments there shall be no recovery of overpayments by the NMI Settlement Fund from, any member, any survivors, or from the estate of any recipient of benefits who is without fault and if such recovery would be against equity and good conscience. In his discretion, the administrator may authorize a lesser percent of annuity to be withheld, taking into consideration the financial condition of the annuitant, provided that such overpayment can be recovered within two years.</u></p>	<p>N/A</p>
<p>Section 2. Amendment. 1 CMC § 8390 is hereby amended to read as follows: <u>"§ 8390. Overpayment or Underpayment of Benefits. (e) Notice of the overpayment or underpayment under this subsection shall include a statement that the affected member or beneficiary may appeal the overpayment or underpayment by notifying the Administrator, in writing, after receipt of notice of the overpayment or underpayment. A member or beneficiary who receives a notice of overpayment under this subsection may appeal to the Settlement Fund for a waiver of the overpayment following Sections 8390(b) and (f).</u></p>	<p>The Department of Finance supports the intention to lessen the burden placed on retirees to repay overpayments in the past, however the legislature should be mindful of the Net Pension Liability and the actions taken to preserve the fund. Refer to the latest Actuarial Valuation by Milliman (NMISF website).</p> <p>Is the Legislature open to consider having a Tier system category in place to determine eligibility requirements for the waiver option on affected members.</p>
<p>Section 2. Amendment. 1 CMC § 8390 is hereby amended to read as follows: <u>"§ 8390. Overpayment or Underpayment of Benefits. (f) Upon appeal to the NMI Settlement Fund by an affected member or beneficiary under this section, the Settlement Fund may waive an overpayment if, in the opinion of the Settlement Fund, the individual is without fault and recovery of an overpayment is against equity and good conscience. When assessing if recovery is against equity and good conscience, the Settlement Fund shall consider whether (1) the recovery of the overpayment would cause financial hardship to the person for whom it is sought; or (2) the recipient of the overpayment can show (regardless of their financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either they have relinquished a valuable right or changed positions for the worse; or (3) recovery would be unconscionable, unreasonable, or unfair under the circumstances. The Settlement Fund may conduct a hearing on an appeal under this Section."</u></p>	<p>N/A</p>



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Department of Finance Comments/Recommendations	LEGENDS:
Proposed Legislation: S.B. 24-32	Strikethrough To eliminate from the "Bill"
Findings & Purpose	<u>Underline</u> To add to the "Bill"
<p>The legislature finds that the expenditure authority of the solid waste sub-accounts for the First and Second Senatorial Districts should be vested in the mayor of each respective municipality in order to expedite the disbursement of funds, and procurement of services and equipment for each municipality. The legislature further finds that the mayors of each municipality have firsthand knowledge of the solid waste needs and requirements of their municipalities and should prioritize the sub-account funding for those purposes. Accordingly, the purpose of this legislation is to change the expenditure authority of the solid waste sub-accounts for the First and Second Senatorial Districts.</p>	
CMC	
<p>To amend 1 CMC §3551 to change the expenditure authority, management, and control of the solid waste sub-accounts for the First and Second Senatorial Districts to the mayor of each respective municipality; and for other purposes.</p>	
Section(s) Amendments	Feedbacks/Comments
<p>Section 2. Amendment. 2 CMC §3551 is hereby amended to read as follows: <u>"§ 3551. The Establishment of the Solid Waste Management Revolving Fund. (a) There is hereby established within the Commonwealth Treasury a Solid Waste Management Revolving Fund (SWMRF) which shall be accounted for separately from the General Fund. All funds collected pursuant to this chapter and the interest earned shall be used exclusively for solid waste-related purposes.</u></p>	N/A
<p>Section 2. Amendment. 2 CMC §3551 is hereby amended to read as follows: <u>"§ 3551. The Establishment of the Solid Waste Management Revolving Fund. (b) All monies received from direct appropriation, or as payment of fees pursuant to this Act, any except tipping fees as provided in NMIAC 155-30.1-201, collected from any Commonwealth solid waste management facility, solid waste user fees assessed directly on residents and businesses, advance disposal fees and any other sources of solid waste management funding, such as federal grants or loans, shall be deposited into the revolving fund SWMRF. Expenditure Authority over the revolving fund is vested in the Secretary of the Department of Public Works; provided that the expenditure authority for the sub-accounts of the First and Second senatorial districts shall be the mayor of the respective municipality. Revolving fund monies shall be available for expenditure on solid waste-related purposes without further appropriation and without fiscal year limitations.</u></p>	N/A
<p>Section 2. Amendment. 2 CMC §3551 is hereby amended to read as follows: <u>"§ 3551. The Establishment of the Solid Waste Management Revolving Fund. (c) The Secretary of the Department of Finance shall allocate the Solid Waste Management Revolving Fund into four sub-accounts. Subject to the promulgation of the appropriate rules and regulations prescribing CNMI-wide fees as described in subsection (b), three sub-accounts shall be established with one for each of the respective Senatorial Districts. The fourth sub-account shall be for the financial assurance requirements for permitting facilities within the Commonwealth. The sub-accounts of the First and Second senatorial districts shall be transferred to each respective local account and said funds shall not be reprogrammed for any other purpose. The mayor of each respective municipality shall manage the funds in the sub-accounts of the First and Second senatorial districts.</u></p>	<p>Further clarification is needed on the definition of "manage" the funds allocated to the municipalities. The law should specify if the Municipal Treasurer is responsible or allowed to manage a separate bank account. If so, accounting responsibilities including bank reconciliation and reporting to the DOF is required for the Single Audit and preparation of financial statements.</p>



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<p>Section 2. Amendment. 2. CMC § 3551 is hereby amended to read as follows: <u>§ 3551. The Establishment of the Solid Waste Management Revolving Fund. (d)</u> Unless specifically exempted or otherwise required by law, any funds earmarked for deposit into the Solid Waste Management Revolving Fund shall be subject to the allocation provided under subsection (c) herein. Provided, however, that 10 percent of the total of any earmarked funds shall be allocated to the sub-account of the First Senatorial District and 10 percent of the total of any earmarked funds shall be allocated to the sub-account of the Second Senatorial District. <u>The sub-accounts of the First and Second senatorial districts shall not be reprogrammed for any other purpose. The mayor of each respective municipality shall manage the funds in the sub-accounts of First and Second senatorial districts.</u></p>	<p>N/A</p>
<p>Section 2. Amendment. 2. CMC § 3551 is hereby amended to read as follows: <u>§ 3551. The Establishment of the Solid Waste Management Revolving Fund. (f) The Secretary of the Department of Public Works and the mayors of the First and Second senatorial districts shall provide within 30 days after each fiscal year an annual report on the SWMRF account to the presiding officers of the legislature and the chairperson of the House of Representatives Committee on Ways and Means and the chairperson of the Senate Committee on Fiscal Affairs.</u></p>	<p>At the municipality level, there is caution that DOF will not be responsible to monitor the transactions received and paid out by the municipality treasurer for the use of Solid Waste Funds. This will be at the responsibility of the Municipalities Mayors and treasurer.</p>