



GOV. COMM. 15-144
(HOUSE)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

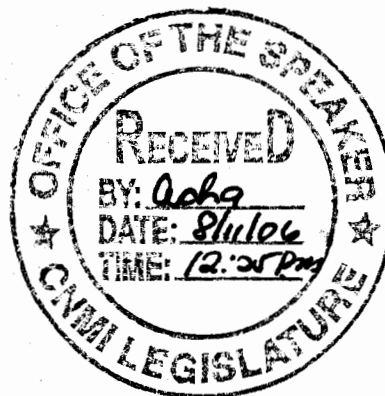
Benigno R. Fitial
Governor

Timothy P. Villagomez
Lieutenant Governor

AUG 10 2006

The Honorable Joseph M. Mendiola
Senate President, The Senate
Fifteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Oscar M. Babauta
Speaker, House of Representatives
Fifteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950



Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 15-38, SS1, HD1, entitled, "To establish requirements for the use of renewable energy, energy efficiency and for other energy and cost-saving measures; and to amend Title 4 of the Commonwealth Code, Division 8, by adding a new Chapter 6, Energy, Article 2-8; and for other purposes," which was passed by the Fifteenth Northern Marianas Commonwealth Legislature.

This bill becomes Public Law No. 15-23. Copies bearing my signature are forwarded for your reference.

Sincerely,

BENIGNO R. FITIAL

Cc: Attorney General, Office of the Attorney General
Executive Director, Commonwealth Utilities Corporation
Public Utility Commission
Secretary, Department of Finance
Secretary, Department of Public Works
Executive Director, Commonwealth's Law Revision Commission
Special Assistant for Programs and Legislative Review



Public Law No. 15-23

THE SENATE
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SENATE BILL NO. 15-38, SS1, HD1

AN ACT

To establish requirements for the use of renewable energy, energy efficiency and for other energy and cost-saving measures; and to amend Title 4 of the Commonwealth Code, Division 8, by adding a new Chapter 6, Energy, Articles 2-8; and for other purposes.

SENATE ACTION

Offered by Senator(s): Joseph M. Mendiola

Date: March 09, 2006

Referred to: Public Utilities, Transportation & Communications

Standing Committee Report No.: 15-45

Final Reading: May 30, 2006

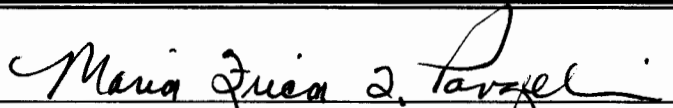
Final Reading: July 13, 2006, House Draft 1

HOUSE ACTION

Referred to: None

Standing Committee Report No.: None

First and Final Reading: June 12, 2006


SENATOR MARIA FRICA T. PANGELINAN
SENATE LEGISLATIVE SECRETARY

FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2006

Public Law No. 15-23
SENATE BILL NO. 15-38, SS1, HD1

AN ACT

To establish requirements for the use of renewable energy, energy efficiency and for other energy and cost-saving measures; and to amend Title 4 of the Commonwealth Code, Division 8, by adding a new Chapter 6, Energy, Articles 2-8; and for other purposes.

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

1 Section 1. Findings and Purpose. The Legislature finds that the Commonwealth
2 must find ways to conserve energy and explore alternative energy sources. Rising world oil
3 prices have had a profound effect on the Commonwealth most notably with regard to public
4 utilities. The Legislature further finds that the CNMI must reduce its dependence on fossil
5 fuels and move toward the use of renewable energy while setting realistic deadlines for
6 meeting that goal. Estimates are that the world economy will have to suffice with only a
7 fraction of the current supply some time this century. The world's supply of fossil fuel is
8 estimated to be economically depleted at some point in the future. Therefore, it is the
9 purpose of this act to provide incentives for alternative energy

10 Section 2. Amendments. 4 CMC Division 8 is hereby amended to add Articles 2-8
11 to a new Chapter 6:

CHAPTER 6: Energy

12 **Article 1. High Performance Buildings Standards Act. Reserved**

13 **Article 2. Renewable Portfolio Standards**
14

1 Section 8621. Definitions. As used in this Chapter, the following words and
2 phrases shall have the meanings given to them in this section unless the context clearly
3 indicates otherwise:

- 4 (a) "Cost-effective" shall mean the ability to produce or purchase electric energy
5 or firm capacity, or both, from renewable energy resources at or below
6 avoided costs.
- 7 (b) "Electric utility" shall mean the Commonwealth Utilities Corporation and/or
8 its successor in interest ("CUC") and any other provider of retail electric
9 service in the Commonwealth.
- 10 (c) "Regulator" shall mean the Commonwealth Public Utilities Commission, or
11 its successor in interest, or if no such commission exists, the Board of the
12 government-owned utility.
- 13 (d) "Renewable energy" shall mean:
- 14 (1) electrical energy produced by wind, solar energy, hydropower,
15 landfill gas, waste to energy, geothermal resources, ocean thermal
16 energy conversion, ocean wave or current energy, biomass, including
17 municipal solid waste, biofuels, or fuels derived from organic sources
18 (other than coal, oil or gas), hydrogen fuels derived from renewable
19 energy, or fuel cells where the fuel is derived from renewable sources;
20 and/or
- 21 (2) electrical energy savings brought about by the use of:
- 22 (i) solar or heat pump water heating,
23 (ii) seawater air-conditioning district cooling systems,
24 (iii) solar air-conditioning and ice storage,
25 (iv) quantifiable energy efficiency and energy conservation
26 measures, including insulation in excess of the standards
27 required in the Commonwealth's Building Code,
28 (v) use of rejected heat from co-generation, and
29 (vi) combined heat and power systems, but excluding:

(A) fossil-fueled qualifying facilities that sell electricity to electric utility companies, and

(B) central station power projects.

(3) Where biofuels, hydrogen, or fuel cell fuels are produced by a combination of renewable and nonrenewable means, the proportion attributable to the renewable means shall be credited as renewable energy.

(4) Where fossil and renewable fuels are co-fired in the same generating unit, the unit shall be considered to produce renewable electricity in direct proportion to the percentage of the total heat value represented by the heat value of the renewable fuels.

(e) "Renewable portfolio standard" shall mean the required percentage of electrical energy sales that is represented by renewable energy:

(1) produced by facilities which the electric utility owns or controls; or

(2) which the utility has a right to receive by contract.

Section 8622. Renewable Portfolio Standard.

(a) Each electric utility shall establish a renewable portfolio standard of:

(1) Five percent of its net electricity sales by December 31, 2007;

(2) Eight percent of its net electricity sales by December 31, 2008;

(3) Ten percent of its net electricity sales by December 31, 2010;

(4) Fifteen percent of its net electricity sales by December 31, 2015;

(5) Twenty percent of its net electricity sales by December 31, 2020; and

(6) Fifty percent of its net electricity sales by December 31, 2030.

Section 8623. Achieving Portfolio Standard. The electric utilities may aggregate their renewable portfolios in order to achieve the renewable portfolio standard. If requested, the regulator shall determine on an evidentiary record if an electric utility company is unable to meet the renewable portfolio standards in a cost-effective manner, or as a result of circumstances beyond its control which could not have been reasonably anticipated or ameliorated. If this determination is made, the electric

- (1) determine the extent to which any proposed utility rate structure would impact electric utility companies' profit margins, and how to avoid cutting profits solely by reason of the proposed rate structure;
- (2) determine the capability of the Commonwealth's electric utility utilities to achieve renewable portfolio standards in a cost-effective manner;
- (3) assess factors such as the impact on consumer rates, utility system reliability and stability, costs and availability of appropriate renewable energy resources and technologies, permitting approvals, impacts on the economy, culture, community, and environment; and
- (4) evaluate tax incentives and other strategies to attract independent power producers who would use renewable sources of energy; and
- (5) to assess whether the renewable portfolio standards should be reset.

Article 3. Net Energy Metering

Section 8631. Definitions. As used in this Article, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

- (a) "Available capacity" shall mean the capacity available to the electric utility's system after factoring nameplate rating, times efficiency factor, times demonstrable hours of operation divided by total 8760 hours per year.
- (b) "Control area" shall mean each of the islands which the electric utility serves.
- (c) "Electric utility" shall mean the Commonwealth Utilities Corporation and/or its successor in interest ("CUC") and any other provider of retail electric service in the Commonwealth.
- (d) "Eligible customer-generator" shall mean an electric utility's metered residential or commercial customer, including a government entity, who owns and operates, or will own and operate, a renewable energy system to generate electricity that is:
 - (1) Located on the customer's premises;

- (2) Operated in parallel with the utility's transmission and distribution facilities;
 - (3) In conformance with the utility's reasonable and lawful interconnection requirements; and
 - (4) Intended primarily to offset part or all of the customer's own electrical requirements.
- (e) "Energy service company" or "ESCO" is a business that develops, installs, and finances projects designed to improve the energy efficiency and maintenance costs for facilities over a seven-to-10 year time period, which project expenses, capital investments and fees are bundled into the project's cost and are repaid through a portion of the dollar savings generated. The ESCO is a business which generally acts as a project developer for a wide range of tasks and assumes the technical and performance risk associated with the project. Typically, the ESCO offers the following services: develop, design, and finance energy efficiency projects; install and maintain the energy efficient equipment involved; measure, monitor, and verify the project's energy savings; and assume the risk that the project will save the amount of energy guaranteed.
- (f) "Energy service contract" shall mean a contract between a facilities owner or manager, including the Government, and an energy service company.
- (g) "Net energy metering" shall mean measuring with a mechanical and/or electronic device the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a monthly billing period; provided that:
- (1) Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions;
 - (2) An additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the customer-generator, at the expense of the electric utility, and the additional

1 metering shall be used only to provide the information necessary to
2 accurately bill or credit the customer-generator, or to collect
3 renewable energy generating system performance information for
4 research purposes;

5 (3) If the existing electric meter of an eligible customer-generator is not
6 capable of measuring the flow of electricity in two directions, the
7 electric utility shall be responsible for all expenses involved in
8 purchasing and installing a meter that is able to measure electricity
9 flow in two directions;

10 (4) If an additional meter or meters are installed, the net energy metering
11 calculation shall yield a result identical to that of a single two-
12 directional meter; and

13 (h) "Net electricity consumer" shall mean an eligible customer-generator who, at
14 the end of each monthly billing period, has consumed electricity where:

15 (1) the electric utility's delivery of electricity to the customer exceeds

16 (2) the sum of:

17 (i) The electricity generated by the eligible customer-generator
18 during that same period; and

19 (ii) Unused credits for excess electricity from the eligible
20 customer-generator carried over from prior months since the
21 last renewable energy-month reconciliation period.

22 (i) "Net electricity producer" shall mean the eligible customer-generator who, at
23 the end of each monthly billing period, has generated electricity during the
24 month in an amount which exceeds the electricity supplied by the electric
25 utility during that same period.

26 (j) "Regulator" shall mean the Commonwealth Public Utilities Commission, or
27 its successor in interest, or if no such commission exists, the Board of the
28 government-owned utility.

1 (k) "Renewable energy system" shall mean a generating system that uses a
2 renewable energy source as defined in this Chapter, or a hybrid system
3 consisting of two or more of these facilities.

4 Section 8632. Net energy metering to be provided to eligible customer. An eligible
5 customer-generator shall be entitled to receive net energy metering service in accordance
6 with this Article.

7 Section 8633. Maximum capacity of eligible customer-generator. A customer shall
8 be eligible for net energy metering for not more than 100 kilowatts of available capacity of a
9 renewable energy system; provided that the regulator shall increase the maximum qualifying
10 capacity by regulation or order upon a showing that the larger system will not unduly
11 interfere with the electric utility's ability to properly manage its control area and that the
12 financial impact of the service will not unduly harm the electric utility.

13 Section 8634. Standard contract or tariff; rate structure.

14 (a) The electric utility shall develop a standard contract or tariff providing for
15 net energy metering and shall make this contract or tariff available to
16 eligible customer-generators, upon request, on a first-come-first-served
17 basis until the time that the total available capacity produced by eligible
18 customer-generators equals 30 percent of the electric utility's system peak
19 demand; provided that, on good cause shown, the regulator may increase,
20 by rule or order, this percentage amount.

21 (b) Each net energy metering contract or tariff shall be identical, with respect
22 to rate structure and other charges and fees, to the contract or tariff to
23 which the same customer would be assigned if the customer were not an
24 eligible customer-generator. The charges for all retail rate components for
25 eligible customer-generators shall be based exclusively on the eligible
26 customer-generator's net kilowatt-hour consumption over a monthly
27 billing period. Any new or additional demand charge, standby charge,
28 customer charge, minimum monthly charge, interconnection charge, or
29 other charge that would increase an eligible customer-generator's costs

1 (2) Any unused credits for excess electricity from the eligible customer-
2 generator carried over from prior months since the last 12-month
3 reconciliation period.

4 (b) Credits for excess electricity from the eligible customer-generator that remain
5 unused after each 12-month reconciliation period may not be carried over to the next
6 12-month period, but shall be compensated as provided in this Article.

7 Section 8638. Net electricity consumers. The net electricity consumer shall owe the
8 electric utility for the customer's consumption in excess of the customer's production and
9 credits. The eligible customer shall owe the electric utility for the excess monthly kilowatt-
10 hour consumption calculated at the retail rate of the rate class the customer is normally
11 assigned to. The eligible customer shall be responsible for all other charges and fees
12 generally applicable to the customer's rate class.

13 Section 8639. Net electricity producers; excess electricity credits and credit carry
14 over.

15 (a) The intent of this Article is that, for the 12-month billing period, the eligible
16 customer-generator shall be fully compensated for his/her consumption through
17 the production offset and credit calculations, and for the electric utility to buy the
18 customer's excess production at 50% of the net energy metering rate.

19 (b) For a net electricity producer, the electric utility shall not ordinarily pay the
20 customer monthly, but it may use the customer's excess electricity generated
21 during the monthly billing period; and

22 (c) The net electricity producer's monthly excess electricity production shall be
23 carried over to the next billing month as a monetary value to the credit of the
24 customer; and

25 (d) Monthly unused credits shall accumulate and be used to offset the compensation
26 owed the electric utility for the customer's net kilowatt-hour consumption for
27 succeeding months within each 12-month period; and

28 (e) The electric utility shall reconcile the eligible customer-generator's electricity
29 production and consumption for each 12-month period as set forth in this Article,

1 Energy Efficiency and Renewable Energy, Federal Energy Management Program, or its
2 successor agency.

3 (b) Agency procurements shall incorporate energy efficient criteria consistent with
4 designated energy efficiency levels into all guide specifications and project specifications
5 developed for new construction and renovation, as well as into product specification
6 language developed for purchasing. Such criteria shall be designed to attain at least LEED
7 silver ratings and procure equipment at least as energy efficient as ENERGY STAR-rated
8 equipment.

9 Section 8652. Energy efficient purchases.

10 (a) If an agency determines that initial costs render an otherwise cost-effective
11 energy efficient purchase unaffordable, it shall request that the Department of Finance,
12 Division of Procurement and Supply, solicit the provision of financing agreements with
13 private sector suppliers to provide private funding to offset the higher up-front costs.

14 (b) Government agencies shall strive to meet the ENERGY STAR building criteria
15 for energy performance and indoor environmental quality in their eligible facilities to the
16 maximum extent practicable by June 30, 2007. Agencies may use private- or public-sector
17 energy-savings performance contracts, utility energy-efficiency service contracts, or other
18 similar financing and delivery means to conduct evaluations and make improvements to
19 facilities. Facilities that rank in the top twenty-five per cent in energy efficiency relative to
20 comparable commercial and state buildings shall receive the ENERGY STAR building label
21 or its equivalent as determined by the Secretary of the Department of Public Works.

22 (c) Agencies shall have the power and authority, subject to lawful procurement, to
23 use energy-savings performance contracts, private sector energy service contracts with
24 energy service companies, or utility energy-service contracts to aid them in constructing,
25 renovating and/or managing facilities.

26 (d) Government agencies entering into leases, including the renegotiation or
27 extension of existing leases, shall incorporate lease provisions that require energy and water
28 efficiency wherever life-cycle cost-effective. Build-to-suit lease solicitations shall contain
29 criteria encouraging sustainable design and development, energy efficiency, and verification

1 of facility performance. The requirements of this subsections shall conform to the US Green
2 Building Council's LEED rating system, silver level.

3 (e) All agencies' procurements shall include a preference for facilities having an
4 ENERGY STAR building label in their selection criteria for acquiring leased facilities.

5 (f) All agencies shall encourage lessors to apply for an ENERGY STAR building
6 label, or the US Green Building Council's LEED rating system, silver level, or its
7 equivalent, for used facilities. and to further explore and implement projects that will reduce
8 costs to the Commonwealth, including projects carried out through the lessors' energy-
9 savings performance contracts or utility energy-efficiency service contracts. Each lease,
10 including lease renewals, shall contain an attachment that explicitly addresses the
11 requirements of this subsection.

12 (g) All agencies, in their procurements for office space, air conditioning equipment,
13 installed lighting, pumps, motors, or vehicles, shall seek to use renewable energy systems, as
14 defined in this Act, to power their operations. They shall certify their efforts to the
15 Governor, with an explanation why, or why not, they secured renewable energy.

16 Section 8653. Environmental Management System purchasing. The Department of
17 Finance, Division of Procurement and Supply, shall deliver to the Governor by December
18 31, 2006, a recommended Environmental Management purchasing system ("EMS"). The
19 EMS shall draw on the federal government's EMS, issued pursuant to Executive Order
20 13101, as described in EPA publication 742-R-05-001 (Apr. 2005). The Division shall work
21 closely with the following agencies to develop the EMS: DEQ, Attorney Generals Office,
22 Department of Public Works.

23 **Article 6. Energy Efficiency Policy**

24 Section 8661. Policy to encourage energy efficiency. It shall be the policy of the
25 Commonwealth to use energy as efficiently and cost-effectively, taking into account short-
26 run and the long-term costs and benefits which can be quantified.

27 Section 8662. Government agencies to employ energy efficiency. All
28 Commonwealth agencies shall use energy cost-effectively. All Commonwealth contracts

1 must explicitly require the installation of and the use of life-cycle, cost-effective energy
2 efficiency technology, including but not limited to the following:

- 3 (1) For capital projects, the construction of and/or additions to buildings
4 which meet or exceed the standards required for the certification of
5 the construction as LEED-certified, "silver", pursuant to the U.S.
6 Green Building Council's most recent published standards.
- 7 (2) For operations and maintenance, energy efficient equipment and
8 supplies that meet EPA Energy Star standards, including high
9 efficiency fluorescent lighting, high efficiency air conditioning,
10 heating and ventilating equipment, double or triple pane coated glass,
11 tightly caulked and sealed wall penetrations, including windows,
12 doors and vents.

13 Section 8663. CUC to promote energy efficiency. The CUC, or its successor in
14 interest, shall assist and promote its customers' use of energy efficiency, energy efficient
15 building techniques and energy saving devices. CUC shall report to the Legislature by
16 December 31, 2006, the programs which it has created or which it intends to create to
17 advance this requirement.

18 Section 8664. CUC energy service company. CUC shall encourage the activities of
19 private sector energy service companies. CUC shall have the power and authority to
20 provide energy service company services to its customers. CUC may, subject to the
21 approval of a regulator, place into rate base part or all of its investment in customer premises
22 material and equipment installed as part of an energy service contract. The regulator, as a
23 condition for approval, shall determine the extent to which the effect of the energy service
24 contract investment will reduce CUC's need to buy oil to provide the same quality of service
25 to the customer.

26 Section 8665. Governmental support of private sector efforts The regulator and the
27 government-owned utility shall facilitate the private sector's development of renewable
28 energy projects by supporting the private sector's attainment of renewable portfolio
29 standards.

1 (a) The Departments of Land and Natural Resources and Public Lands and the
2 Zoning Board shall:

3 (1) Develop and publish in hard copy or electronically a catalog by
4 December 31, 2006, and every two years thereafter, of potential sites
5 for the development of renewable energy; and

6 (2) Work with the electric utilities and other renewable energy developers on
7 all applicable planning and permitting processes to expedite the
8 development of renewable energy resources.

9 (b) The Department of Commerce and the Department of Public Works shall:

10 (1) Develop a program to maximize the use of renewable energy and
11 cost-effective conservation measures by Commonwealth government
12 agencies, including but not limited to each Department, the CPA, the
13 Public School System and Northern Marianas College;

14 (2) Work with federal agencies to develop as much research,
15 development and demonstration funding, and technical assistance as
16 possible to support the Commonwealth in its efforts to achieve the
17 renewable portfolio standards.

18 Section 8666. Annual report. The regulator, with the assistance of each relevant
19 agency and the CUC, or its successor in interest, shall publish in hard copy or electronically
20 a public report annually, beginning in January 2007, which shall explain to the public, the
21 governor and the legislature, in quantifiable, businesslike terms: a report of electric utility
22 loads and capabilities, including the total rated generating capacity produced by eligible net
23 energy metering customer-generators that are customers of each utility in the utility's service
24 area; goals for saving energy, the reduction in oil use, and the money associated with the
25 savings; measurable, annual objectives which are intended to lead to the energy saving
26 goals; the strategies for achieving the measurable objectives, and their costs and benefits;
27 and the progress made in and through the reporting period in meeting the objectives.

28 **Article 7. Clean Energy Transportation**

1 Section 8671. Policy to encourage clean energy transportation and reduce diesel and
2 gasoline engine emissions. It is the policy of the CNMI to encourage the use of clean-
3 running commercial sector buses, including mini-buses. It is the policy of the CNMI to
4 substitute for gasoline and diesel fuel the following fuels: electricity which has been
5 generated by clean-burning fossil power plants and renewable resources; and bio-diesel fuel,
6 including fuel made from used cooking oils.

7 Section 8672. CUC to offer electric charging stations. The CUC shall offer
8 sufficient electric vehicle charging stations, in at least two locations easily available to users,
9 to power electric buses and minivans on a 24/7 basis. Such stations shall be deployed in
10 concert with the importation and use in the CNMI of chargeable electric vehicles. The CUC
11 shall offer sufficient quick-charge and trickle charge capacity to meet 80% of the reasonable
12 estimated current load. Electricity sold through electric charging stations shall be provided
13 for the first five years at rates which are competitive with the costs of owning and operating
14 a diesel- or gasoline-powered vehicle.

15 Section 8673. Commercial buses to meet clean energy standards. Reserved.

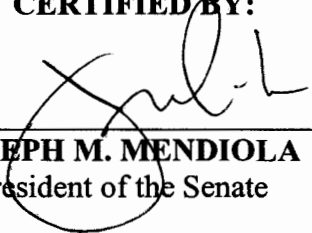
16 **Article 8. Renewable Energy Technologies; Tax Treatment; Tax Credits.**
17 Reserved.”

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

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

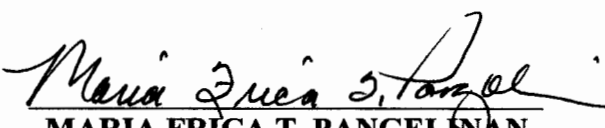
- 1 Section 5. Effective Date. This Act shall take effect upon its approval by the
2 Governor or its becoming law without such approval.

CERTIFIED BY:



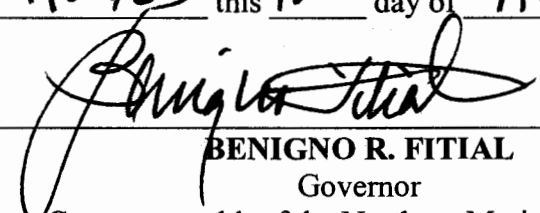
JOSEPH M. MENDIOLA
President of the Senate

ATTESTED BY:



MARIA FRICA T. PANGELINAN
Senate Legislative Secretary

APPROVED this 10th day of AUGUST, 2006



BENIGNO R. FITIAL
Governor
Commonwealth of the Northern Mariana Islands