



THE SENATE

Twenty-Third Northern Marianas Commonwealth Legislature
P. O. Box 500129
Saipan, MP 96950

November 14, 2023

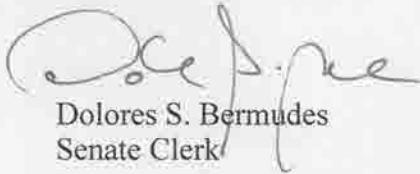
SEN. COMM. 23-66
(HOUSE)

The Honorable Edmund S. Villagomez
Speaker
House of Representatives
23rd Northern Marianas Commonwealth Legislature
Saipan, MP 96950

Dear Speaker Villagomez:

I have the honor of returning with amendments House Bill No. 23-9, HS1, SD2 entitled, "To require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands." The Senate passed H.B. No. 23-9, HS1, SD2 by the unanimous vote a quorum being present, in its 7th Day, Second Regular Session on November 13, 2023.

Sincerely,


Dolores S. Bermudes
Senate Clerk

Transmitted to HOUSE:

Received by:  Date: 11/14/2023 Time: 8:41a

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2023

First Regular Session, 2023

H. B. 23-9, HS1, SD2

A BILL FOR AN ACT

To require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings.** Currently, the Legislature finds that legislation should
2 be enacted that mandates that any expenditure of non-locally sourced funding
3 including reimbursements of non-locally-sourced funds, especially from the federal
4 government must be approved by the Commonwealth Legislature. Current
5 reconciliation language requires states and territories receiving assistance to
6 provide certain guarantees and certifications concerning the use of these funds. For
7 instance, in order to receive a payment a State, territory, or Tribal government shall
8 provide the Secretary of the United States Treasury with a certification signed by
9 the authorized officer that the funds shall be spent in a manner that is consistent
10 with the intent of the granting entity.

11 Respectful of the fact that federal programs are well-established and that
12 there are established relationships between federal agencies and their respective

1 local grantees, this Act expressly exempts federal grant money that is earmarked
2 for certain beneficiaries where the provisions of the grant are clear and not subject
3 to reprogramming by the Governor. For instance, this Act shall not apply to the
4 Public School System and its federal grants, Northern Marianas College, and other
5 autonomous agencies. Likewise, this act shall not apply to federal funds where
6 federal law pre-empts local law in terms of the expenditure authority or the
7 appropriation of funds.

8 In addition, to ensure compliance, the Public Auditor shall establish a task
9 force to monitor the expenditure of all Non-Locally-Sourced Funds for compliance
10 with the terms of certification and shall report on the task force's findings quarterly
11 to the Legislature.

12 Next, this Act, unlike other budgetary provisions that are without penalties
13 or any form of legal consequences, provides that anyone ~~that~~ who violates the
14 provisions regarding expending funds shall be guilty of a felony punishable by not
15 less than 5 years and not more than 20 years imprisonment and/or a fine of not less
16 than \$10,000, or both in addition to being jointly or severally liable for the amounts
17 that were expended in violation of this Act. Moreover, anyone ~~that~~ who fails to
18 comply with the certification provisions shall be guilty of a misdemeanor
19 punishable by at least one year in prison and a fine of not less than \$1,000.

20 **Section 2. Short Title.** This Act may be cited as the “Legislative
21 Appropriations of Non-Locally-Sourced Funds Act.”

1 **Section 3. Enactment.** Subject to codification by the CNMI Law Revision
2 Commission, the following is hereby enacted into law:

3 **“§ 101. Legislative Expenditure Authority.** Notwithstanding any
4 Commonwealth law to the contrary, and unless otherwise preempted by
5 federal law, the expenditure of the Non-Locally-Sourced Funds shall be
6 appropriated pursuant to CNMI law.

7 Except As used herein, the term “Non-Locally-Sourced Funds” shall
8 mean all funds, exclusive of the General Fund or funds already subject to
9 legislative appropriation such as locally-sourced general or specific
10 revenue, the term “Non-Locally-Sourced Funds” shall mean all funds that
11 directly or indirectly benefit the Commonwealth of the Northern Mariana
12 Islands that originate from either outside the Commonwealth, or from the
13 United States Federal Government or any of its programs, policies, or
14 enactments including reimbursements of all non-locally-sourced funds, that
15 are subject to expenditure by the Commonwealth of the Northern Mariana
16 Islands Governor or Office of the Governor. In addition, a total cash
17 donation or cash community chest benefits in excess of \$200,000 is
18 considered non-locally-sourced funds.

19 **§ 102. Legislative Review of Proposed Certification of Non-**
20 **Locally Sourced Funds.** Prior to submitting any certification of use for
21 Non-Locally-Sourced Funds appropriated for the Commonwealth of the

1 Northern Mariana Islands by the U.S. Congress to include all funds
2 including but not limited to those funds originating from Title VI of the
3 Social Security Act (42 U.S.C. 801 et seq.) as amended by U.S. PL 117-2
4 [the American Rescue Plan], the Governor shall submit a proposed
5 certification to the CNMI House of Representatives and the CNMI Senate.
6 Said proposal shall be timely submitted for passage by legislation enacted
7 by the Northern Mariana Islands Legislature.

8 **§ 103. Legislative Approval of Certification of Non-Locally**
9 **Sourced Funds.** Unless expressly exempted by this Act, the Governor or
10 any officer of the Commonwealth of the Northern Mariana Islands, must
11 obtain approval by law enacted by the Legislature as a precondition of
12 providing any certification required by federal law or policy. This provision
13 applies to all Non-Locally-Sourced Funds.

14 **§ 104. Exemptions.** The provisions governing the use of Non-
15 Locally-Sourced Funds set forth herein shall not apply to the following
16 entities and the funds that said entities may receive or expend:

- 17 (1) The CNMI Public School System;
- 18 (2) The CNMI Office of Public Auditor;
- 19 (3) The Northern Marianas College;
- 20 (4) All CNMI Autonomous Entities and Public Corporations;
- 21 (5) Northern Marianas Housing Corporation; and

1 (6) Department of Public Lands; and

2 (67) Any funds provided directly to specific grantees under the
3 terms and conditions of a federal grant or program except when the CNMI
4 Governor or the CNMI Office of the Governor is the direct expenditure
5 authority.

6 **§ 105. Office of Public Auditor Oversight and Audit.** The Office
7 of Public Auditor shall establish a task force to monitor the expenditure of
8 all Non-Locally-Sourced Funds for compliance with the terms of the
9 certification mandated by this Act and shall report on the task force's
10 findings quarterly to the Legislature.

11 **§ 106. Civil and Criminal Penalties. Unauthorized Expenditure.**
12 In addition to any other civil or criminal penalties, any person who violates
13 this Act by causing the unauthorized expenditure of Non-Locally-Sourced
14 Funds shall be deemed to have committed a felony punishable by not less
15 than 5 years and not more than 20 years imprisonment and/or a fine of not
16 less than \$10,000, or both in addition to being jointly or severally liable for
17 the amounts that were expended in violation of this Act.

18 **§ 107. Civil and Criminal Penalties. Failure to Obtain**
19 **Legislative Certification.** In addition to any other civil or criminal
20 penalties, any person who violates this Act by failing to obtain legislative
21 certification of Non-Locally-Sourced Funds as provided by the Act, shall

1 be deemed to have committed a misdemeanor punishable by not less than 1
2 year and not more than 5 years imprisonment and/or a fine of not less than
3 \$1,000, or both in addition to being jointly or severally liable for the
4 amounts that were expended in violation of this Act.”

5 **Section 4. Retroactivity.** The provisions of this Act shall apply
6 retroactively to all non-locally-sourced funds received by the Commonwealth of
7 the Northern Mariana Islands or the Governor on or before September 1, 2023.

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

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

20 **Section 7. Effective Date.** This Act shall take effect upon its approval by
21 the Governor, or it becoming law without such approval.

HOUSE BILL 23-9, HS1, SD2

Prefiled: 1/19/2023

Date: 1/19/2023

Introduced by: /s/ Rep. Denita Kaipat Yangetmai

Reviewed for Legal Sufficiency by:

/s/ Joseph L.G. Taijeron, Jr.

House Legal Counsel



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

STANDING COMMITTEE REPORT NO. **23-59**
Date: October 2, 2023
RE: House Bill No. 23-9, HSI

S - Adopted 11/13/23 *[Signature]*

Honorable Edith E. DeLeon Guerrero
President of the Senate
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Madam President:

Your Committee on Fiscal Affairs, to which was referred House Bill No. 23-9, HSI, entitled:

“To require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands”,

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 House Bill No. 23-9, HSI, Senate Draft 1.

II. ANALYSIS:

A) Purpose:

The purpose of House Bill No. 23-9, HSI is to require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands.

B) Committee Findings:

Your Committee finds that the expenditure authority of non-locally sourced funds is determined by each respective state's interpretation of its statutory and constitutional mandates. Currently, absent any statutory or constitutional provisions of how such funds are to be appropriated in the Commonwealth, the practice of allocating such funds has been at the sole discretion of the Executive Branch.

Your Committee further finds that House Bill No. 23-9, House Substitute 1 seeks to reinstate the checks and balances of the government by requiring legislative approval of any non-locally sourced funds, especially for unanticipated federal funds identified to benefit the Commonwealth of the Northern Mariana Islands. As defined in the proposed legislation, "Non-Locally-Sourced Funds" include any funds intended to benefit the Commonwealth that have been identified outside of the general and local revenues of the Commonwealth, with the exemption of federal funds specifically earmarked for certain agencies and public programs of the Commonwealth government.

Your Committee met on October 2, 2023, and continued deliberation on October 3, 2023, to formally discuss the proposed legislation and review the comments submitted to the Committee. Your Committee unanimously supports the intent of the proposed legislation to include additional amendments that would require legislative approval of total cash donations or cash community chest benefits in excess of \$200,000, the exemption of the Department of Public Lands, and several technical amendments for clarity purposes. During deliberation, your Committee agreed that cash donations in excess of \$200,000 made to the CNMI should require legislative approval consistent with the Budget Act in regard to a change in revenue as codified under 1 CMC § 7604.

During the meeting, no member objected to the passage of the proposed legislation, as amended. It is for these reasons that your Committee recommends the passage of the proposed legislation in the form of House Bill No. 23-9, HSI, Senate Draft 1.

C) Legislative History:

House Bill No. 23-9 was formally introduced by Representative Denita K. Yangetmai on February 3, 2023, and was subsequently referred to the House Standing Committee on Ways and Means for disposition. The House Standing Committee on Ways and Means adopted Standing Committee Report No. 23-21 recommending the passage of the proposed legislation in the form of House Bill No. 23-9, House Substitute 1. On June 20, 2023, House Bill No. 23-9, HSI was passed by the House of Representatives during its First Day, Third Special Session. House Bill No. 23-9, HSI was transmitted to the Senate on June 21, 2023, and subsequently referred to the Senate Standing Committee on Fiscal Affairs for disposition.

During the Twenty-Second Northern Marianas Commonwealth Legislature, a similar legislation, House Bill No. 22-97 was formally introduced by Representative Corina L.

Magofna on March 29, 2022, and was referred to the House Standing Committee on Ways and Means for disposition. No further action was taken.

D) Public Hearing and Comment:

1. Public Hearing. No public hearing was scheduled for House Bill No. 23-9, House Substitute 1. However, a Committee Meeting, which is open to the public, was held on October 2, 2023, and continued the following day. See below for further details.
2. Committee Meeting. The proposed legislation made its first appearance during the scheduled committee meeting convened on October 2, 2023. The Committee Meeting notices and agenda, as amended, were officially posted on September 27, 2023, on various legislative forums and social media sites to invite members of the general public to provide comments as indicated under *Item No. III. Public Comments* of the Committee Agenda. However, no public comment was received on the proposed legislation by your Committee.
3. Written Comment. Your Committee requested comments with a deadline to respond by August 31, 2023. To date, the status of comments received from the forgoing government/private entities are as follows:
 - a. Office of the Attorney General, not received.
 - b. Department of Finance, not received.

E) Estimated Fiscal Cost:

The enactment of House Bill No. 23-9, HS1, Senate Draft 1, may result in additional expenses to the CNMI government for associated administrative costs to effectuate the intent of the proposed legislation. However, in the spirit of transparency and accountability, it is the intent of the proposed legislation to require the legislative approval of non-locally sourced funds, especially unanticipated federal funds identified for the benefit of the Commonwealth.

F) Summary of Committee Amendments:

Your Committee agreed to the proposed amendments, as follows:

1. Section 3. Enactment. 101. Legislative Expenditure Authority. Clarified language to include a minimum of \$200,000 in cash donations or community chest benefits to require legislative approval, beginning on page 3, lines 7-17, to read:

"101. Legislative Expenditure Authority. Notwithstanding any Commonwealth law to the contrary, and unless otherwise preempted by federal law, the expenditure of the Non-Locally-Sourced Funds shall be appropriated pursuant to CNMI law.

Except As used herein, the term "Non-Locally-Sourced Funds" shall mean all funds, exclusive of the General Fund or funds already subject to legislative appropriation such as locally-sourced general or specific revenue, the term "Non-Locally-Sourced Funds" shall mean all funds that directly or indirectly benefit the Commonwealth of the Northern Mariana Islands that originate from either outside the Commonwealth, or from the United States Federal Government or any of its programs, policies, or enactments, that are subject to expenditure by the Commonwealth of the Northern Mariana Islands Governor or Office of the Governor. In addition, a total cash donation or cash community chest benefits in excess of \$200,000 is considered non-locally-sourced funds."

2. Section 3. Enactment. 102. Legislative Review of Proposed Certification of Non-Locally Sourced Funds. Deleted language referencing unanticipated federal funds that are already included under the definition of "Non-Locally-Sourced Funds", beginning on page 3, line 21 through page 4, line 3, that read:

"102. Legislative Review of Proposed Certification of Non-Locally Sourced Funds. Prior to submitting any certification of use for Non-Locally-Sourced Funds appropriated for the Commonwealth of the Northern Mariana Islands by the U.S. Congress ~~to include all funds including but not limited to those funds originating from Title VI of the Social Security Act (42 U.S.C. 801 et seq.) as amended by U.S. PL 117-2 [the American Rescue Plan],~~ the Governor shall submit a proposed certification to the CNMI House of Representatives and the CNMI Senate. Said proposal shall be timely submitted for passage by legislation enacted by the Northern Mariana Islands Legislature."

3. Section 3. Enactment. 104. Exemptions. Amended the provision to include the Department of Public Lands, beginning on page 4, line 21 through page 5, line 1, to read:

"104. Exemptions. The provisions governing the use of Non-Locally-Sourced Funds set forth herein shall not apply to the following entities and the funds that said entities may receive or expend:

- (1) The CNMI Public School System;
- (2) The CNMI Office of Public Auditor;
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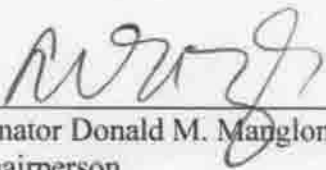
(67) Any funds provided directly to specific grantees under the terms and conditions of a federal grant or program except when the CNMI Governor or the CNMI Office of the Governor is the direct expenditure authority."

4. Inserted several technical amendments throughout the bill.

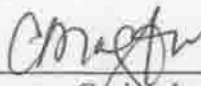
III. CONCLUSION:

Your Committee agrees with the intent and purpose of the proposed legislation and recommends passage in the form of House Bill No. 23-9, HSI, Senate Draft 1.


Respectfully submitted,



Senator Donald M. Manglona
Chairperson

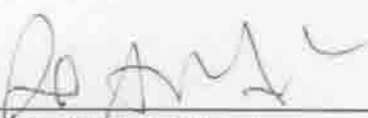


Senator Corina L. Magofna
Vice Chairperson




Senator Celina R. Babauta
Member

Senator Karl R. King-Nabors
Member

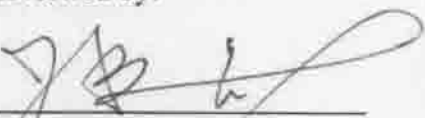


Senator Paul A. Manglona
Member



Senator Dennis C. Mendiola
Member

Reviewed by:



Senate Legal Counsel

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2023

First Regular Session, 2023

H. B. 23-9, HS1, SD1

A BILL FOR AN ACT

To require Legislative Appropriation for all Non-Locally-Sourced Funds allocated for the Commonwealth of the Northern Mariana Islands.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
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7 government shall provide the Secretary of the United States Treasury with a
8 certification signed by the authorized officer that the funds shall be spent in a
9 manner that is consistent with the intent of the granting entity.

10 Respectful of the fact that federal programs are well-established and that
11 there are established relationships between federal agencies and their respective
12 local grantees, this Act expressly exempts federal grant money that is earmarked

1 for certain beneficiaries where the provisions of the grant are clear and not subject
2 to reprogramming by the Governor. For instance, this Act shall not apply to the
3 Public School System and its federal grants, Northern Marianas College, and other
4 autonomous agencies. Likewise, this act shall not apply to federal funds where
5 federal law pre-empts local law in terms of the expenditure authority or the
6 appropriation of funds.

7 In addition, to ensure compliance, the Public Auditor shall establish a task
8 force to monitor the expenditure of all Non-Locally-Sourced Funds for compliance
9 with the terms of certification and shall report on the task force's findings quarterly
10 to the Legislature.

11 Next, this Act, unlike other budgetary provisions that are without penalties
12 or any form of legal consequences, provides that anyone ~~that~~ who violates the
13 provisions regarding expending funds shall be guilty of a felony punishable by not
14 less than 5 years and not more than 20 years imprisonment and/or a fine of not less
15 than \$10,000, or both in addition to being jointly or severally liable for the amounts
16 that were expended in violation of this Act. Moreover, anyone ~~that~~ who fails to
17 comply with the certification provisions shall be guilty of a misdemeanor
18 punishable by at least one year in prison and a fine of not less than \$1,000.

19 **Section 2. Short Title.** This Act may be cited as the "Legislative
20 Appropriations of Non-Locally-Sourced Funds Act."

1 **Section 3. Enactment.** Subject to codification by the CNMI Law Revision
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8 ~~mean all funds, exclusive of the~~ General Fund or funds already subject to
9 legislative appropriation such as locally-sourced general or specific
10 revenue, the term “Non-Locally-Sourced Funds” shall mean all funds that
11 directly or indirectly benefit the Commonwealth of the Northern Mariana
12 Islands that originate from either outside the Commonwealth, or from the
13 United States Federal Government or any of its programs, policies, or
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15 Northern Mariana Islands Governor or Office of the Governor. In addition,
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19 **Locally Sourced Funds.** Prior to submitting any certification of use for
20 Non-Locally-Sourced Funds appropriated for the Commonwealth of the
21 Northern Mariana Islands by the U.S. Congress ~~to include all funds~~

1 ~~including but not limited to those funds originating from Title VI of the~~
2 ~~Social Security Act (42 U.S.C. 801 et seq.) as amended by U.S. PL 117-2~~
3 ~~[the American Rescue Plan]~~, the Governor shall submit a proposed
4 certification to the CNMI House of Representatives and the CNMI Senate.
5 Said proposal shall be timely submitted for passage by legislation enacted
6 by the Northern Mariana Islands Legislature.

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8 **Sourced Funds.** Unless expressly exempted by this Act, the Governor or
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11 providing any certification required by federal law or policy. This provision
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- 17 (2) The CNMI Office of Public Auditor;
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- 19 (4) All CNMI Autonomous Entities and Public Corporations;
- 20 (5) Northern Marianas Housing Corporation; ~~and~~
- 21 (6) Department of Public Lands; and

1 (67) Any funds provided directly to specific grantees under the
2 terms and conditions of a federal grant or program except when the CNMI
3 Governor or the CNMI Office of the Governor is the direct expenditure
4 authority.

5 **105. Office of Public Auditor Oversight and Audit.** The Office of
6 Public Auditor shall establish a task force to monitor the expenditure of all
7 Non-Locally-Sourced Funds for compliance with the terms of the
8 certification mandated by this Act and shall report on the task force's
9 findings quarterly to the Legislature.

10 **106. Civil and Criminal Penalties. Unauthorized Expenditure.**
11 In addition to any other civil or criminal penalties, any person who violates
12 this Act by causing the unauthorized expenditure of Non-Locally-Sourced
13 Funds shall be deemed to have committed a felony punishable by not less
14 than 5 years and not more than 20 years imprisonment and/or a fine of not
15 less than \$10,000, or both in addition to being jointly or severally liable for
16 the amounts that were expended in violation of this Act.

17 **107. Civil and Criminal Penalties. Failure to Obtain Legislative**
18 **Certification.** In addition to any other civil or criminal penalties, any person
19 who violates this Act by failing to obtain legislative certification of Non-
20 Locally-Sourced Funds as provided by the Act, shall be deemed to have
21 committed a misdemeanor punishable by not less than 1 year and not more

1 than 5 years imprisonment and/or a fine of not less than \$1,000, or both in
2 addition to being jointly or severally liable for the amounts that were
3 expended in violation of this Act.”

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

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

16 **Section 6. Effective Date.** This Act shall take effect upon its approval by
17 the Governor, or it becoming law without such approval.

Prefiled: 1/19/2023

Date: 1/19/2023

Introduced by: /s/ Rep. Denita Kaipat Yangetmai

Reviewed for Legal Sufficiency by:

/s/ Joseph L.G. Taijeron, Jr.
House Legal Counsel