

Twentieth Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2018

H. B. 20- 157

A BILL FOR AN ACT

To establish a retirement plan for Commonwealth Government employees

BE IT ENACTED BY THE TWENTIETH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings.** The Commonwealth governments retirement plan
2 has been closed to new employees and a majority of the government employees
3 have withdrawn from the retirement plan. The only retirement program offered by
4 the government is a voluntary defined contribution plan which is inadequate to
5 provide for the retirement needs of government employees.

6 The new retirement program will be similar to the Class I member benefits
7 under the previous Retirement Fund with some of the costly features removed.
8 The normal retirement age has been increased to 65 years. There is no provision
9 for prior service credit. The occupational disability benefit is eliminated since an
10 identical benefit is provided under the Workers Compensation program.

11 With the improved economy, it is time to consider reestablishing a
12 retirement program for the benefit of all Commonwealth government employees.

1 **Section 2. Enactment.** The following is enacted subject to codification
2 by the Commonwealth Law Revision Commission:

3 **“Part 6. Pension Fund**

4 **§ 8601. Purpose.** The purpose of this part is to provide retirement security and
5 other benefits to government employees, their spouses and dependents, and to
6 provide for an actuarially sound, locally funded pension system in accord with
7 constitutional provisions protecting the rights of government employees

8 **Chapter 1. General Provisions.**

9 **§ 8611. Short Title.** This part may be cited as the Northern Mariana Islands
10 Pension Fund Act of 2018.

11 **§ 8612. Creation of Northern Mariana Islands Pension Fund.** The Northern
12 Mariana Islands Pension Fund shall be an autonomous agency and a public
13 corporation of the government of the Commonwealth of the Northern Mariana
14 Islands.

15 **§ 8613. Definitions.** In this part, unless the context otherwise requires, words and
16 phrases shall have the following meanings:

17 (a) “Accumulated contributions” means the sum of all the amounts paid
18 by, or deducted from the compensation of, a member and credited to
19 their individual account together with regular interest thereon.

20 (b) “Agent” means a person, firm or organization, other than an employee
21 or board member, who is engaged by the board to render service.

1 (c) “Annuitant” means any person in receipt of a benefit payable from the
2 Northern Mariana Islands Pension Fund.

3 (d) “Average annual salary” means the average of the three highest annual
4 salaries received by a member during the member’s years of
5 membership service or \$6,000, whichever is greater.

6 (e) “Beneficiary” means the recipient of any benefit from the system or, as
7 the context may indicate, the natural person or persons designated by a
8 member to receive the benefits payable in the event of his or her death.

9 (f) “Board” means the Board of Trustees provided for as the governing
10 body responsible for the direction and operation of the affairs and
11 business of the fund. Title to all assets of the fund shall be held for the
12 fund by the board or its qualified agents or custodians.

13 (g) “Custodian” means any agent who is qualified and has assumed the
14 responsibility for the physical possession of fund assets.

15 (h) “Fund” means the Northern Mariana Islands Pension Fund.

16 (i) “Investment agent” means any agent who is qualified and has been
17 engaged by the board to provide investment advice.

18 (j) “Member” means a class III member. A member who retires or
19 otherwise terminates employment shall remain a member so long as he
20 or she retains a right to any benefits from the fund.

- 1 (k) "Class III member" means all employees of the government including
2 employees of all public corporations, agencies and instrumentalities of
3 the government.
- 4 (l) "Regular interest" means the interest rate as fixed by the board.
- 5 (m) "Salary" means salary paid to an employee for services including
6 payment for annual leave, sick leave, administrative leave, holiday pay,
7 lump sum payment for annual leave, standby, hazardous, night time
8 differential, typhoon pay differential and overtime pay, and any kind of
9 bonus salary.
- 10 (n) "Service" means actual employment by the government as an employee
11 for salary or compensation measured in calendar years of portions
12 thereof, and creditable service provided for in N.M.I. Constitution Art.
13 II, Sec. 20(b), and as herein provided.
- 14 (o) "Membership service" means service rendered on or after becoming a
15 member of the fund for which contributions have been paid by the
16 member.
- 17 (p) "Accrued benefits" means financial benefits earned by a member that
18 are attributable to past services. It does not include benefits projected
19 to arise on account of future services.
- 20 (q) "Spouse" means the person to whom an individual is legally married.

1 (r) "Vested accrued benefits" means accrued benefits to which a non-
2 forfeitable interest of a Pension plan member has attached, as provided
3 by law.

4 **§ 8614. Pension Fund: Board of Trustees.**

5 (a) All powers vested in the fund shall be exercised by the Board of
6 Trustees, composed of seven members appointed by the Governor with
7 the advice and consent of the Senate. The board shall select a chairman
8 by a majority vote. Members shall serve for a term of four years.
9 Vacancies shall be filled in the same manner as the original
10 appointment.

11 (b) Four members constitute a quorum of the board for the transaction of
12 business. The concurrence of four members constitutes official action
13 of the board. The board may adopt rules governing the conduct of its
14 affairs.

15 (c) Each trustee of the board shall receive compensation for attendance at
16 meetings of the board at a rate established by the board. No trustee may
17 receive any other compensation, but shall be reimbursed for actual
18 travel, subsistence and out-of-pocket expenses incurred in the discharge
19 of the trustee's responsibilities.

20 (d) No trustee shall be liable for any decision made in the good faith
21 nonmalicious fulfillment of his or her duties.

1 **§ 8615. Board of Trustees: Powers and Duties.** The fund, through its trustees,
2 has the following powers and duties:

3 (a) To establish, maintain and operate a Pension Fund program for the
4 public employees of the Commonwealth.

5 (b) To submit annual recommendations to the legislature on any proposed
6 modification to the retirement system authorized under this part to
7 protect the financial integrity of the fund, and to commission
8 professional studies, if deemed necessary, to determine the feasibility of
9 transforming the Pension Fund program into a contribution-based
10 benefits program or to assess the feasibility of administering other
11 supplemental retirement programs.

12 (c) To establish its internal organization and management.

13 (d) To adopt a seal.

14 (e) To sue or be sued in its corporate name.

15 (f) To employ, retain or contract with individuals or organizations for their
16 services as qualified managers and specialists.

17 (g) To adopt rules and regulations as necessary for the exercise of the
18 fund's powers, performance of its duties and administration of its
19 operations.

20 (h) To adopt and maintain a travel authorization policy consistent with the
21 laws and policies of the Commonwealth.

- 1 (i) To provide for the installation of a system of accounts and records
2 which will give full effect to the requirements of this act; to adopt all
3 necessary actuarial tables to be used in the operation of the fund; and to
4 provide for the compilation of statistical and financial data as required
5 for actuarial valuations, periodic surveys and calculations.
- 6 (j) To obtain information from the participating members and government
7 as necessary for the proper operation of the fund.
- 8 (k) To authorize expenditures in accordance with the provisions of this
9 part.
- 10 (l) To accept any gift, grant or bequest of any money or property of any
11 kind for the purposes designated by the grantor, if the purposes are
12 specified as providing cash benefits to some or all of the members or
13 annuitants of the fund; if no such purposes are designated, the benefits
14 are to be credited to the account representing income from investments.
- 15 (m) To have the accounts of the fund audited as of the end of each fiscal
16 year, and submit an annual report to the government as soon as possible
17 following the close of the year, embodying, among other things, a
18 balance sheet showing the financial and actuarial condition of the fund;
19 a statement of income and expenditures for the year; a statement
20 showing changes in the assets, liabilities and reserves during the year; a
21 statement of investment owned by the fund; and other financial or
22 statistical data as necessary for a proper interpretation of the condition

1 of the fund and the result of its operation. The board shall also cause a
2 synopsis of the report to be published for distribution among the
3 members.

4 (n) To appoint an attorney, under such arrangements as the board may
5 establish, to advise the board and the Administrator on all legal matters
6 to which the fund is a party or in which the fund is legally interested,
7 and represent the fund in connection with legal matters before the
8 executive branch, legislature, boards and other agencies of the
9 Commonwealth and before courts in any jurisdiction.

10 (o) To own real and personal property.

11 (p) To do any and all other things necessary to the full and convenient
12 exercise of the above powers.

13 **§ 8616. Board of Trustees: Administrator: Powers and Duties.**

14 (a) The board shall appoint an administrator to be its chief executive
15 officer. The administrator serves at the pleasure of the board, which
16 shall fix his or her compensation in a manner consistent with the laws
17 and policies of the Commonwealth. The administrator shall have full
18 charge and control of the operation and maintenance of the fund.

19 (b) The administrator has the following powers and duties:

20 (1) To see that all rules and regulations of the fund are enforced.

1 (2) To attend, unless excused by the board, all meetings of the
2 board and to submit reports on the affairs of the fund as
3 required by the board.

4 (3) To keep the board advised on the needs of the fund and approve
5 demands for payment of obligations within the purposes and
6 amount authorized by the board.

7 (4) To keep all books, records, files and accounts of the fund and
8 receive and act on all applications for annuities, benefits, and
9 refunds.

10 (5) To prepare periodic reports relative to the operations of the
11 fund and an annual report as of the close of each fiscal year
12 reflecting the results of the financial operations of the fund and
13 embodying all important financial and statistical data pertinent
14 to its operation.

15 (c) The administrator may employ clerical, medical, professional, or other
16 assistance as necessary for the proper administration of the fund. The
17 administrator may also engage actuarial or other professional services to
18 assist in the preparation of the annual reports, to advise in matters of
19 policy and to make the periodic actuarial surveys. The costs and
20 expenses of the administration of the fund, including any custodial and
21 audit fees incurred in connection with the financial operations of the
22 fund, shall be paid out of the fund. At least once every five years an

1 actuarial survey and investigation shall be made of the operating
 2 experience of the fund, including a study of rates of mortality,
 3 retirement, separation and other essential factors relating to the
 4 operation of the fund. The survey shall also provide for a verification
 5 or redetermination of the rates of contributions by the government. The
 6 cost of the survey shall be paid from the fund.

7 **Chapter 2. Membership in Pension Fund.**

8 **§ 8621. Membership:**

9 (a) Existing Employees. All eligible employees of the Commonwealth
 10 Government, its departments, agencies, governmental corporations,
 11 instrumentalities and separate political subdivisions shall become
 12 members of the fund on the effective date of this Act.

13 (b) New Employees - Effective Date. Notwithstanding other provisions of
 14 this part, membership in the fund shall become effective 90 days
 15 following the effective date of employment. Upon completion of the 90
 16 days, the employee shall be given credit from the date of employment.
 17 The employee's and employer's contributions shall be withheld by the
 18 employer from the date of employment and remitted to the fund as
 19 provided under this part. No benefits shall accrue to the employee
 20 during this period.

21 **§ 8622. Fund Membership: Ineligible Persons.** The following employees are
 22 not eligible for membership:

- 1 (a) Persons whose services are compensated on a fee basis.
- 2 (b) Independent contractors.
- 3 (c) Persons whose employment is for a specific project.
- 4 (d) Class I and Class II members of the prior Retirement Fund.
- 5 (e) Class Members of the Settlement Fund established under the Final
- 6 Amended Stipulation and Agreement of Settlement approved by the
- 7 federal District Court for the Northern Mariana Islands in Case No 09-
- 8 000023.

9 The board shall determine who are employees and entitled to membership within
10 the meaning of this part.

11 **Chapter 3. Benefits.**

12 **§ 8631. Normal Retirement Benefits for Class III Members.**

13 Any class III member who is at least 65 years of age and who has 10 years of
14 membership service may retire on a service retirement annuity upon written
15 application to the Board of Trustees. Such members shall receive an annual
16 annuity upon retirement calculated as follows:

- 17 (a) For class III members retiring with less than 25 years of membership
- 18 service the annual annuity shall be 2.5 percent times the average
- 19 annual salary times years of membership service with a maximum of
- 20 no more than 50 percent times average annual salary.
- 21 (b) For class III members retiring with 25 years or more of membership
- 22 service the annual annuity shall be 50 percent times the average annual

1 salary plus 2.5 percent times the average annual salary times all
2 membership service in excess of 25 years, not to exceed 85 percent of
3 average annual salary at the time of retirement.

4 (c) Notwithstanding the foregoing, in no event shall the annual annuity of
5 any member entitled to normal retirement be less than \$6,000.

6 **§ 8632. Early Retirement Benefits for Class III Members.**

7 Any class III member who has attained 55 years of age and has a minimum of 10
8 years of membership service may elect to take early retirement, upon written
9 application of the Board of Trustees.

10 (a) Any class III member electing to take early retirement shall receive an
11 amount equal to the amount the member would have been entitled to at
12 normal retirement age reduced by an actuarially determined amount for
13 each month the member is under 65 years of age.

14 **§ 8633. Benefits: Survivor Annuities for Class III Members.**

15 (a) Upon death of a class III member while in service having completed at
16 least 18 months of membership service, the annuity of the surviving
17 spouse shall begin on the date that the deceased member would have
18 attained age 65. Spousal benefits shall discontinue upon a spouses
19 death.

20 (b) Upon the death of a class III member who is in a receipt of a
21 retirement annuity, the annuity of the surviving spouse shall begin as

1 of the date of death of the member. Spousal benefits shall discontinue
2 upon a spouses death.

3 **§ 8634. Benefits: Survivor Annuity Rate Formula for Class III Members.**

4 The annual survivor annuity payable for class III members shall be as follows:

5 (a) Spouse. The basic annual survivor annuity shall be equal to 50 percent
6 of the retirement annuity accrued by the member at the date of death.

7 The minimum spouse annuity shall be \$6,000 per year.

8 **§ 8635. Benefits: Refund on Separation.**

9 (a) Upon complete separation from service before a class III member shall
10 have completed 10 years of contributing member service, the class III
11 member may elect to receive a refund of his or her total contributions,
12 including regular interest. No refund of any contributions shall be
13 permitted for class III members after completion of 10 years of
14 contributing member service.

15 (c) A member shall be restricted from government reemployment for a
16 period of six months after receiving a refund of his or her
17 contributions, unless the member returns the full amount to the fund
18 within six months of receiving the refund.

19 **§ 8636. Annual Cost of Living Increase.**

20 (a) Eligible class III members in a receipt of a service retirement and
21 eligible surviving spouses shall be provided an annual cost of living

1 increase. The annuity amount will automatically increase on the first
2 day of the quarter following approval by the board.

3 (b) The cost of living increase will be set by the board each year, using as a
4 guideline and the rate used by the United States of America Social
5 Security System for its beneficiaries.

6 **Chapter 4. Contribution to Fund.**

7 **§ 8641. Contributions to Fund: By Member.**

8 (a) Each class III member of the fund shall contribute 7 percent of the
9 salary earned and accruing to the member.

10 (c) These contributions shall be made as a deduction from salary,
11 notwithstanding that the salary paid to the member may be reduced
12 thereby below any established statutory rate.

13 **§ 8642. Contributions to Fund: By Government.**

14 (a) The government shall make contributions to the fund each year on an
15 actuarially funded basis toward the annuities and benefits provided for
16 this part. These contributions shall be equal to the sum of the
17 following:

18 (1) An amount equal to the sum of normal cost determined under
19 an acceptable actuarial funding method, allowance for
20 expenses, interest on any due but unpaid obligations, plus an
21 amount sufficient to amortize the initial unfunded liability as a
22 level percentage of total payroll over specified period, as

1 determined by the board upon recommendation of the actuary,
2 but not to exceed a period of 40 years.

3 (b) Each autonomous agency, instrumentality or public corporation of the
4 Commonwealth government shall contribute a similar amount as the
5 government contribution rate of the gross salary or wages of its
6 employees to the fund on behalf of its employees.

7 (c) The Director of Finance and the head of each autonomous agency and
8 public corporation shall withhold the employee's contributions and
9 remit said amount to the fund within five working days following the
10 end of each payroll date.

11 (d) Each autonomous agency and public corporation shall remit their
12 employer's contribution concurrently with the employee's
13 contribution.

14 (e) Any employer who fails to pay or remit contributions as required by
15 this part shall pay a penalty on the amount of unpaid contributions of
16 10 percent if paid within 30 days after the payment is due, 20 percent if
17 paid within 60 days after the payment is due, and 25 percent if paid
18 within 61 days or more after payment is due.

19 (f) A copy of all personnel action forms shall be provided to the fund.

20 **§ 8643. Actuarial Study.** The Northern Mariana Islands Retirement Fund
21 (NMIRF) shall, no later than thirty days after this Act becomes law, commission

1 an actuarial study to determine the employer contribution rate for the
2 Commonwealth government.

3 **Chapter 5. Investment of funds.**

4 **§ 8651. Investment of Funds.**

5 (a) The reserves of the fund in excess of requirements for current
6 operations shall be invested and reinvested by or under authority of the
7 Board of Trustees. At its discretion, the board may designate its
8 chairman or an investment committee consisting of two or more
9 members of the board to supervise this function. In either case,
10 references to “the Board” in this section shall be deemed to refer to the
11 individual or committee exercising this investment function.

12 (b) The board shall have full power to manage the investments as, in its
13 considered judgment, seems most appropriate to the requirements and
14 objectives of the fund, including, but not limited to, the power to hold,
15 purchase, sell, convey, assign, transfer, dispose of, lease, subdivide, or
16 partition any assets held or proceeds thereof; to execute or cause to be
17 executed relevant documents; to enter into protective agreements,
18 execute proxies, or grant consent; and to do all other things necessary
19 or appropriate to its position as an owner or creditor.

20 (c) All proceeds and income from investments, of whatever nature, shall
21 be credited to the account of the fund. Transactions in marketable
22 securities shall be carried out at prevailing market prices.

- 1 (d) The board may commingle securities and monies subject to the
2 crediting of receipts and earnings and charging of payments to the
3 appropriate accounts established by this part.
- 4 (e) No member of the board and no employee of the board shall have any
5 direct or indirect interest in the income, gains or profits on any
6 investment made by the board, nor shall any such person receive any
7 pay or emolument for services in connection with any investment
8 made by the board. Participation in the fund under the terms of this
9 part shall not be construed to include interest, pay or emolument within
10 the meaning of this subsection.
- 11 (f) No member of the board, employee or agent shall become an endorser
12 or surety or in any manner an obligator of investments made by the
13 fund, nor shall any member, employee or agent be held liable for
14 actions taken in good faith and in performance of his or her duties.
- 15 (g) Investments may be held in bearer form, or may be registered either in
16 the name of the fund or nominee of the custodian.
- 17 (h) Due bills may be accepted from the brokers against payment for
18 securities purchased, pending delivery within a reasonable period of
19 time of certificates representing such investments.
- 20 (i) The board may, for the purpose of protecting the fund, and at its
21 discretion, purchase insurance on the lives of the members of the fund.

1 **§ 8652. Investment of Funds: Custodian.** The board shall engage one or more
2 fund custodians to assume responsibility for the physical possession of fund assets
3 or evidences of assets. The custodian shall submit such reports, accountings and
4 other information in such forms and at such times as requested by the board. All
5 costs incurred for custodial services shall be paid from the fund. The custodian
6 shall hold all assets for the account of the fund and shall act only upon the
7 instruction of the board, its administrator, or a member, committee or agent so
8 authorized by the board. No custodian shall be engaged unless it:

- 9 (a) Is a United States bank or trust company regulated by the Federal
10 Reserve Board, a state authority or the federal comptroller of the
11 currency as appropriate.
- 12 (b) Has a net worth in excess of \$10 million.
- 13 (c) Is a member of the Depository Trust Company, I.D. System.
- 14 (d) Has at least 10 years experience as a custodian of financial assets.
- 15 (e) Has at least \$1 billion in custodial assets.

16 **§ 8653. Investment of Funds: Investment Agent.**

- 17 (a) In order to secure expert advice and counsel, the board may engage one
18 or more investment agents which shall be an investment counsel as
19 hereinafter qualified. All costs incurred in this connection shall be paid
20 from the fund.
- 21 (b) No person, firm or corporation shall be eligible for employment as
22 investment counsel which act as principal for its own account or as

1 broker for a client other than the fund in connection for the sale of any
2 security to or the purchase of any security from the fund.

3 (c) No investment counsel shall be engaged unless:

4 (1) The principal business of the person, firm or corporation
5 selected by the board consists of rendering investment
6 supervisory services, that is, the giving of continuous advice as
7 to the investment of funds on the basis of the individual needs
8 of each client; and

9 (2) The principal ownership and control of the person, firm or
10 corporation rests with individuals who are actively engaged in
11 that business; and

12 (3) The person, firm or corporation and its predecessors have been
13 continuously engaged in such business for a period of 10 or
14 more years; and

15 (4) The person, firm or corporation is registered as an investment
16 advisor under laws of the United States of America as from
17 time to time are in effect; and

18 (5) The contract between the board and the investment counsel is
19 of no specific duration and is voidable at any time by either
20 party; and

1 (6) The person, firm or corporation certifies, in writing, to the
2 board, that the assets under its direct investment supervision
3 are in excess of \$200 million.

4 (d) The board or its designee may from time to time change operating
5 arrangements with the investment agent in order to facilitate efficient
6 management and timely investment action.

7 (e) No investment shall be made unless in the opinion of the investment
8 agent it is an appropriate investment for the fund and is an authorized
9 investment under the provisions of this part or, in the absence of such
10 opinion, unless preceded by a resolution of the board directing the
11 investment.

12 **§ 8654. Investments.** Investments may be made in:

13 (a) Real Estate Loans and Mortgages. Obligations of any of the following
14 classes:

15 (1) Obligations secured by mortgages of nonprofit corporation
16 desiring to build multi-rental units (10 units or more) subject to
17 control of the government for occupancy by families displaced
18 as a result of government action.

19 (2) Obligations secured by mortgages insured by the Federal
20 Housing Administration.

21 (3) Obligations for the repayment of home loans made under the
22 Servicemen's Readjustment Act of 1944 [38 U.S.C. § 1801 et

- 1 seq.] or under Title II of the National Housing Act [12 U.S.C. §
2 1701 et seq.].
- 3 (4) Other obligations secured by first mortgages on unencumbered
4 improved real estate owned in fee simple, provided that the
5 amount of the obligation shall not at the time investment is
6 made therein exceed 75 percent of the value of the real estate
7 and improvements.
- 8 (5) Other obligations secured by first mortgages of leasehold
9 interests in improved real estate, provided that
- 10 (A) each such leasehold interest at such time shall have a
11 current term extending at least two years beyond the stated
12 maturity of the obligation it secures, and
- 13 (B) the amount of the obligation shall not at the time
14 investment is made therein exceed 75 percent of the value
15 of the respective leasehold interest and improvements.
- 16 (b) Fixed Income Obligations. Global fixed income securities, hybrid
17 securities and interest rate linked securities issued by countries and
18 entities included in the prevailing global bond indices.
- 19 (c) Equity. Global publicly traded equity securities or equity linked
20 securities issued by entities in countries included in the prevailing
21 global equities indices.

- 1 (d) Fixed Income or Equity Investment Vehicles. Investment vehicles
2 including comingled funds, trust funds, collective funds, mutual funds,
3 partnerships or other types of organizations whose sole purpose is to
4 provide investors access to securities defined in subsection (b) or (c)."
- 5 (e) Obligation eligible by law for purchase in the open market by federal
6 reserve banks.
- 7 (f) Obligations issued or guaranteed by the International Bank for
8 Reconstruction and Development, by the InterAmerican Development
9 Bank, by the Asian Development Bank, or by any regional
10 development bank operating and organized in our own region.
- 11 (g) Obligations secured by collateral consisting of any of the securities or
12 stock listed above and worth, at the time the investment is made at
13 least 15 percent more than the amount of the respective obligations.
- 14 (h) Insurance Company Obligations. Contracts and agreements
15 supplemental thereto providing for participation in one or more
16 accounts of a life insurance company authorized to do business in any
17 state or the Commonwealth, including its separate accounts, and
18 whether the investments allocated thereto are comprised of stocks or
19 other securities or of real or personal property or interests therein.
- 20 (i) Other Securities. Securities and stock in which in the informed opinion
21 of the Board of Trustees it is prudent to invest funds of the system,
22 whether or not the securities or stock are expressly authorized by or

1 qualify under the foregoing subsections, and notwithstanding any
2 limitations of any of the foregoing subsections (including subsection
3 (d)); provided that the total book value of investments under this
4 subsection shall at no time exceed 25 percent of the total book value of
5 all investments of the system.

6 **§ 8565. Investment Guidelines.** Notwithstanding any other law to the contrary,
7 real estate loans and mortgages made pursuant to this part shall be in accordance
8 with conditions and restrictions set forth by the Board of Trustees; provided, that
9 the board shall review its policy on the conditions and restrictions from time to
10 time and formulate, amend, or repeal the conditions and restrictions giving full
11 consideration to the prevailing economic conditions in the real estate industry;
12 provided further, that for good cause shown the Board of Trustees shall duly
13 consider a member's application for waiver of any condition or restriction
14 imposed by the Board of Trustees. The Board of Trustees shall liberally construe
15 this section; provided, that no exception shall be made which may substantially
16 impair the fiscal integrity of the system's funds.

17 **Chapter 6. Reserve Account/Rights and Obligations.**

18 **§ 8661. Reserve Accounts.** All assets of the fund shall be credited according to
19 the purposes for which they are held in the following designated reserve accounts:

20 (a) Member's Contribution Reserve. The amount contributed by the
21 members shall be credited to the member's contribution reserve,
22 together with regular interest thereon as herein provided. An individual

1 account shall be maintained for each member to which shall be
2 credited the amounts of his contributions and interest thereon. Regular
3 interest on such contributions shall be credited annually, as of the close
4 of each year, and shall be allowed only on the amount of the
5 accumulated contributions standing to the credit of each member at the
6 beginning of each year. A statement of account shall be issued to each
7 member annually, as of the end of each fiscal year, showing the
8 amount of his accumulated contributions plus interest. Upon the
9 granting of service retirement annuity, or survivor's annuity or
10 benefits, the accumulated contributions, including interest, to the credit
11 of the member concerned shall be transferred from this reserve to the
12 retirement reserve. Refunds and death benefits payments representing
13 members' contributions shall be charged to this reserve.

14 (b) Employer's Contribution Reserve. The amount contributed by the
15 government under the provisions hereof, for service retirement annuity
16 and benefits to survivors covering membership service and prior
17 service, shall be credited to the employer's contribution reserve.
18 Regular interest shall be credited annually upon the mean amount in
19 the reserve. Upon granting of a service retirement annuity or survivors'
20 benefits, an amount representing the excess of the actuarial value of
21 the annuity, or benefit over the accumulated contributions of the

1 member, including interest, shall be transferred from this reserve to the
2 retirement reserve.

3 (c) Retirement Reserve. Upon the granting of a service retirement annuity
4 or survivors' benefits, the accumulated contributions of the member,
5 including interest, and an amount representing the excess of the
6 actuarial value of the annuity or benefits over such accumulated
7 contributions, shall be transferred to the retirement reserve from the
8 member's contribution reserve and employer's contribution reserve,
9 respectively. All payments on account of any such annuity or benefit
10 shall be charged to this reserve. Regular interest shall be credited
11 annually upon the mean amount of this reserve. Any excess balance in
12 the reserve balance in this reserve, as determined by actuarial valuation
13 as of the close of any fiscal year, shall be applied to reduce the
14 employer's contributions for membership service for the fiscal year
15 next following the date of such valuation. Any deficiency in this
16 reserve shall be removed by an increase in the amount of employer's
17 contributions for membership service.

18 (d) Death Benefit Account. The amount representing the contributions by
19 the government for death benefits shall be credited to the death benefit
20 account. All death benefit payments on account of death of the
21 members while in service shall be charged to this account.

1 (e) Interest and Investment Income Reserve. All income from investments,
2 including gains on investment transactions, shall be credited to the
3 interest and investment income reserve. All losses on investment shall
4 be charged to this reserve. All amounts required for interest on the
5 other reserve accounts of the fund shall be transferred from this
6 reserve.

7 **§ 8662. Vested Interest of Members in Fund.** Each member shall, by virtue of
8 the payment of contributions to the system, receive a vested interest in the
9 member's contribution reserve account as provided in other sections of this part,
10 and in consideration of this vested interest shall be conclusively deemed to
11 undertake and agree to pay those contributions and to have the amount deducted
12 from his compensation as herein provided.

13 **§ 8663. Rights to Annuity.**

14 (a) The right to a retirement annuity, survivor's annuity or benefit, death
15 benefit, or any other benefit under the provisions of this part, by
16 whatever named called, or the right to refund, is personal with the
17 recipient thereof, and the assignment or transfer of a benefit or any part
18 thereof, shall be voided, except as herein provided; any such annuity,
19 benefit or refund shall not answer for debts contracted by the person
20 receiving the same, except as herein provided. It is the intention of this
21 part that they shall not be attached or affected by any judicial
22 proceedings, except as herein provided.

1 (b) Benefits specified in subsection (a) of this section that are payable to a
2 recipient in an amount exceeding \$30,000 per year may be set-off,
3 assigned, or otherwise transferred administratively or judicially or both
4 for the payment of, and to answer for, debts owed by the recipient to
5 the Commonwealth Government or its political subdivisions.

6 **§ 8664. Time for Payments.**

7 (a) Any service retirement annuity or any other annuity provided herein
8 shall be payable in equal semimonthly installments as life annuities, or
9 as temporary annuities, as the case may be, and shall not be increased,
10 decreased, revoked or repealed, except where specifically otherwise
11 provided. The cost of providing death benefits for members in receipt
12 of retirement annuities shall not be construed as a reduction in the life
13 annuity payable to the member.

14 (b) Semimonthly annuity payments to eligible members shall commence
15 on the first regular payment date immediately following the effective
16 date of retirement, and in the case of eligible survivors on the first
17 regular payment date immediately following the death of the member
18 or retiree. Said payments shall commence notwithstanding the fact that
19 the Board of Trustees shall not have passed the application or
20 authorized the expenditure thereof, in which events the payments shall
21 be made for an amount estimated to be payable. The board shall adopt
22 rules and regulations to provide for the reimbursement of the fund or

1 the annuitant for estimated payments made in excess of or less than the
2 annuity as finally determined by the board.

3 (c) The first semimonthly payment of annuities shall be prorated to
4 provide benefits only for the portion of the preceding period during
5 which the annuitant was eligible for such annuity.

6 (d) The last semimonthly payment of annuities, whether occurring by
7 reason of death, ineligibility, or otherwise, shall be prorated to provide
8 benefits only for the portion of the preceding period during which the
9 annuitant was eligible for such annuity.

10 **§ 8665. Obligation of Government: Intent of Law.** It is the intention of this
11 part that the payment of required contributions by any government entity shall be
12 an obligation of the government.

13 **§ 8666. Criminal and Civil Penalties.**

14 (a) Any person who knowingly makes any false statement, or falsifies or
15 permits to be falsified any record or records of this system, in any
16 attempt to defraud the system, is guilty of a misdemeanor, and upon
17 conviction may be fined not more than \$2,000 and imprisoned for not
18 more than one year.

19 (b) The fund shall have the right to recover any payments made under false
20 representations.

21 **§ 8667. No Taxation.** Annuities shall not be taxable as wages, salaries, earnings
22 or gross receipts under Title 4, Chapter 2.

1 **§ 8668. Withholding of Taxes, Insurance Premiums, and Obligations to the**
2 **Fund.**

3 (a) Notwithstanding any other provision of this part, any taxes required to
4 be withheld pursuant to any applicable Commonwealth law will be
5 withheld from a retired member's annuity.

6 (b) Notwithstanding any other provision of this part, a retired member who
7 consents in writing may have withheld from his or her annuity
8 payments for life and health insurance premiums for any group life or
9 health insurance program approved by the board.

10 (c) Notwithstanding any other provision of this part, a retired member may
11 have withheld from his or her annuity any amount necessary to repay
12 any obligation owed to the fund by that member.

13 **§ 8669. Underpayment or Nonpayment by Members.** Any member who has
14 not paid or who has underpaid his or her employee contribution shall be required
15 to pay to the fund the amount of such unpaid or underpaid contributions prior to
16 receiving contributing service for the period covered by the unpaid contribution.

17 **§ 86610. Overpayment or Underpayment of Benefits.**

18 (a) Whenever the administrator finds that more or less than the correct
19 amount of benefits have been paid with respect to any individual,
20 proper adjustment or recovery shall be made by appropriate
21 adjustments to future payments to the member or any survivors, or
22 from the estate of any recipient of benefits.

1 (b) Unless fraud, misrepresentations or concealment of material
2 information was involved in connection with an overpayment, an
3 amount of no more than 50 percent of any benefit to be paid in any
4 benefit period may be withheld and offset against previous
5 overpayments. In his discretion, the administrator may authorize a
6 lesser percent of annuity to be withheld, taking into consideration the
7 financial condition of the annuitant, provided that such overpayment
8 can be recovered within two years.

9 (c) In the case of fraud, misrepresentation or concealment of material
10 information by a member or annuitant, all annuities and other benefits
11 shall be withheld completely until the amount of overpayment is offset
12 in full. This subsection shall not affect any other civil or criminal
13 liability provided by law for such fraud, misrepresentation or
14 concealment.

15 (d) In the event of underpayment by the fund to an annuitant, the amount
16 of such underpayments plus regular interest shall be paid to the
17 annuitant or beneficiary as soon as discovered.

18 **§ 86611. Benefit Consolidation.** No member shall be eligible for more than one
19 earned benefit at any one time; provided, however, that nothing in this section
20 shall preclude a member from receiving any survivor benefit in addition to any
21 benefits earned or accrued on their own account. Annuitants who have a choice
22 among earned benefits available to them shall elect which benefit they are to

1 receive benefits under. In the absence of an election by the employee, the
2 administrator shall elect which benefit the annuitant is to receive benefits under.
3 A change in category of benefits to be received by an annuitant may be effectuated
4 by the annuitant filing a written request indicating what category of benefit the
5 annuitant elects to receive. An election for a change in category of benefit shall
6 only be authorized twice.

7 **§ 86612. Reemployment and Double Dipping.**

8 (a) A person who has retired and received retirement benefits from the
9 government of the Northern Mariana Islands shall not be employed by
10 or under an employment or consulting contract with the government of
11 the Northern Mariana Islands or its public corporations, boards or
12 commissions unless the person is:

13 (1) Appointed by the Governor to a position requiring the advice
14 and consent of the Senate or House of Representatives or both.

15 (2) Hired in a position for which professionals are not readily
16 available in the local labor market, including, for example,
17 teachers for the Public School System and the Northern
18 Marianas College, attorneys for the offices of the Attorney
19 General and Public Defender, nurses and doctors for the
20 Commonwealth Health Center, audit staff for the office of the
21 Public Auditor, and former elected officials.

22 (3) Elected to public office.

1 (b) Provided, however, that any person who elected to retire pursuant to
2 the provisions of N.M.I. Const. art. III, § 20(b) may be employed by
3 the Commonwealth for no more than 60 calendar days in any fiscal
4 year without forfeiting any retirement benefits.

5 (c) Retirees are allowed to return to government employment as classroom
6 teachers, nurses, doctors and other medical professionals for a period
7 not to exceed two years without losing their retirement benefits.
8 However, no such reemployed retiree shall have their retirement
9 benefits recomputed based on any reemployment during which
10 retirement benefits are drawn, but every such reemployed retiree shall
11 nevertheless be required to contribute to the retirement fund during the
12 period of re-employment, at the same rate as other government
13 employees. As authorized under the provisions of N.M.I. Const. art.
14 III, § 20(b), and as permitted by law, all retirees who are re-employed
15 by the Commonwealth following the effective date of this act shall not,
16 in any event or under any circumstances, have their retirement benefits
17 re-computed based on their reemployment services.

18 **§ 86613. Full Pension Retirement Benefits.** Notwithstanding any law,
19 regulation, or policy to the contrary, the Pension Fund shall pay the full pension of
20 retirees and shall not be reduced or recalculated on the basis that the employer
21 contributions, in whole or in part, have not been remitted to the Fund. All unpaid

1 retirement government contributions for all affected employees shall be treated as
2 unfunded liability and paid by the responsible business unit.”

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

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

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

Prefiled: 2/26/18

Date: 2/26/18

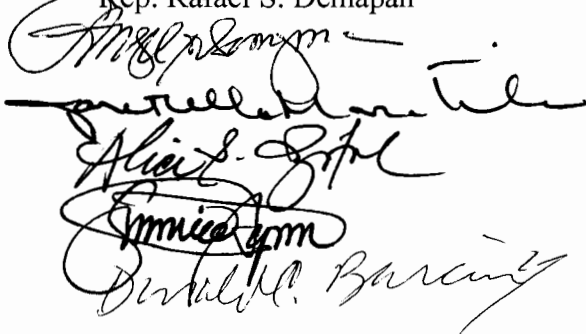
Introduced By:



Rep. Rafael S. Demapan

Reviewed for Legal Sufficiency by:


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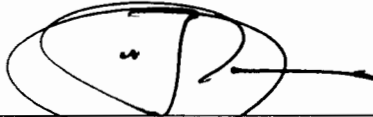
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