Nineteenth Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2015

First Regular Session, 2015 **H. B. 19-2, HD1, SD1**

A BILL FOR AN ACT

To create the Second Marianas Political Status Commission; to examine whether the people desire continuing in a "Political Union with the United States of America" pursuant to the Covenant; to determine if that continuation is in their best interest, or whether some other political status would better enable them to fulfill their aspirations of full and meaningful self-government; and for other purposes.

BE IT ENACTED BY THE NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Short Title. This Act may be cited as the "Second Marianas Political Status Commission Act of 2015".

Section 2. Findings. The Legislature finds:

(a) That United Nations General Assembly Resolution 1541 permits free association with a, or full and equal integration into another political state, but that these options are subject to strict limitations to prohibit unlawful colonialism.

(b) That where a former Trust Territory is not a sovereign independent state, and is not fully and equally integrated into another state, Principle VII of Resolution 1541 requires:

(1) That the people of the former Trust Territory have full self-government in internal matters.

(2) That those people have the right at all times to modify the political status of the former territory through democratic means.

(3) That the terms of the political association be set down in an agreement binding on both parties.

(c) That the indigenous people of the Northern Marianas Islands negotiated the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (referred to in this Act as "the Covenant"), and in the exercise of their right to self-determination as guaranteed by the United Nations, through a plebiscite, approved the Covenant.

(d) That on December 22, 1990, the United Nations Security Council terminated the Trusteeship Agreement for the Northern Mariana Islands in United Nations Security Council Resolution 683, thereby giving the Northern Mariana Islands the status of a former trust territory and activating Principle VII of Resolution 1541.

(e) That the people desire to reexamine whether continuing in a "Political Union with the United States of America" under the Covenant is in their best interest, or whether some other political status will better enable them to fulfill their hope and aspirations in attaining full and meaningful self-government, as stated by the late U.S. Senator Jacob Javits of the State of New York in the deliberations of the Covenant and as amended.

Section 3. Purpose. The purpose of this Act is to create the Second Marianas Political Status Commission (Commission), which will have broad

authority to review, study, examine, conduct public political education and awareness and all others that may assist the Commission in accomplishing its responsibilities under this Act, which shall include but not limited to:

(a) Examining the present political relationship between the Northern Marianas and the United States; and

(b) Determine whether the people of the Northern Mariana Islands are still in favor of continuing in "Political Union with the United States of America" pursuant to the Covenant, and/or preferred some other political status options that would better enable them to fulfill their hope and aspirations of full, meaningful and a well-define self-government status.

In accomplishing such mission the Commission shall:

(a) Examine what positions and actions taken by the United States toward the Northern Mariana Islands that may contradict and violates the provisions and spirit of the Covenant, which may upset, or upsetting the people of the Northern Mariana Islands, and

(1) Whether such positions and actions taken by the United States are based on their "own" interpretation on how they should implement and enforce the provisions of the Covenant, regardless; and

(2) Whether such positions and actions taken by the United States warrant the people of the Northern Mariana Islands to

carefully review, and to reconsider their Political Union with the United States of America as established by the Covenant; and

(b) Explore and study any and all other alternative political status options that offers a full, meaningful and a well-define self-government status that is favorable and acceptable to the people of the Northern Mariana Islands; and

(c) Submit its Final Report on such findings and recommendation(s), out-lining and describing the political status options to the Northern Marianas Commonwealth Legislature for their review and approval.

(1) After such review and approval, the Legislature shall present such political status option(s) to the Commonwealth Election Commission (CEC). The CEC shall present such political status option(s) to the people of Northern Marianas Islands who are qualified to vote for their approval or disapproval in a plebiscite as set forth below.

(2) The Legislature, in a Joint Legislative Session of the House and Senate, shall, by law or through a Joint Resolution, call for a plebiscite on such political status option(s) and schedule a special election to be conducted ninety (90) working days from the receipt of such recommendations by the Commonwealth Board of Election.

Section 4. The following is hereby enacted:

"Section 101. Second Marianas Political Status Commission.

(a) There is hereby created the Second Marianas Political Status Commission, referred to in this Act as "the Commission."

(b) The Commission shall consist of nine voting members and two non-voting ex-officio members selected as follows:

(1) The Governor, in consultation with the Mayor of Rota, the First Senatorial District, shall appoint two persons who shall be residents and domiciled on the island of Rota; and

(2) The Governor, in consultation with the Mayor of Tinian and Aguiguan, the Second Senatorial District, shall appoint two persons who shall be residents and domiciled on the islands of Tinian and Aguiguan; and

(3) The Governor, in consultation with the Mayors of Saipan and, the islands North of Saipan, shall appoint five persons who shall be domiciled on the island of Saipan and the islands North of Saipan; and

(c) No person shall be appointed to or serve on the Commission unless he or she is over twenty-five years of age, has never been convicted of a felony, or if convicted, has been fully pardoned, and who is a United States Citizen and has been domiciled in the Northern Mariana Islands for at least five consecutive years at the time of appointment. Such person

shall have at least good knowledge of the Northern Mariana's political history, the people's desire to attain full, meaningful and a well-defined self-government, the Covenant that Established the Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the status of the U. S. Territories, and other political status attained by former Trust Territory District in Micronesia.

(1) The appointment of the members of the Commission shall be made no later than sixty calendar days from the effective date of this Act.

(2) The Speaker of the House and the President of the Senate shall be ex-officio-non-voting members of the Commission and shall serve on the Commission until the work of the Commission is completed.

(3) The term of each person appointed by the Governor to serve on the Commission shall commence upon his/her appointment and shall serve the Commission until the work of the Commission is completed.

(d) A vacancy on the Commission shall be filled in the same manner as the original appointment, no later than thirty calendar days following the creation of such vacancy.

(e) The members of the Commission shall be compensated at the rate established in 1 CMC § 8247 (a), as may be amended. All members of

the Commission shall be entitled to reimbursement for reasonable, necessary and actual expenses incurred by them in the course and scope of their work for the Commission, in accordance with the rate then in effect of employees of the executive branch of the Commonwealth Government. The Chairperson of the Commission shall certify to the Secretary of Finance all claims for payment of such reimbursement.

(f) The Commission shall be deemed to be operational upon the appointment of all its members, and shall continue in existence until the Commission submits it findings and recommendation(s) to and accepted by Legislature; and, by a joint resolution, certifies that the work of the Commission has been fully completed; thereby, dissolving the Commission officially.

Section 102. Organization of the Commission.

(a) The Commission shall hold its first meeting, no later than thirty calendar days after all its members are appointed. The Speaker of the House of Representatives shall convene the first meeting and shall preside until such time a Chairperson is elected. The members of the Commission shall elect from among themselves a Chairperson, a Vice Chairperson and such other officers as the Commission may required.

(b) The members of Commission may adopt such rules of procedure as it deems necessary and appropriate to exercise its powers and duties under this Act.

(c) The Commission shall meet at least once month, or more frequently as may be necessary to discharge its responsibilities under this Act. Either the Chairperson or any three members may call a meeting. A majority of the members shall constitute a quorum. All issues before the Commission shall be decided by a simple majority of those present at a duly noticed meeting at which a quorum is present.

(d) The Commission shall have the right to ~~meet in non-public executive sessions or to~~ hold open and public meetings, as it deems appropriate from time to time, to carry out its powers and duties under this Act. The Commission may meet in executive meetings if authorized by the affirmative vote of two-thirds of the members of the Commission provided that final action on any matter may not be taken in an executive meeting. A written record of all meetings shall be kept. All public meetings shall be preceded by notice in at least one radio station and one newspaper of local circulation for at least one week prior to the meeting. The public shall be given a meaningful and adequate opportunity to participate in all public educations hearings and meetings.

(e) Within thirty (30) working days from the date upon which the Commission becomes operational, it shall submit to the House of Representatives a proposed budget for its operations and activities.

Section 103. Powers and Duties of the Commission. The Commission shall have the following powers and duties:

(a) To carry out the purpose of this Act as fully described in Section 3; and

(b) To review and examine carefully whether the people of the Northern Mariana Islands, under the present political status as a "Commonwealth of the Northern Mariana Islands in Political Union with the United States of America," pursuant to the Covenant, meets their hope and aspiration to govern themselves; and

(c) To determine whether such political status established by the Covenant complies with the mandate of the United Nations General Assembly Resolution 1541, Principal VII; and

(d) To examine matters that negatively impact the political relationship with the United States pursuant to the Covenant; and

(e) To examine the present political status of the former Trust Territory Districts in Micronesia of what is now: The Republic of Palau, the Republic of the Marshalls, and the Federated States of Micronesia (Pohnpei, Kosrae, Chuuk and Yap) for possible political status option for the Northern Mariana Islands; and

(f) To review the current status of the U. S. Territories; such as Guam, American Samoa and the Virgin Islands, and the Commonwealth of Puerto Rico, in a such way that will help the Commission to evaluate the practices of the United States in their administration and control over

these territories and how such practices relates to the Northern Mariana Islands; and

(g) To conduct political education on Saipan, Tinian and Rota as regard to the Northern Mariana Islands political relationship with the United States; and

(h) To present what other political status options available for consideration such as Independence or Free Association; and

~~(i) To re-negotiate the Covenant to attain a meaningful and well defined "full self-government in internal matters" respected by the United States of America; and~~

(i) To submit periodic reports to the Legislature concerning its activities pursuant to this Act, no less frequently than every three months once it becomes operational, and to submit the Final Report on its findings and recommendation(s) on such political status option to the Legislature eighteen (18) calendar months but not later than twenty one (21) calendar months from the date upon the Commission becomes operational.

(j) To conduct its last public education and hearings on each of the islands of Saipan, Tinian, and Rota, and shall allow the public the opportunity within a reasonable time to comment upon such findings and recommendations on such political status option(s) three months before the Commission's Final Report is submitted to the Legislature

Section 104. Adoption of the Commission's Final Report.

(a) Upon the receipt by the Legislature of the Commission's Final Report on its findings and recommendations on such political status and option(s), the Legislature shall have ~~60~~ 90 working days to review such findings and recommendations in ~~a~~ Joint Meetings of the House and the Senate, called by its presiding officers and may meet with the Commission for clarification of its findings and recommendations on such political status option(s). The Legislature, if they find it necessary, may make such changes or amendments that are appropriate to meet the purpose and intent of the Act. Thereafter, the Legislature, in a Joint Legislative Session, by a Joint Resolution, certify that it has ~~accepted or~~ approved or rejected the Commission's Final Report on its findings and recommendation on such political status option(s), and as amended by the Legislature - if any. If the ~~Legislature fails to act within the 60 working days, then the~~ Commission's Final Report ~~will be deemed~~ is approved by the Legislature, ~~and shall be certified by~~ the Legislative clerks of the House and the Senate shall certify the approval and shall transmit a copy of such Final Report immediately to the CEC showing the recommended political status option(s) that will be placed on the ballot pursuant to this Act.

(1) The CEC shall present the certified political status option(s) to qualify voters in the Northern Mariana Islands for their approval or disapproval in a plebiscite scheduled pursuant to this Section and shall

certify the results of the plebiscite to the presiding officers of the Legislature.

(2) If more than one recommended political status option is on the ballot, and if no one political status option receives a majority of the votes cast in the plebiscite, a run-off election for such plebiscite shall be held forty-five calendar days from the date upon which the result of the first plebiscite was certified to the Legislature between the two status options which received the highest number of votes. If the forty-five calendar days falls within a working day (Monday through Friday), then the plebiscite shall be held on Saturday of that same week.

Section 105. Employment. The Commission may employ secretaries, legal counsel and other consultants or staff as the Commission may require, and upon request by the Chairperson of the Commission, the Governor and the Legislature and the Public Auditor shall make available to the Commission such professional personals and technical assistance needed to fulfill its responsibilities.

Section 106. Contracts. The Commission may enter into such contracts, leases, or other agreements or transactions as may be necessary and proper to fulfill its duties and responsibilities under this Act and execute all instruments that are necessary and appropriate in the exercise of any of its functions permitted under this Act.

Section 107. None applicability of and Hiring of: The laws of the Commonwealth pertaining to procurement, personnel and employment shall not apply to the Commission. The hiring of consultants, and professional staff, and employees shall be made on the basis of education, experience, merit, skill and knowledge without any political interference, interest or affiliations.

Section 108. Repositories for Commission Documents. The Northern Marianas Archives at the Northern Marianas College shall be the repository for all un-classified records and material pertaining to the work of the Commission, which shall include but not limited to: Minutes of all meetings of the Commission and Committees, Recorded Public Educations and Hearings, All Research and Studies of all political status options, and all other materials pertaining to the works of the Commissions.

(a) The Commission shall identify and mark all record that shall be kept classified, and transfer such records to the Commonwealth Recorder's Office for secured retention. Such classified records may be made available only upon an official request to the Commonwealth Recorder's Office pursuant to the CNMI Open Government Act.

(b) Un-classified records of all public meetings can be made available for review by the public and copy of such records may be made available upon request.

(c) Payment for a reasonable cost for preparing and producing copy of such un-classified or classified documents or materials shall be made before such copy or copies are released.

Section 109. Financial and Audit Services. The Public Auditor shall provide financial audit services to the Commission while it is in existence, and shall commence an audit of the financial records of *the* Commission immediately upon the completion of its work and dissolution. The audit report shall be completed within ninety calendar days of the dissolution of the Commission, and shall thereupon promptly be submitted to the presiding officers of the Legislature.

Section 110. Appropriation and Authorization for Appropriation.

(a) Without further legislative appropriation, the Governor shall reprogram the ~~The~~ sum of not less than ~~up to~~ $100,000.00 ~~shall be reprogrammed by the Governor~~ to the Commission, to support the operations of the Commission.

(b) The Commission shall make quarterly reports to the presiding officers of each house of the Legislature regarding the actual expenditure of all funds advanced or appropriated for its operations.

(c) The Secretary of Finance shall create a special account for the Commission, into which all funds advanced or appropriated to it shall be deposited. The Secretary of Finance shall release funds from this account upon a justified request for advance or payment by the Chairperson of the

Commission, who, pursuant to this Act, is the sole expenditure authority of all such funds.

(d) Funds appropriated to the Commission may be spent without regard to fiscal year limitation."

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

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

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

Prefiled: 1/14/15

Date: 1/14/15 Introduced By: /s/ Rep. Felicidad T. Ogumoro

Reviewed for Legal Sufficiency by:

/s/ John F. Cool
House Legal Counsel