

A BILL FOR AN ACT

To strengthen the mandate of the Commonwealth of the Northern Mariana Islands Archives at the Northern Marianas College.

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

1 **Section 1. Findings and Purpose.** The Legislature finds that state and territorial
2 archives are statutorily mandated to work with government agencies to carry out records
3 management programs that support effective program management and public services
4 delivery, promote economical and efficient management of information resources, and
5 ensure that records of archival value are identified, protected, and, when appropriate,
6 transferred to the respective state and territorial archives for preservation.

7 Commonwealth law currently mandates Northern Marianas College (NMC) to
8 maintain the "Commonwealth archives, United States, South Pacific Commission and
9 Commonwealth government documents which shall include at least three copies of all
10 publications funded in whole or in part by the Commonwealth government, or by any
11 regional association or agency receiving local or federal funds to provide services to the
12 region, minutes of all meetings held by Commonwealth boards, commissions or agencies,
13 the official actions of the Commonwealth Legislature, and any other official record of the
14 Commonwealth deemed by the archivist to have permanent historical, legal or political
15 significance, and acquiring any other materials relating to the Commonwealth or region
16 that has research or historical value." 3 CMC 1305(b)(5).

17 Additionally, the Open Government Act mandates that the approved

1 minutes of all regular and special and executive meetings of such boards, commissions,
2 agencies, or authorities “shall be transmitted to the archives of the Northern Marianas
3 College.” 1 CMC § 9914.

4 Article II, Section 14(b) of the NMI Constitution provides in part that “[t]he
5 legislature shall keep a journal of its proceedings that shall be published from day to day.”
6 Furthermore, both official rules of the legislative houses provide for the recording and
7 transcription of the sessions. The rules also provide for the transmission of a copy of a
8 transcribed journal within 30 days of its adoption.

9 However, the Legislature finds that the Commonwealth government branches,
10 departments, agencies, and offices have not fully observed NMC’s critically important
11 mandate of maintaining and preserving Commonwealth government documents and
12 records for posterity. Creating a framework of policies and procedures for the maintenance,
13 disposition, and preservation of Commonwealth government documents and records is
14 needed to properly preserve such documents.

15 The Legislature further finds that fully functioning archives create opportunities for
16 academic research, which can be used as justification for public policies that ultimately
17 improve the quality of life of our Commonwealth residents, and serves as a repository for
18 critically important documents, publications, and materials pertaining to the
19 Commonwealth government for the benefit of posterity.

20 Therefore, the purpose of this Act is to enhance the duties and responsibilities of
21 the Commonwealth of the Northern Mariana Islands Archives at the Northern Marianas
22 College.

23 **Section 2. Amendment.** Title 3, Division 1, Chapter 3 of the Commonwealth Code
24 is hereby amended by adding a new Article 8 to read as follows:

25 “Article 8. CNMI Archives

26 Section 101. Definitions. For the purposes of this Act:

1 (a) "Agency" means any department, agency, and instrumentality of the
2 Commonwealth government, including regulatory, temporary agencies, divisions,
3 boards, bureaus, offices, councils, commissions, authority, public corporation, or a
4 separate government office established by law.

5 (b) "Archives facility" means a facility administered by the CNMI
6 Archivist for the preservation and controlled use of archival records transferred
7 from agencies, or a facility that is approved by the CNMI Archivist as having an
8 equivalent capacity to ensure the physical security and control of archival records.

9 (c) "CNMI Archives" means the organizational unit within the
10 Northern Marianas College which has the responsibility to administer the
11 Commonwealth government archives program.

12 (d) "CNMI Archivist" is the designated administrator of the CNMI
13 Archives and reports to the Director of Library Programs and Services of Northern
14 Marianas College.

15 (e) "Disposition" means the authorized action to dispose of the records
16 of an agency, transfer to another agency or branch of government, or transfer to an
17 archives facility.

18 (f) "Record series" means a group of related records that result from the
19 same activity and can be evaluated together for disposition and other management
20 purposes. Usually, the records in a record series are arranged under a single filing
21 system or are otherwise kept together as a unit.

22 (g) "Records" means all books, papers, maps, photographs, or other
23 documentary materials, regardless of physical form or characteristics, made or
24 received by any agency of the CNMI in pursuance of law or in connection with the
25 transaction of public business and preserved or appropriate for preservation by that
26 agency or its legitimate successor as evidence of the organization, functions,
27 policies, decisions, procedures, operations, or other activities, or because of the
28 information contained therein.

1 (1) "Active records" means records that are frequently
2 referenced or otherwise frequently used for conducting current business.

3 (2) "Archival records" means records that are designated by the
4 CNMI Archivist for continuous preservation because they have enduring
5 administrative, legal, fiscal, educational, historical, or other research value
6 to the CNMI government or its citizens; the such term is not used as a
7 synonym for computer-generated records that are stored off-line.

8 (3) "Electronic records" means those records which are stored
9 in a form that can be read or processed only by means of a computer.

10 (4) "Inactive records" means records that are infrequently
11 referenced or otherwise infrequently used for conducting current business.

12 (5) "Vital records" means selected records which, in the event
13 of a disaster, are essential to the resumption or continuation of government
14 operations, to the re-creation of the legal and financial status of the
15 CNMI government, or to the protection of and fulfillment of obligations to
16 the citizens of the Commonwealth; the such term is not used as a synonym
17 for official birth, death, and marriage records.

18 (h) "Records management" means the planning, organizing, directing,
19 controlling, and other activities needed for effective records creation, records
20 maintenance, use, and records disposition.

21 (i) "Records retention" and "disposition schedule" means a document that
22 prescribes the legally required minimum retention periods for records and the final
23 disposition of records and may also describe where and in what form records must
24 be kept.

25 (j) "Retention period" means a period of time, expressed in terms of an
26 event that must occur or the time which must elapse, before records may be
27 disposed of.

28 Section 102. CNMI Archivist.

1 The CNMI Archivist shall establish and administer a record management program,
2 which will apply efficient and economical management methods to the creation, utilization,
3 maintenance, retention, preservation, and disposal of records.

4 Section 103. Duties of the CNMI Archivist.

5 The CNMI Archivist shall, with due regard for the functions of the agencies
6 concerned:

7 (a) Establish standards, procedures, and techniques for effective
8 management of records;

9 (b) Make continuing surveys of paperwork operations and recommend
10 improvements in current records management practices including the use of space,
11 equipment, and supplies employed in crating, maintaining, sorting, and servicing
12 records;

13 (c) Establish standards for the preparation of schedules for the retention of
14 government records of continuing value and for the prompt and orderly disposal of
15 government records no longer possessing sufficient administrative, legal, or fiscal
16 value to warrant their further keeping;

17 (d) Establish standards for the reproduction of records by photography or
18 microphotographic processes with a view to the disposal of the original records;

19 and

20 (e) Obtain reports from agencies as required for the administration of the
21 program.

22 Section 104. Duties of Agency Heads.

23 The head of each agency shall:

24 (a) Establish and maintain an active, continuing program for the economical
25 and efficient management of the records of the agency;

26 (b) Make and maintain records containing adequate and proper
27 documentation of the organization, functions, policies, decisions, procedures, and
28 essential transactions of the agency designed to furnish information to protect the

1 legal and financial rights of the government and of persons affected by the
2 agency's activities;

3 (c) Submit to the CNMI Archivist, in accordance with the standards
4 established by the Archivist, schedules proposing the length of time each
5 government record warrants retention for administrative, legal, or fiscal purposes
6 after it has been received by the agency. The head of each agency also shall submit
7 lists of government records in his custody that are not needed in the transaction of
8 current business and that do not have sufficient administrative, legal or fiscal value
9 to warrant their further keeping for disposal in conformity with the requirements
10 of Section 107 of this article.

11 (d) Cooperate with the CNMI Archivist in the conduct of surveys made by
12 him pursuant to the provision of this article.

13 Section 105. Legislative and Judicial Branches.

14 Except as provided by the NMI Constitution or statutes, upon request, the CNMI
15 Archivist shall advise in the establishment of records management programs in the
16 Legislative and Judicial Branches of government.

17 Section 106. Records are not to be Damaged or Destroyed.

18 All records made or received by or under the authority of or coming into the
19 custody, control, or possession of public officials of this government in the course of their
20 public duties are property of the government and shall not be destroyed, transferred,
21 removed, or otherwise damaged or disposed of, in whole or in part, except as provided by
22 law.

23 Section 107. Disposal of Records.

24 Records may be destroyed or disposed of in accordance with the provisions of this
25 Article if it is determined by the CNMI Archivist and the agency head concerned that such
26 records have no further legal, administrative, fiscal, research, or historical value.

27 Section 108. Reproduction of Records on Films; Disposition of Original.

28 (a) The head of any agency having the care and custody of any record may cause
29 the same to be photographed, microphotographed, or otherwise reproduced on film or in

1 computerized form. When such head so establishes computerized storage of records and
2 papers not originally kept in computerized form, the agency head shall keep parallel
3 microfilm or photographic storage of the same records until such time as established
4 national standards, property followed, will give the same degree of permanency to the
5 electronic storage as is required for the microfilmed records of a similar category. The
6 documents retrieved from electronic storage of non-electronic originals shall be deemed to
7 be as admissible as records reproduced from any other means of storage provided in this
8 section. The records shall be readily accessible to the public for examination and copying
9 at reasonable rates.

10 (b) When such records are photographed, microphotographed, or otherwise
11 reproduced on film if it is determined by the CNMI Archivist, the agency head concerned
12 that the original record has no further legal, administrative, fiscal, research, or historical
13 value the same may be destroyed or disposed of in accordance with the provision of this
14 Article and thereafter the photograph,

15 microphotograph, or reproduction on film shall be deemed to be an original record
16 for all purposes, including introduction in evidence in all courts or administrative agencies.
17 A transcript, exemplification, facsimile, or certified copy thereof shall, for all purposes
18 recited herein, be deemed to be a transcript, exemplification, facsimile, or certified copy of
19 the original record.

20 (c) Where certain records are required to be kept a specific length of time or
21 permanently, or to be destroyed by specific methods or under specific supervision, and
22 where such records are photographed, microphotographed, or reproduced no film said film
23 may be submitted for the original records and the original records may be destroyed in the
24 manner and under the conditions prescribed in subsection (b) of this section.

25 Section 109. Destruction of Non-record Materials.

26 Non-record materials, if not otherwise prohibited by law, may be destroyed at any
27 time by the agency in possession of such materials without the prior approval of the CNMI
28 Archivist. The CNMI Archivist may formulate procedures and interpretations to guide in
29 the disposition of such materials.

1 Section 110. Rules and Regulations.

2 The CNMI Archivist shall make such rules and regulations as are necessary or
3 proper to effectuate the purposes of this Article.”

4 **Section 3. Severability.** If any provision 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 provisions to
7 persons or circumstances other than those to which it is held invalid shall not be affected
8 thereby.

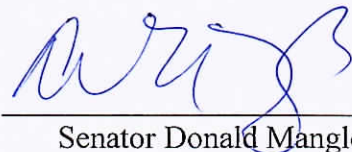
9 **Section 4. Savings Clause.** This Act and any repealer contained herein shall not
10 be construed as affecting any existing right acquired under contract or acquired under
11 statutes repealed or under any rule, regulation, or order adopted under the statutes.
12 Repealers contained in this Act shall not affect any proceeding
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, which
15 shall already be in existence on the date this Act becomes effective.

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

Prefiled:


Date: 1/18/23

Introduced By:



Senator Donald Manglona

Reviewed for Legal Sufficiency by:



Senate Legal Counsel