

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

May 17, 2016

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

93-10-1643
Office of the Speaker
Judith T. Won Pat, Ed.D
2016 MAY 17 11 55 10
[Signature]

Date: 05-17-16
Time: 4:49pm
Received: [Signature]

Dear Madame Speaker:

Attached is Bill No. 2-33 (COR) *"An act to add a New Article 5 to Chapter 8, Title 4, Guam Code Annotated Relative to Creating a New 'Defined Benefit 1.75' Retirement System; and to creating a new Cash Balance Plan as alternatives to the defined contribution retirement system,"* which I have *VETOED*.

I vetoed this bill because we lack the information needed to ensure the financial future of our government, government employees and retirees are protected. In short, we do not know if we can afford it.

There is one thing that is absolutely clear when you look at Bill 2-33, it does not provide the whole picture. And when you are talking about the possibility of bankrupting the Government of Guam by increasing the unfunded liabilities of the Retirement Fund by \$140 million, half of a picture isn't good enough.

We found ourselves in this situation in 1995. We certainly cannot afford to make this mistake again — even though we closed the Defined Benefits plan we are still paying for it today.

But that's what we were given with this bill – a half picture. Further, the actuarial report that is supposed to support it is **no longer relevant because of the amendments the Legislature made to the bill.**

And this is why the Department of Administration wants a second actuary report.

The Department of Administration has received a response to the request for proposal. Also, to address Vice Speaker Cruz's concern, they have expanded their search to professional publications. This study could provide the answers we need. In addition, their findings could help us create a retirement plan that addresses the needs of our retirees in a responsible manner and that does not burden our tax payers and put our government's financial health at risk.

The Honorable Judith Won Pat
Page 2 of 2
May 17, 2016

We owe it to our taxpayers, government employees, and retirees to ensure that a new retirement plan is deliberate, fiscally prudent, and takes the entire financial impact into account.

Respectfully,



EDDIE BAZA CALVO
Governor of Guam

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

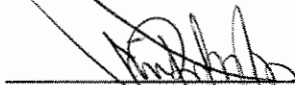
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LÅHEN GUÅHAN

This is to certify that Substitute Bill No. 2-33 (LS), "AN ACT TO ADD A NEW ARTICLE 5 TO CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO CREATING A NEW "DEFINED BENEFIT 1.75" RETIREMENT SYSTEM; AND TO CREATING A NEW CASH BALANCE PLAN ("GUAM RETIREMENT SECURITY PLAN") AS ALTERNATIVES TO THE DEFINED CONTRIBUTION RETIREMENT SYSTEM UPON TIMELY ELECTION IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO AMEND §§ 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS PERCENT (6.2%); AND TO AMEND § 8137(B), ARTICLE 1, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE," was on the 3rd day of May 2016, duly and regularly passed.



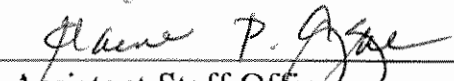
Judith T. Won Pat, Ed.D.
Speaker

Attested:



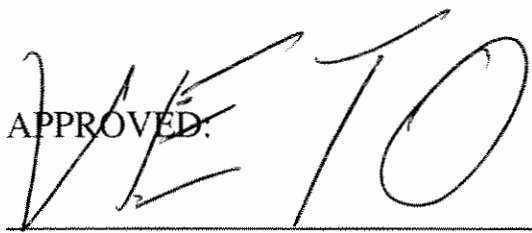
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 5 day of May,
2016, at 4:46 o'clock P.M.



Assistant Staff Officer
Maga'låhi's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: MAY 17 2016

Public Law No. _____

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 2-33 (LS)

As substituted by the Committee on Appropriations
and Adjudication; amended in the Committee of the Whole;
and further amended on the Floor.

Introduced by:

B. J. F. Cruz
Michael F.Q. San Nicolas
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
James V. Espaldon
Brant T. McCreddie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO CREATING A NEW “DEFINED BENEFIT 1.75” RETIREMENT SYSTEM; AND TO CREATING A NEW CASH BALANCE PLAN (“GUAM RETIREMENT SECURITY PLAN”) AS ALTERNATIVES TO THE DEFINED CONTRIBUTION RETIREMENT SYSTEM UPON TIMELY ELECTION IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO *AMEND* §§ 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS PERCENT (6.2%); AND TO *AMEND* §

8137(B), ARTICLE 1, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Mina'Trentai Tres Na*
3 *Liheslaturan Guåhan* finds that there are three (3) separate retirement plans
4 generally available to government of Guam employees: (a) employees employed on
5 or before September 30, 1995 were required to become members of the Retirement
6 Fund (Defined Benefit Plan) under Article 1, Chapter 8, Title 4 of the Guam Code
7 Annotated; (b) employees employed after September 30, 1995 were and remain
8 required to become participants in the Defined Contribution Retirement System
9 under Article 2, Chapter 8, Title 4 of the Guam Code Annotated; and (c) all
10 employees, except those participating in a government of Guam sponsored plan
11 under Section 403(b) of the Internal Revenue Code, may voluntarily participate in
12 the Deferred Compensation Program under Article 3, Chapter 8, Title 4 of the Guam
13 Code Annotated.

14 *I Mina'Trentai Tres Na Liheslaturan Guåhan* further finds that the Defined
15 Contribution Retirement System was established in 1995 amid concerns and findings
16 by the Twenty-Third Guam Legislature that:

17 (a) The Actuarial Valuation of the Retirement [Defined Benefit]
18 Plan prepared by Deloitte & Touche as of September 30, 1993, expressed
19 concern that benefit levels are rather excessive in comparison to most other
20 government retirement systems.

21 (b) Benefit levels and retirement policy should be reviewed and
22 benefit levels should be adjusted in order to address specific inequities,
23 excessiveness, and desired policy objectives.

1 (c) In establishing benefits for a new plan, generally accepted
2 retirement income levels standards should be observed and the details of any
3 new plan must be considered thoroughly and a comprehensive education and
4 implementation plan must be developed.

5 Public Law 23-42:1.

6 *I Mina'Trentai Tres Na Liheslaturan Guåhan* has continued to review benefit
7 levels and retirement policy in light of retirements of participants in the Defined
8 Contribution Retirement System, as well as the Defined Benefit Plan. The review
9 by *I Mina'Trentai Tres Na Liheslaturan Guåhan* involved consideration of a
10 comprehensive and detailed study by Milliman, Inc. of alternative retirement plans
11 and arrangements, based upon the Actuarial Valuation under the Defined Benefit
12 Plan as of September 30, 2008, and updated through September 30, 2014. The
13 alternatives, which included cost comparisons between Social Security, the Defined
14 Contribution Retirement System, Social Security plus the Defined Contribution
15 Retirement System, and the Defined Benefit 1.75 Plan (formerly known as the
16 Hybrid Plan) herein, were prepared as part of an analysis of funding requirements
17 and retirement benefit levels of participants in the Defined Contribution Retirement
18 System and future government of Guam employees.

19 *I Mina'Trentai Tres Na Liheslaturan Guåhan* finds that an alternative
20 retirement program that combines a defined benefit “floor” of benefits, along with a
21 mandatory salary reduction deferred compensation program, is necessary to provide
22 a reasonable opportunity for current government employees to maintain their
23 standards of living in retirement, while also balancing the government’s budgetary
24 needs and obligations to active and retired government employees and their
25 survivors. *I Mina'Trentai Tres Na Liheslaturan Guåhan* finds that this combination
26 of benefits under an alternative “Defined Benefit 1.75 Retirement System” is
27 reasonable and prudent to balance the needs of government employees as well as the

1 government as a whole.

2 *I Mina'Trentai Tres Na Liheslaturan Guåhan* intends to establish a new
3 “Defined Benefit 1.75 Retirement System” to be comprised of participation in: (1)
4 the preexisting Retirement Fund that *shall* provide for an unreduced retirement
5 defined benefit equal to one and seventy-five hundredths percent (1.75%) of an
6 employee’s average annual salary for each year of credited service at retirement age
7 62; and (2) the preexisting Deferred Compensation Program providing for a
8 mandatory pre-tax salary reduction contribution equal to one percent (1%) of a
9 member’s base salary.

10 *I Mina'Trentai Tres Na Liheslaturan Guåhan* further intends to create and
11 establish an alternative new retirement plan to provide for the secure, fair, and
12 orderly retirement of the personnel of the government of Guam. The new retirement
13 plan is intended to be a tax-qualified cash balance plan to be known as the
14 government of Guam Retirement Security Plan (GRSP) which *shall* constitute a
15 body corporate and all business of the GRSP *shall* be established in the name of the
16 government of Guam Retirement Security Plan. The Board of Trustees created
17 pursuant to Article 1, Chapter 8, Title 4 of the Guam Code Annotated *shall*
18 administer the government of Guam Retirement Security Plan. The Board of
19 Trustees may sue and be sued, contract and be contracted with and conduct all the
20 business of the GRSP in the name of the government of Guam Retirement Security
21 Plan.

22 *I Mina'Trentai Tres Na Liheslaturan Guåhan* intends that beginning January
23 1, 2018, the GRSP and the Defined Contribution Retirement System *shall* be the
24 retirement programs for all new employees whose employment commences on or
25 after that date. After January 1, 2018, all new employees *shall* be automatically
26 enrolled into the GRSP but will have sixty (60) days from the date of hire to elect to
27 participate in the Defined Contribution Retirement System.

1 *I Mina'Trentai Tres Na Liheslaturan Guåhan* further intends to allow
2 participants with interests in the Defined Contribution Retirement System to timely
3 elect to participate in, and in certain circumstances, transfer their account balances
4 to, either the “Defined Benefit 1.75 Retirement System” or the GRSP, in accordance
5 with the adoption of regulations promulgated by the Board of Trustees of the
6 Retirement Fund pursuant to the Administrative Adjudication Act.

7 *I Mina'Trentai Tres Na Liheslaturan Guåhan* further intends that, effective
8 January 1, 2018, members’ and employer contributions to members’ accounts in the
9 Defined Contribution Retirement System *shall* be increased from five percent (5%)
10 to six and two tenths percent (6.2%).

11 **Section 2. Summary of Key Provisions in New Defined Benefit 1.75**
12 **Retirement System.** A new Article 5 as described in Section 3 of this Act *shall* be
13 *added* to Title 4 (Public Officers and Employees), Chapter 8 (Retirement of Public
14 Employees), of the Guam Code Annotated, to create a “Defined Benefit 1.75
15 Retirement System” that is comprised of participation in the preexisting Retirement
16 Fund and Deferred Compensation Program. Subsections A to E of this Section 2 are
17 provided only as a convenient summary of the key provisions of the Defined Benefit
18 1.75 Retirement System, and are not meant to be codified in Chapter 8, Title 4 of the
19 Guam Code Annotated.

20 **A. Voluntary Participation in the Defined Benefit 1.75**
21 **Retirement System**

22 (1) New Employees

23 With limited exceptions, new employees whose employment
24 commences between April 1, 2017 and December 31, 2017, inclusive,
25 may elect, during the “Election Window” commencing on April 1, 2017
26 and ending on December 31, 2017, to participate in the Defined Benefit
27 1.75 Retirement System effective as of January 1, 2018.

1 (2) Former Employees Who Are Reemployed

2 (a) Reemployed employees who have retired under
3 government of Guam sponsored plans are prohibited from
4 participating in the Defined Benefit 1.75 Retirement System. All
5 reemployed employees who retired under the Defined Benefit
6 Plan, the Defined Contribution Retirement System, or the
7 Defined Benefit 1.75 Retirement System are required to
8 participate in the Defined Contribution Retirement System.

9 (b) Reemployed employees who were members of the
10 Defined Benefit Plan and did not refund (withdraw) their
11 employee contributions upon separation from service *shall*
12 resume membership in the Defined Benefit Plan.

13 (c) Reemployed employees (prior to January 1, 2018)
14 with interests in the Defined Contribution Retirement System
15 *shall* participate in the Defined Contribution Retirement System,
16 unless such eligible employees timely elect to participate in the
17 Defined Benefit 1.75 Retirement System (and in some cases,
18 transfer their account balances) under the following
19 circumstances:

20 i. Such eligible employees who are reemployed
21 prior September 30, 2017, may, during the “Election
22 Window” commencing on April 1, 2017 and ending on
23 September 30, 2017 (October 31, 2017 for reemployment
24 commencing during the month of September 2017) elect
25 to participate in the Defined Benefit 1.75 Retirement
26 System, and transfer the required portion of their Defined
27 Contribution Retirement System account balances to the

1 Retirement Fund for credited service effective as of
2 January 1, 2018.

3 ii. Such eligible employees who are reemployed
4 between October 1, 2017 and December 31, 2017,
5 inclusive, may, within thirty (30) days of their
6 reemployment, elect to participate in the Defined Benefit
7 1.75 Retirement System effective as of January 1, 2018,
8 but may not transfer their account balances in the Defined
9 Contribution System to the Retirement Fund for credited
10 service.

11 (3) Disabled Participants Receiving Ancillary Benefits Under
12 Article 4

13 Disabled participants in the Defined Contribution Retirement
14 System who are receiving pre-retirement disability benefits under Title
15 4, Chapter 8, Article 4 of the Guam Code Annotated prior to December
16 31, 2017, may, during the "Election Window" commencing on April 1,
17 2017 and ending on December 31, 2017, elect to participate in the
18 Defined Benefit 1.75 Retirement System, and transfer their account
19 balance in the Defined Contribution Retirement System to the
20 Retirement Fund for credited service, to be effective upon the later of
21 (A) January 1, 2018, or (B) termination of their disability benefits in
22 connection with their retirement or their reemployment with the
23 government of Guam.

24 (4) Current Employees

25 Employees participating in the Defined Contribution Retirement
26 System on March 31, 2017 may, during the Election Window"
27 commencing April 1, 2017 and ending on September 30, 2017, elect to

1 participate in the Defined Benefit 1.75 Retirement System, and transfer
2 the required portion of their Defined Contribution Retirement System
3 account balances to the Retirement Fund thereunder, effective as of
4 January 1, 2018. If the participant's account has been reduced by any
5 withdrawal, the participant may repay the withdrawn amounts, plus
6 interest, in order to reinstate full credited service under the Defined
7 Benefit 1.75 Retirement System.

8 **B. Employee Contributions**

9 (1) Mandatory pre-tax employee contributions equal to nine
10 and five tenths percent (9.5%) of the member's base salary *shall* be
11 made to the Retirement Fund and subject to the management and
12 administration of the Retirement Fund under Article 1, Chapter 8, Title
13 4, of the Guam Code Annotated.

14 (2) Mandatory pre-tax employee contributions equal to one
15 percent (1%) of the member's base salary *shall* be made to the Deferred
16 Compensation Program under Article 3, Chapter 8, Title 4 of the Guam
17 Code Annotated.

18 **C. Employer Contributions**

19 Employer contributions on behalf of members under the
20 Retirement Fund *shall* be in accordance with applicable contribution
21 requirements described in § 8137, Article 1, Chapter 8, Title 4 of the
22 Guam Code Annotated.

23 **D. Member Retirement Benefits**

24 (1) The Retirement Fund *shall* provide a retirement annuity in
25 an amount equal to one and seventy-five hundredths percent (1.75%)
26 of a member's average annual salary (the average of the highest three
27 (3) annual base salaries, and where non-base compensation is excluded)

1 for each year of credited service (subject to a minimum of One
2 Thousand Two Hundred Dollars (\$1,200) per year, and a maximum of
3 eighty-five percent (85%) of average annual salary). The retirement
4 annuity *shall* be subject to annual increase based on specified fixed
5 dollar increments. A member *shall* be eligible to receive an unreduced
6 retirement annuity at age sixty-two (62) (where the maximum benefit
7 of eighty-five percent (85%) of average annual salary is achieved with
8 forty-nine (49) years of credited service), and *shall* be eligible to
9 receive a reduced retirement annuity at age fifty-five (55) and twenty-
10 five (25) years of credited service (subject to a reduction of five tenths
11 percent (.5%) per month for each month under age sixty-two (62)).

12 (2) The Deferred Compensation Program *shall* provide a
13 retirement benefit equal to a member's account balance at the time of
14 distribution, which account balance may be paid in the form of annuity,
15 installment, or lump sum payments as may be elected by the member.

16 **E. Survivor And Disability Benefits**

17 (1) Under the Retirement Fund, surviving spouses *shall* be
18 eligible for survivor benefits equal to sixty percent (60%) of a
19 member's retirement annuity (minimum of One Thousand Two
20 Hundred Dollars (\$1,200) per year). Surviving minor children *shall* be
21 eligible for surviving child benefits equal to Two Thousand Eight
22 Hundred Eighty Dollars (\$2,880) per child (up to Fourteen Thousand
23 Four Hundred Dollars (\$14,400) in the aggregate). An additional lump
24 sum benefit of One Thousand Dollars (\$1,000) also is available. The
25 survivor annuity (but not annuity for surviving minor children) *shall* be
26 subject to annual increase based on specified fixed dollar increments.

1 (2) Under the Retirement Fund, a member *shall* be eligible for
 2 a disability retirement annuity equal to fifty percent (50%) of the
 3 member’s average annual salary. The disability annuity *shall* be subject
 4 to annual increase based on specified fixed dollar increments.

5 **Section 3. Statutory Provisions Establishing Defined Benefit 1.75**
 6 **Retirement System.** A new Article 5 is hereby *added* to Chapter 8, Title 4 of the
 7 Guam Code Annotated, to read as follows:

8 **“Article 5**

9 **Defined Benefit 1.75 Retirement System**

10 **“§ 8501. Definitions.**

11 As used in this Article, unless the context otherwise requires:

12 (a) *Actuarial Cost of Credited Service* means a percentage of
 13 historical base salary corresponding to the service for which a
 14 member’s account is credited with employer contributions under the
 15 Defined Contribution Retirement System through the date preceding
 16 the member’s transfer to the Defined Benefit 1.75 Retirement System.
 17 The applicable percentage *shall* be specified by the Board based on an
 18 actuarial review of the cost of credited service. The same percentage
 19 *shall* apply to all members.

20 (b) *Board of Trustees* or *Board* means the Board of Trustees
 21 of the government of Guam Retirement Fund, which is responsible for
 22 the direction and operation of the affairs and business of the Defined
 23 Benefit 1.75 Retirement System.

24 (c) *Code* means the United States Internal Revenue Code of
 25 1986, as amended, and corresponding references to the Guam
 26 Territorial Income Tax Code, as may be appropriate.

27 (d) *Deferred Compensation Program* means the government

1 of Guam Deferred Compensation Program established and operated in
2 accordance with Article 3 of this Chapter and inclusive of modifications
3 in the terms and conditions of the Deferred Compensation Program
4 applicable to the members of the Defined Benefit 1.75 Retirement
5 System under this Article 5.

6 (e) *Defined Contribution System* means the government of
7 Guam Defined Contribution Retirement System established and
8 operated in accordance with Article 2 of this Chapter and inclusive of
9 modifications in the terms and conditions of the Defined Contribution
10 Retirement System applicable to the members of the Defined Benefit
11 1.75 Retirement System under this Article 5.

12 (f) *Director* means the Director of the government of Guam
13 Retirement Fund as appointed by the Board in accordance with § 8140
14 of Article 1, Chapter 8, Title 4 of the Guam Code Annotated.

15 (g) *Employer* means each and every line department or agency
16 of the Executive Branch, every autonomous and semi-autonomous
17 agency or instrumentality, every public corporation, every educational
18 institution, whether secondary or post-secondary, the Legislative
19 Branch, the Judicial Branch, the Public Defender Corporation, and
20 every public entity hereafter to be created by law within Guam that has
21 employed or employs a member.

22 (h) *Excess Account Balance* means the amount by which a
23 member's account balances in § 8208 (Member's Contributions) and §
24 8209.1(a) (Rollover of Member's Contributions from § 8164(a)) of this
25 Chapter exceeds the member's Actuarial Cost of Credited Service.

26 (i) *Existing Retirement System* means the government of
27 Guam Retirement Fund established and operated in accordance with

1 Article 1 of this Chapter and exclusive of modifications in the terms
2 and conditions of the Existing Retirement System applicable to the
3 members of the Defined Benefit 1.75 Retirement System under this
4 Article 5.

5 (j) *Defined Benefit 1.75 Retirement System or DB 1.75 Plan*
6 means the government of Guam Defined Benefit 1.75 Retirement
7 System established and operated under this Article 5. The Defined
8 Benefit 1.75 Retirement System *shall* consist of the mandated and
9 coordinated participation of members in two separate and preexisting
10 retirement programs:

11 (1) the Retirement Fund established and maintained
12 under Article 1, Chapter 8, Title 4 of the Guam Code Annotated;
13 inclusive of the modifications to the terms and conditions of the
14 Retirement Fund for Defined Benefit 1.75 Plan members as set
15 forth in this Article 5; and

16 (2) the Deferred Compensation Program established
17 and maintained under Article 3, Chapter 8, Title 4 of the Guam
18 Code Annotated.

19 (k) *Member or Defined Benefit 1.75 Plan member* means any
20 person who meets the eligibility requirements for membership in the
21 Defined Benefit 1.75 Retirement System as described in § 8502 and
22 participates in the Defined Benefit 1.75 Retirement System.

23 (l) *Retirement Fund* means the government of Guam
24 Retirement Fund established and operated in accordance with Article 1
25 of this Chapter and inclusive of the modifications in the terms and
26 conditions of the Existing Retirement System applicable to members of
27 the Defined Benefit 1.75 Retirement System under this Article 5.

1 **§ 8502. Establishment of the Government of Guam Defined**
2 **Benefit 1.75 Retirement System; Membership in DB 1.75 Retirement**
3 **System.**

4 (a) Defined Benefit 1.75 Retirement System. Beginning
5 January 1, 2018, the government of Guam Defined Benefit 1.75
6 Retirement System *shall* be established hereunder and System *shall* be
7 comprised of membership under the government of Guam Retirement
8 Fund established under Article 1 of this Title and the Deferred
9 Compensation Program established under Article 3 of this Title. The
10 Defined Benefit 1.75 Retirement System does not comprise a separate
11 fund or trust for members thereunder, but is the coordinated
12 participation on a mandatory basis at specified benefit levels in the
13 Retirement Fund and voluntary basis at specified benefit levels in the
14 Deferred Compensation Program. Beginning January 1, 2018, the
15 Defined Benefit 1.75 Retirement System *shall* be the retirement
16 program for employees who timely elect to participate in the Defined
17 Benefit 1.75 Retirement System. Members of the Defined Contribution
18 System whose employment continues beyond December 31, 2017,
19 *shall* continue to contribute to and participate in the Defined
20 Contribution System without change in provisions or benefits, except
21 as provided from time to time under the Defined Contribution System.

22 (b) Membership in Retirement Fund

23 (1) Defined Benefit 1.75 Plan Election by New
24 Employees in Defined Contribution System. All new employees
25 whose employment commences between April 1, 2017 and
26 December 31, 2017, inclusive, and who satisfy the eligibility
27 requirements for membership under §§ 8105 and 8106, may elect

1 to participate in the Retirement Fund as “Defined Benefit 1.75
2 Plan members” in accordance with such eligibility requirements.
3 No additional new employees *shall* be admitted to the Existing
4 Retirement System on or after January 1, 2018, except as
5 provided hereunder or provided from time to time under the
6 Existing Retirement System. Members of the Existing
7 Retirement System whose employment continues beyond
8 December 31, 2017, *shall* continue to contribute and participate
9 in the Existing Retirement System without change in provisions
10 or benefits, except as provided from time to time under the
11 Existing Retirement System. Except for those members who
12 elect to participate in the Defined Benefit 1.75 Retirement
13 System pursuant to § 8502(b)(2), any new employee hired after
14 January 1, 2018 and who elects to participate in the Defined
15 Contribution Retirement System and current members of the
16 Defined Contribution System whose employment continues
17 beyond December 31, 2017, *shall* continue to contribute and
18 participate in the Defined Contribution System without change
19 in provisions or benefits, except as provided from time to time
20 under the Defined Contribution System.

21 (2) Defined Benefit 1.75 Plan Election by Current
22 Employees in Defined Contribution System. All employees who
23 are members in the Defined Contribution System on March 31,
24 2017 *shall* be eligible to elect on a voluntary basis to become
25 Defined Benefit 1.75 Plan members effective as of January 1,
26 2018, and to terminate active participation in the Defined
27 Contribution System as of such date, by making the appropriate

1 election with the Defined Benefit 1.75 Retirement System in the
2 form and manner as determined by the Board during the election
3 period commencing on April 1, 2017 and ending on September
4 30, 2017. After having made such election to become a Defined
5 Benefit 1.75 Plan member, the member may not change such
6 election or again become an active member of the Defined
7 Contribution System. The failure to make such election *shall* be
8 deemed to constitute an election by the member to remain as an
9 active member under the Defined Contribution System. Such
10 election *shall* not apply to members in the Defined Contribution
11 System who have retired or otherwise terminated employment
12 from government service and who are not employed by the
13 government of Guam at the time of the election and as of the
14 January 1, 2018, effective date of participation in the Defined
15 Benefit 1.75 Plan.

16 (3) Reemployment of Existing Retirement System
17 Member. Any employee who is a member in the Existing
18 Retirement System, who leaves government service and who is
19 later reemployed after December 31, 2017 by the government of
20 Guam, *shall* become an active member in the Existing
21 Retirement System upon reemployment if such employee has not
22 received a refund of contributions resulting in ineligibility for
23 membership under § 8130(b), and if such employee otherwise
24 meets the eligibility requirements under the Existing Retirement
25 System.

26 (4) Reemployment of Defined Contribution System
27 Member. Any employee who is a member maintaining an

1 interest in the Defined Contribution System, who leaves
2 government service and who is later reemployed by the
3 government of Guam prior to September 30, 2017, *shall* become
4 an active member in the Defined Contribution System upon
5 reemployment if such employee otherwise meets the eligibility
6 requirements under the Defined Contribution System.

7 (A) However, if such a member is reemployed
8 during the period commencing on April 1, 2017, and
9 ending on September 30, 2017, then:

10 (i) the member *shall* be eligible to elect on
11 a voluntary basis to become a member of the
12 Defined Benefit 1.75 Plan if such member
13 otherwise meets the eligibility requirements for
14 membership under §§ 8105 and 8106;

15 (ii) the election period for this election
16 *shall* be the period commencing on April 1, 2017,
17 and ending on September 30, 2017 (or October 31,
18 2017 for members reemployed during the month of
19 September 2017), and the effective date of the
20 member's membership in the Defined Benefit 1.75
21 Plan *shall* be January 1, 2018; and

22 (iii) the member's account under the
23 Defined Contribution System *shall* be subject to
24 transfer to the Defined Benefit 1.75 Retirement
25 System in accordance with §§ 8503(d)(2) and 8504.

1 (B) Further, if such a member is reemployed
2 between October 1, 2017 and December 31, 2017,
3 inclusive:

4 (i) the member *shall* be eligible to elect on
5 a voluntary basis to become a member of the
6 Defined Benefit 1.75 Plan if such member
7 otherwise meets the eligibility requirements for
8 membership under §§ 8105 and 8106;

9 (ii) the election period for such election
10 *shall* be the thirty (30) day period beginning on the
11 date of reemployment, and the effective date of the
12 member's membership in the Defined Benefit 1.75
13 Plan *shall* be the date of reemployment; and

14 (iii) the member's account under the
15 Defined Contribution System *shall* not be subject to
16 transfer to the Retirement Fund.

17 (5) Reemployment of Defined Contribution System
18 Member on Disability. Notwithstanding § 8502(b)(4), a member
19 of the Defined Contribution System who had incurred a disability
20 and at any time been eligible to receive any benefits provided
21 under any long-term disability insurance policy issued pursuant
22 to § 8213 or Article 4 of this Title *shall* not be eligible for
23 membership under the Defined Benefit 1.75 Retirement System
24 upon reemployment, but such member who satisfies the
25 eligibility requirements for membership under §§ 8206 and 8207
26 at such time *shall* participate in the Defined Contribution System
27 in accordance with such eligibility requirements. However, in

1 the case of a member of the Defined Contribution System who is
2 receiving disability benefits under § 8213 or Article 4 of this
3 Title on or before September 30, 2017, such member *shall* be
4 eligible to elect on a voluntary basis to become a member of the
5 Defined Benefit 1.75 Plan in the event of the member's
6 reemployment or retirement on or after January 1, 2018. For this
7 purpose, the election period for this election *shall* be the period
8 commencing on April 1, 2017, and ending on September 30,
9 2017 (or October 31, 2017, for employees who commence
10 receiving disability benefits during the month of September
11 2017), and the effective date of the member's membership in the
12 Defined Benefit 1.75 Plan *shall* be the later of: (A) January 1,
13 2018, or (B) the date of the member's reemployment or
14 retirement.

15 (6) Reemployment of government of Guam Retiree.
16 Any employee who retired under the Existing Retirement
17 System, the Defined Contribution System, or the Defined Benefit
18 1.75 Retirement System, *shall* participate in the Defined
19 Contribution Plan upon reemployment.

20 (c) Membership in Deferred Compensation Program.
21 Defined Benefit 1.75 Plan members *shall* participate in the Deferred
22 Compensation Program effective as of the date on which they
23 commence participation in the Retirement Fund.

24 (d) Membership in Welfare Benefit Plans. Defined Benefit
25 1.75 Plan members *shall* not be eligible to participate in the welfare
26 benefit plans established and maintained under Article 4 of this Title.
27 As such, members of the Defined Contribution System who elect to

1 become Defined Benefit 1.75 Plan members pursuant to § 8502(b) *shall*
2 terminate participation in such welfare benefit plans effective as of the
3 date on which they commence participation in the Defined Benefit 1.75
4 Retirement System.

5 (e) Applicability of Articles 1 through 3, Chapter 8. Except
6 as otherwise provided hereunder, with respect to Defined Benefit 1.75
7 Plan members who participate in the Retirement Fund, Defined
8 Contribution System, and Deferred Compensation Program in
9 accordance with the Defined Benefit 1.75 Retirement System
10 provisions under this Article 5, the provisions of Articles 1 through 3
11 of this Chapter 8, respectively, *shall* be applicable to Defined Benefit
12 1.75 Plan members in a manner no different than the application to
13 members who are not Defined Benefit 1.75 Plan members.

14 **§ 8503. Defined Benefit 1.75 Plan Member Basic Retirement**
15 **Annuity**

16 (a) Amount of Basic Retirement Annuity. Notwithstanding
17 the otherwise applicable formula under § 8122 or other successor
18 provision, the basic retirement annuity payable to a Defined Benefit
19 1.75 Plan member under the Retirement Fund *shall* be the following:
20 an amount equal to one and seventy-five hundredths percent (1.75%)
21 of average annual salary for each year of credited service; no basic
22 retirement annuity *shall* exceed eighty-five percent (85%) of average
23 annual salary; and the basic retirement annuity *shall* not, in any case,
24 be less than One Thousand Two Hundred Dollars (\$1,200) per year per
25 member. For purposes of defining “salary” and “average annual salary”
26 under § 8104(i) and (j), respectively, with respect to the determination
27 of the basic retirement annuity payable to a Defined Benefit 1.75 Plan

1 member, the term “salary” *shall* mean the member’s base salary
2 excluding all non-base compensation.

3 (b) Automatic Increases in Annuity for Basic Retirement
4 Annuity. Any Defined Benefit 1.75 Plan member receiving a basic
5 retirement annuity under the Retirement Fund *shall* receive each year
6 on the anniversary date of the member’s retirement or entitlement, an
7 automatic “sliding scale” increase in the member’s annual annuity as
8 applicable under the Retirement Fund pursuant to § 8122 or other
9 successor provision.

10 (c) Retirement. Notwithstanding the otherwise applicable
11 retirement requirements under §§ 8119 through 8120.1 or other
12 successor provisions, a Defined Benefit 1.75 Plan member may retire
13 on a service retirement annuity under the Retirement Fund, upon
14 written application to and approval by the Board; provided that such
15 member *shall* have attained at least sixty-two (62) years of age and has
16 completed five (5) years of service. However, at the option of the
17 Defined Benefit 1.75 Plan member, whether active or inactive, such
18 member may retire after (1) attaining at least fifty-five (55) years of age
19 and (2) completing twenty-five (25) years of service, in which case the
20 retirement annuity for such member *shall* be reduced one half (1/2) of
21 one percent (1%) for each month such member is under the age of sixty-
22 two (62) years at such time of retirement, from the amount of the
23 retirement annuity determined for such member as of his attainment of
24 age sixty-two (62).

25 (d) Credited Service for Transfers from Defined Contribution
26 System

1 (1) Transfer of Account to Defined Benefit 1.75
2 Retirement System. With respect to a member in the Defined
3 Contribution System on March 31, 2017 who timely elects to be
4 a member in the Defined Benefit 1.75 Retirement System
5 effective as of January 1, 2018, in accordance with the election
6 procedures under § 8502(b)(2), the member's account balance
7 under the Defined Contribution System *shall* be transferred to the
8 Defined Benefit 1.75 Retirement System, in accordance with §
9 8504, effective as of January 1, 2018. Further, with respect to a
10 member in the Defined Contribution System who is reemployed
11 by the government of Guam during the period between April 1,
12 2017 and September 30, 2017, inclusive, and who becomes a
13 member in the Defined Benefit 1.75 Retirement System effective
14 as of January 1, 2018, in accordance with the election procedures
15 under § 8502(b)(4), the member's account balance under the
16 Defined Contribution System *shall* be transferred to the Defined
17 Benefit 1.75 Retirement System, in accordance with § 8504,
18 effective as of January 1, 2018. Finally, with respect to a member
19 in the Defined Contribution System who is receiving disability
20 benefits and who becomes a member in the Defined Benefit 1.75
21 Retirement System upon reemployment or retirement in
22 accordance with § 8502(b)(5), the member's account balance
23 under the Defined Contribution System *shall* be transferred to the
24 Defined Benefit 1.75 Retirement System, in accordance with §
25 8504, effective as of the effective date of the member's
26 membership in the Defined Benefit 1.75 Plan as described in §
27 8502(b)(5). In these cases, as of the effective date of the transfer

1 of a member's account from the Defined Contribution System to
2 the Defined Benefit 1.75 Retirement System, such member's
3 membership in the Defined Contribution System *shall* terminate.
4 The transfer of a member's account from the Defined
5 Contribution System to the Defined Benefit 1.75 Retirement
6 System attributable to the transfer of Member Contributions
7 pursuant to § 8208, and Member's Contribution Reserve and
8 Transfer Incentive Reserve pursuant to § 8209.1(a) and (b), *shall*
9 be made in accordance with § 8504. The transfer of a member's
10 Employer Account to the Defined Benefit 1.75 Retirement
11 System attributable to the transfer of Employer's Contributions
12 pursuant to § 8209(a) (whether the account reflecting such
13 employer contributions are vested or unvested, and inclusive of
14 unvested suspense accounts) *shall* be pursuant to § 8503(d)(2).
15 Any Ancillary Benefit Account maintained under the Defined
16 Contribution System on behalf of the member as described in §
17 8201(n) *shall* not be subject to transfer.

18 (2) Defined Contribution System Credited Service.
19 Effective as of the effective date of the transfer of the member's
20 account from the Defined Contribution System to the Retirement
21 Fund under this § 8503(d), the service for which the member's
22 account is credited with employer contributions under the
23 Defined Contribution System (including the service under the
24 Retirement Fund attributable to the employee contributions
25 previously transferred from the Retirement Fund to the Defined
26 Contribution System pursuant to the member's election under §
27 8207), *shall* be credited to the member for purposes of

1 determining the member's years of credited service and basic
2 retirement annuity under the Retirement Fund in accordance with
3 § 8503. In connection with credited service transferred from the
4 Defined Contribution System to the Retirement Fund under §
5 8503(d)(1), a member's § 8209(a) Employer's Contribution
6 account (whether the account reflecting such employer
7 contributions are vested or unvested, and inclusive of unvested
8 suspense accounts) *shall* be transferred to the member's §
9 8164(b) account (Employer's Contribution Reserve) under the
10 Retirement Fund.

11 (3) Credited Service for Repayment of Defined
12 Contribution System Contributions. In the event that the Defined
13 Benefit 1.75 Plan member's account under the Defined
14 Contribution System was previously reduced by the member's
15 withdrawal of an amount from the member's account that is
16 attributable to contributions during the member's active
17 participation in the Defined Contribution System, the member
18 *shall* be allowed to repay to the Retirement Fund the amount of
19 the withdrawal, adjusted for interest during the period
20 commencing on the date of the withdrawal and ending on the
21 date of the repayment, which repayment must be made in any
22 combination of the following: a single payment, transfer of
23 Excess Account Balance, or installments to the Retirement Fund
24 in accordance with the Article 1 of Chapter 3, Division 1, Title 2
25 of the Guam Administrative Rules, as amended. If such
26 withdrawn portion of the member's account is not timely repaid
27 in full to the Retirement Fund, then the service that otherwise

1 would be credited under the Retirement Fund for service during
2 the member's active participation in the Defined Contribution
3 System *shall* be reduced to account for the service to which the
4 withdrawal relates, in accordance with rules, regulations, and
5 procedures as promulgated or approved by the Board.

6 (4) Credited Service for Repayment of Prior Retirement
7 Fund Contributions. In the event that the member's account
8 under the Defined Contribution System was previously reduced
9 by the member's withdrawal of an amount from the member's
10 account that is attributable to the prior transfer of employee
11 contributions from the Retirement Fund to the Defined
12 Contribution System (specifically, considering only the portion
13 of the account derived from the transferred Member's
14 Contribution Reserve, and not the Employer's Contribution
15 Reserve) pursuant to the member's election under § 8207, the
16 member *shall* be allowed to repay to the Retirement Fund the
17 amount of the withdrawal, adjusted for interest during the period
18 commencing on the date of the withdrawal and ending on the
19 date of the repayment, which repayment must be made in any
20 combination of the following: a single payment, transfer of
21 Excess Account Balance, or installments to the Retirement Fund
22 in accordance with the Article 1 of Chapter 3, Division 1, Title 2
23 of the Guam Administrative Rules, as amended. If such
24 withdrawn portion of the member's account is not timely repaid
25 in full to the Retirement Fund, then the service that otherwise
26 would be credited under the Retirement Fund for service during
27 the member's prior participation in the Retirement Fund *shall* be

1 reduced to account for the service to which the withdrawal relates
2 in accordance with rules, regulations, and procedures as may be
3 promulgated or approved by the Board.

4 **§ 8504. Transfer of Member Accounts from Defined**
5 **Contribution System; Transfer of Excess Account Balance, If Any.**

6 (a) In connection with credited service transferred from the
7 Defined Contribution Retirement System to the Retirement Fund under
8 § 8503(d)(1), a member's Member Account balances in the Defined
9 Contribution System *shall* be transferred to the Defined Benefit 1.75
10 Retirement System in accordance with this Section.

11 (b) An amount equal to the lesser of a member's:

12 (1) § 8208 and § 8209.1(a) account balances, if any; or

13 (2) actuarial cost of credited service, *shall* be
14 transferred to the Defined Benefit 1.75 Retirement System as set
15 forth in this § 8504(b). The actuarial cost of credited service for
16 a member transferring to the Defined Benefit 1.75 Plan *shall* be
17 funded first from the member's § 8209.1(a) account, if any, and
18 applied to the member's § 8164(a) Member's Contribution
19 Reserve; any further amounts needed to fund up to the actuarial
20 cost of credited service *shall* be funded next from the member's
21 § 8208 pre-tax account and applied to a pre-tax subaccount in the
22 member's § 8164(a) Member's Contribution Reserve. Excess
23 Account Balance, if any, attributable to a member's § 8209.1(a)
24 account *shall* be transferred to the member's post-tax account in
25 the Deferred Compensation Program, except for amounts
26 designated by the member to be applied to repay prior partial
27 withdrawals from the member's account in accordance with §

1 8503(d)(3). Excess Account Balance, if any, attributable to a
2 member's § 8208 Member Contribution Account *shall* be
3 transferred to the member's pre-tax account in the Deferred
4 Compensation Program, except for amounts designated by the
5 member to be applied to repay prior partial withdrawals from the
6 member's account in accordance with § 8503(d)(3).

7 (c) An amount equal to the member's § 8209.1(b) account
8 (Rollover Employer's Contributions from § 8164(b), also referred to as
9 the Transfer Incentive Reserve) *shall* be transferred to the member's
10 pre-tax account in the Deferred Compensation Program, except for
11 amounts designated by the member to be applied to repay prior partial
12 withdrawals from the member's account in accordance with §
13 8503(d)(3).

14 **§ 8505. Defined Benefit 1.75 Plan Member Disability**

15 **Retirement Annuity.**

16 (a) Amount of Disability Retirement Annuity.
17 Notwithstanding the otherwise applicable formula under § 8125 or
18 other successor provision, the amount of basic disability retirement
19 annuity for a Defined Benefit 1.75 Plan member under the Retirement
20 Fund *shall* be fifty percent (50%) of average annual salary based on the
21 average three (3) highest annual salaries received the member during
22 that member's years of credited service. For purposes of defining
23 "salary" and "average annual salary" under § 8104(i) and (j),
24 respectively, with respect to the determination of the basic disability
25 retirement annuity payable to a Defined Benefit 1.75 Plan member, the
26 term "salary" *shall* mean the member's base salary excluding all non-
27 base compensation.

1 (b) Automatic Increases in Annuity for Disability Retirement
2 Annuity. Any Defined Benefit 1.75 Plan member receiving a
3 recomputed disability retirement annuity under the Retirement Fund
4 *shall* receive each year on the anniversary date of the member's
5 retirement or entitlement, an automatic sliding scale increase in the
6 member's annual basic disability retirement annuity as applicable under
7 the Retirement Fund pursuant to § 8129 or other successor provision.

8 **§ 8506. Defined Benefit 1.75 Plan Member Death and**
9 **Survivors Benefits.**

10 The death benefit and survivor annuity provisions in connection with a
11 member's death under §§ 8131 through 8135 or other successor provisions
12 *shall* be applicable to Defined Benefit 1.75 Plan members in a manner no
13 different than the application to members who are not Defined Benefit 1.75
14 Plan members.

15 **§ 8507. Defined Benefit 1.75 Plan Member Contributions to**
16 **Fund.**

17 The member contribution provisions under § 8136 or other successor
18 provision *shall* be applicable to Defined Benefit 1.75 Plan members in a
19 manner no different than the application to members who are not Defined
20 Benefit 1.75 Plan members. However, notwithstanding that the contributions
21 by Defined Benefit 1.75 Plan members are designated as member
22 contributions and *shall* be administered as member contributions under §
23 8136, such contributions *shall* be on a mandatory basis deducted from the
24 member's base salary and paid by the employer in lieu of contributions by the
25 member, and *shall* constitute pre-tax "pick-up" employer contributions for
26 purposes of determining the income tax treatment of such contributions under
27 Section 414(h) of the United States Internal Revenue Code.

1 **§ 8508. Deferred Compensation Program.**

2 In accordance with § 8308, the employer *shall* automatically enroll
3 members and may deduct and credit Defined Benefit 1.75 Plan member
4 contributions under the Deferred Compensation Program in an amount equal
5 to one percent (1%) of the member’s base salary. However, notwithstanding
6 that the contributions by Defined Benefit 1.75 Plan members are designated
7 and *shall* be administered as member contributions under § 8308, such
8 contributions *shall* be on a voluntary basis deducted from the member’s base
9 salary and paid by the employer in lieu of contributions by the member, and
10 *shall* constitute pre-tax “pick-up” employer contributions for purposes of
11 determining the income tax treatment of such contributions under Section
12 414(h) of the United States Internal Revenue Code.”

13 **Section 4. Rules and Regulations.** *No later than* March 31, 2017, the
14 Board of Trustees of the Retirement Fund *shall* approve such plan documents, rules,
15 regulations, administrative procedures and forms that it may deem necessary and
16 appropriate to implement the Defined Benefit 1.75 Retirement System established
17 by this Section.

18 **Section 5. Framework for the Creation, Approval, and Adoption of a**
19 **Cash Balance Plan to be known as the Guam Retirement Security Plan (GRSP).**
20 *No later than* March 31, 2017, the Board of Trustees of the Retirement Fund *shall*
21 create, approve, and adopt a Cash Balance Plan to be known as the Guam Retirement
22 Security Plan (GRSP), plan documents, rules, regulations, administrative
23 procedures, and forms that it may deem necessary and appropriate to implement the
24 GRSP pursuant to the Administrative Adjudication Act in accordance with the
25 following provisions:

- 26 (1) Membership in Guam Retirement Security Plan.

1 (a) Guam Retirement Security Plan. Upon creation, approval,
2 and adoption of a GRSP by the Board of Trustees of the Retirement
3 Fund and beginning on or after April 1, 2017, the government of Guam
4 GRSP *shall* be established in accordance with the regulations created,
5 adopted, and approved by the Board of Trustees of the Retirement Fund
6 and *shall* be the single retirement program for all new employees whose
7 employment commences on or after December 31, 2017, unless such
8 employee elects to participate in the Defined Contribution Retirement
9 System within sixty (60) days of the employee's hire date. Members of
10 the Defined Contribution System whose employment continues beyond
11 June 30, 2017 *shall* continue to contribute to and participate in the
12 Defined Contribution System without change in provisions or benefits,
13 except for members who elect to become GRSP members or as
14 provided from time to time under the Defined Contribution System.

15 (b) Membership in Guam Retirement Security Plan.

16 (i) New Employees. All new employees whose
17 employment commences between April 1, 2017 and December
18 31, 2017, and who satisfy the eligibility requirements for
19 membership in accordance with the GRSP regulations as created,
20 approved, and adopted by the Board of Trustees of the
21 Retirement Fund, may participate in the Retirement Fund as
22 GRSP members in accordance with such eligibility
23 requirements. Beginning January 1, 2018, all new employees
24 whose employment commences on or after January 1, 2018 are
25 automatically enrolled in the GRSP retirement program unless
26 the employee elects to participate in the Defined Contribution
27 System within sixty (60) days from the employee's date of hire.

1 New employees electing to participate in the Defined
2 Contribution Retirement System *shall* contribute to and
3 participate in the Defined Contribution Retirement System as
4 provided in Article 2 of Title 4, Guam Code Annotated. No
5 additional new employees *shall* be admitted to the Existing
6 Retirement System on or after December 31, 2017, except as
7 provided from time to time under the Existing Retirement
8 System. Members of the Existing Retirement System whose
9 employment continues beyond December 31, 2017, *shall*
10 continue to contribute and participate in the Existing Retirement
11 System without change in provision or benefits, except as
12 provided from time to time under the Existing Retirement
13 System. Members of the Defined Contribution System whose
14 employment continues beyond December 31, 2017, *shall*
15 continue to contribute and participate in the Defined
16 Contribution System without change in provisions or benefits,
17 except as provided from time to time under the Defined
18 Contribution System.

19 (ii) Guam Retirement Security Plan Election by Current
20 Employees in Defined Contribution System. All employees who
21 are members in the Defined Contribution System on March 31,
22 2017, *shall* be eligible to elect on a voluntary basis to become
23 GRSP members effective as of January 1, 2018, and to terminate
24 active participation in the Defined Contribution System as of
25 such date, by making the appropriate election with the GRSP in
26 the form and manner as determined by the Board during the
27 election period commencing on April 1, 2017 and ending on

1 September 30, 2017. After having made such election to become
2 a GRSP member, the member may not change such election or
3 again become an active member of the Defined Contribution
4 System. The failure to make such election *shall* be deemed to
5 constitute an election by the member to remain as an active
6 member under the Defined Contribution System or the Defined
7 Benefit 1.75 Retirement System. Such election *shall* not apply to
8 members in the Defined Contribution System who have retired
9 or otherwise terminated employment from government service
10 and who are not employed by the government of Guam at the
11 time of the election and as of the January 1, 2018, effective date
12 of participation in the GRSP.

13 (iii) Reemployment of Existing Retirement System
14 Member. Any employee who is a member in the Existing
15 Retirement System, who leaves government service and who is
16 later reemployed prior to December 31, 2017 by the government
17 of Guam, *shall* become an active member in the Existing
18 Retirement System upon reemployment if such employee has not
19 received a refund of contributions resulting in ineligibility for
20 membership under § 8130(b), and if such employee otherwise
21 meets the eligibility requirements under the Existing Retirement
22 System. However, if such employee has received a refund of
23 contributions under § 8130, and if such employee otherwise
24 meets the eligibility requirements for membership, then such
25 employee *shall* become an active member in the GRSP upon
26 reemployment.

1 (iv) Reemployment of Defined Contribution System
2 Member. Any employee who is a member maintaining an interest
3 in the Defined Contribution System, who leaves government
4 service and who is later reemployed prior to September 30, 2017,
5 by the government of Guam, *shall* become an active member in
6 the Defined Contribution System upon reemployment if such
7 employee otherwise meets the eligibility requirements under the
8 Defined Contribution System.

9 (A) However, if such a member is reemployed
10 during the period commencing on April 1, 2017, and
11 ending on September 30, 2017, then:

12 (aa) the member *shall* be eligible to elect on
13 a voluntary basis to become a member of the GRSP
14 if such member otherwise meets the eligibility
15 requirements for membership;

16 (bb) the election period for this election
17 *shall* be the period commencing on April 1, 2017,
18 and ending on September 30, 2017 (or October 31,
19 2017, for members reemployed during the month of
20 September 2017), and the effective date of the
21 member's membership in the Defined Benefit 1.75
22 Retirement System *shall* be January 1, 2018; and

23 (cc) the member's account under the
24 Defined Contribution System *shall* be subject to
25 transfer to the GRSP in accordance with the
26 regulations created, approved, and adopted by the
27 Board of Trustees of the Retirement Fund.

1 (B) Further, if such a member is reemployed after
2 September 30, 2017:

3 (aa) the member *shall* be eligible to elect on
4 a voluntary basis to become a member of the GRSP
5 if such member otherwise meets the eligibility
6 requirements for membership;

7 (bb) the election period for such election
8 *shall* be the thirty (30) day period beginning on the
9 date of reemployment, and the effective date of the
10 member's membership in the GRSP *shall* be the
11 later of January 1, 2018 or the date of
12 reemployment; and

13 (cc) the member's account under the Defined
14 Contribution System *shall not* be subject to transfer
15 to the Retirement Fund.

16 (v) Reemployment of Defined Contribution System
17 Member on Disability. Notwithstanding the above Section
18 1(b)(ii), a member of the Defined Contribution System who had
19 incurred a disability and at any time been eligible to receive any
20 benefits provided under any long-term disability insurance
21 policy issued pursuant to § 8213 or Article 4 of this Title *shall*
22 not be eligible for membership under the GRSP upon
23 reemployment, but such member who satisfies the eligibility
24 requirements for membership under §§ 8206 and 8207 at such
25 time *shall* participate in the Defined Contribution System in
26 accordance with such eligibility requirements. However, in the
27 case of a member of the Defined Contribution System who is

1 receiving disability benefits under § 8213 or Article 4 of Title 4
2 of the Guam Code Annotated during the period commencing
3 April 1, 2017, and ending on September 30, 2017, such member
4 *shall* be eligible to elect on a voluntary basis to become a member
5 of the GRSP in the event of the member's reemployment or
6 retirement on or after January 1, 2018. For this purpose, the
7 election period for this election *shall* be the period commencing
8 on April 1, 2017, and ending on September 30, 2017 (or October
9 31, 2017, for members who commence receiving disability
10 benefits during the month of September 2017), and the effective
11 date of the member's membership in the GRSP *shall* be the later
12 of:

13 (A) January 1, 2018, or

14 (B) the date of the member's reemployment or
15 retirement.

16 (vi) Reemployment of government of Guam Retiree. Any
17 employee who retired under the Existing Retirement System, the
18 Defined Contribution System, the Defined Benefit 1.75 Retirement
19 System, or the GRSP *shall* participate in the Defined Contribution Plan
20 upon reemployment.

21 (2) Guam Retirement Security Plan Member Framework.

22 (a) GRSP Member Contributions to Fund. All contributions
23 by GRSP members *shall* be mandatory and equal to six and two tenths
24 percent (6.2%) of base pay. Such reductions from base pay, although
25 designated as member contributions, *shall* be deducted by the employer
26 at the normal payroll intervals, *shall* be paid by the employer in lieu of
27 contributions by the member, and *shall* be remitted within five (5)

1 working days to the Retirement Fund. The employer *shall* deduct the
2 member's mandatory contributions required by this Section from
3 member's base pay on or after the first payroll interval following the
4 latest of (i) the enactment of this Act, (ii) January 1, 2017, or (iii) a
5 GRSP member's transfer to the GRSP pursuant to the created,
6 approved, and adopted regulations by the Board of Trustees of the
7 Retirement Fund and contributions so deducted *shall* be treated as
8 employer contributions in determining federal tax treatment under
9 Section 414(h) of the United States Internal Revenue Code. The
10 employer *shall* contribute or pay these member deducted contributions
11 from the same source of funds that is used in paying base pay to the
12 member. Member contributions deducted *shall* be treated for all
13 purposes of the government of Guam Retirement Fund GRSP in the
14 same manner and to the same extent as member contributions made
15 prior to the date of deduction. All member contributions *shall* be
16 immediately credited to member GRSP accounts pursuant to the
17 created, adopted, and approved GRSP regulations by the Board of
18 Trustees of the Retirement Fund.

19 (b) Guam Retirement Security Plan Employer Contribution
20 and Pay Credits. Each employer *shall*, pursuant to Section 5(2)(a),
21 make a contribution to each GRSP member's account pursuant to the
22 created, adopted, and approved GRSP regulations by the Board of
23 Trustees of the Retirement Fund that is equal to six and two tenths
24 percent (6.2%) of such member's base pay. In addition, each
25 participating employer *shall* match the first six and two tenths percent
26 (6.2%) of each member's base pay, which *shall* be known as a "pay
27 credit," and *shall* be paid to the Fund and credited to such member's

1 GRSP account. Each participating employer *shall* ensure that its
2 employer or member contributions are made within five (5) working
3 days. In the case of an officer or an employee of the government of
4 Guam, any unpaid employer contribution *shall* be a government debt,
5 contracted as a result of a casual deficit in the government's revenues,
6 to be accorded preferred status over other expenditures.

7 (c) Interest Credit.

8 (i) The GRSP *shall* include a fixed "interest credit" of
9 four percent (4%) annually toward GRSP member accounts, and
10 such interest credit requirements *shall* be in accordance with the
11 Internal Revenue Code requirements for a Cash Balance Plan to
12 be a qualified retirement plan.

13 (ii) The GRSP *shall* permit gains in excess of the
14 "interest credit" of four percent (4%) to offset losses, in
15 accordance with the Internal Revenue Code for requirements for
16 a Cash Balance Plan to be a qualified retirement plan.

17 (d) Rollover Authorization. The Board of Trustees of the
18 Retirement Fund *shall* include a roll over authorization for GRSP
19 member and employer contributions to either the GRSP or the Deferred
20 Compensation account in the creation, adoption, and approval of such
21 regulations. Such rollover authorization *shall* be in accordance with the
22 Internal Revenue Code requirements for a Cash Balance Plan to be a
23 qualified retirement plan.

24 (e) Vesting Schedule. The Board of Trustees of the
25 Retirement Fund *shall* include a vesting schedule that details vesting
26 for contributions, to include but not be limited to members and
27 employers contributions and interest credits. Such vesting schedule

1 *shall* be in accordance with the Internal Revenue Code requirements for
2 a Cash Balance Plan to be a qualified retirement plan.

3 (3) The Board of Trustees of the Retirement Fund *shall* be
4 authorized to ensure that any GRSP membership and framework requirements
5 identified in this Section *shall* be subject to change at the Board's discretion,
6 *only* if such membership and framework requirements do not conform to
7 Internal Revenue Service regulations for Cash Balance Plan qualifications.

8 **Section 6. Social Security Option.** If the government of Guam is
9 authorized to extend Social Security coverage to government of Guam employees
10 on a prospective basis, whether through one (1) or several voluntary agreements or
11 through a specific statutory provision authorizing such extension, then all employees
12 hired on or after the effective date or dates from which such coverage is extended
13 *shall* be enrolled into Social Security and *shall* not be eligible for the Defined Benefit
14 1.75 Retirement System or the Guam Retirement Security Plan.

15 **Section 7.** § 8208 of Article 2, Chapter 8, Title 4, Guam Code Annotated is
16 hereby *amended* to read:

17 **“§ 8208. Members' Contributions.**

18 All contributions by the members *shall* be mandatory. From the
19 operative date through December 31, 2017, contributions *shall* be equal to
20 five percent (5%) of base pay. On and after January 1, 2018, contributions
21 *shall* be equal to six and two tenths percent (6.2%) of base pay. Such
22 reductions from base pay, although designated as member contributions, *shall*
23 be deducted by the employer at the normal payroll intervals, *shall* be paid by
24 the employer in lieu of contributions by the member, and *shall* be remitted
25 within five working days to the insurance, annuity, mutual fund, or other
26 qualified company or companies designated by the board to administer the
27 operations of the Defined Contribution Retirement System. The employer

1 *shall* deduct the member's mandatory contributions required by this Section
2 from member's base pay on or after the first payroll interval following the
3 latest of (i) the enactment of this Article (ii) October 1, 1995, or (iii) a
4 member's transfer to the Defined Contribution Retirement System pursuant
5 to § 8207, and the contributions so deducted *shall* be treated as employer
6 contributions in determining federal tax treatment under Section 414 (h) of
7 the United States Internal Revenue Code. The employer *shall* contribute or
8 pay these member deducted contributions from the same source of funds
9 which is used in paying base pay to the member. Member contributions
10 deducted *shall* be treated for all purposes of the government of Guam
11 Retirement Fund Defined Contribution Retirement System in the same
12 manner and to the same extent as member contributions made prior to the date
13 of deduction. All member contributions *shall* be immediately credited to an
14 account or accounts established for the benefit of the member under a trust
15 agreement. A summary plan description *shall* be issued to each member
16 setting forth the terms and conditions under which contributions are received,
17 and the investment and retirement options available to the member. The board
18 *shall* promulgate within ninety (90) days after enactment of the law, pursuant
19 to § 8205 of this Article, rules defining the minimum requirements for the
20 investment and retirement options, including but not limited to:

- 21 1. Lump sum distributions of members' accounts which do
22 not exceed an amount established by the board;
- 23 2. Joint and Survivor annuities;
- 24 3. Other annuity forms;
- 25 4. Variable annuities which gradually increase monthly
26 retirement payments; provided, that said increased payments are funded
27 solely by existing current value of the member's account at the time the

1 member's retirement payments commence and not, to any extent, in a
2 manner which would require additional employer or member
3 contributions to any member's account after retirement or after the
4 cessation of employment; and

5 5. The instances in which, if any, distributions or loans can
6 be made from this on account balances prior to having attained the age
7 of fifty-five."

8 **Section 8.** § 8209(a) of Article 2, Chapter 8, Title 4, Guam Code Annotated
9 is hereby *amended* to read:

10 **"§ 8209. Employer Contributions.**

11 (a) Each employer *shall*, pursuant to § 8208, make a
12 contribution to each member's account with respect to each member
13 whose employment commenced on or after October 1, 1995, or who
14 transfers to the Defined Contribution Retirement System pursuant to §
15 8207, which is equal to five percent (5%) of such member's base pay.
16 In addition, each participating employer *shall* match the first five
17 percent (5%) of each member's base pay. On and after January 1, 2018,
18 these contributions herein *shall* be increased to six and two tenths
19 percent (6.2%) of such member's base pay.

20 The amounts contributed herein *shall* vest in accordance with the
21 vesting schedule set forth in of § 8210(c)."

22 **Section 9. Extension of Amortization Period**

23 (a) The first sentence of § 8137(b) of Article 1, Chapter 8, Title 4,
24 Guam Code Annotated is hereby *amended* to read:

25 "(b) Government Unfunded, Liability Amortization Cost. An
26 amount resulting from the application of a rate percent of total salaries

1 of all members which will amortize the remaining liability for prior
2 service over a period of eighty-two (82) years following May 1, 1951.”

3 (b) This Section 9 *shall* be effective January 1, 2018.”

4 **Section 10. Effective Date.** Except as otherwise provided herein, this Act
5 *shall* take effect upon enactment.

6 **Section 11. Severability.** If any provision of this Act or its application to
7 any person or circumstance is found to be invalid or contrary to law, such invalidity
8 *shall not* affect other provisions or applications of this Act that can be given effect
9 without the invalid provisions or applications, and to this end the provisions of this
10 Act are severable.