

AN ACT

To provide for an actuarially sound, locally funded pension system for government employees, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 PART 3

2 RETIREMENT FUND

3 Chap. 1. General Provisions.

4 2. Membership in Retirement Fund.

5 3. Benefits.

6 4. Contributions to Fund.

7 5. Investment of Funds.

8 6. (Reserved.)

9 7. Reserved Accounts.

10 8. Rights and Obligations.

11 Section 8301. Purpose.

12 The purpose of this Act is to provide retirement
13 security and other benefits to government employees, their
14 spouse and dependents, and former Governors and former
15 Lieutenant Governors, and to provide for an actuarially.
16 sound, locally funded pension system pursuant to the
17 Agreement of the Special Representative on Future United
18 States Financial Assistance for the Northern Mariana Islands
19 and in accord with Constitutional provisions protecting the

1 rights of government employees.

2 CHAPTER 1

3 GENERAL PROVISIONS.

4 Section 8311. Short Title.

5 Section 8312. Repealer and Re-enactment.

6 Section 8313. Creation of Northern Mariana Islands
7 Retirement Fund. S8314. Definitions.

8 Section 8315. Retirement Fund: Board of Trustees.

9 Section 8316. Board of Trustees: Powers and Duties.

10 Section 8317. Board of Trustees: Administrator: Powers
11 and Duties.

12 Section 8311. Short Title.

13 This act may be cited as the Northern Mariana Islands
14 Retirement Fund Act of 1988.

15 Section 8312. Repealer and Re-enactment.

16 1 CMC, Division 8, Part 3, Chapters 1 through 8,
17 inclusive, are hereby repealed and reenacted to read as
18 contained in this act.

19 Section 8313. Creation of Northern Mariana Islands
20 Retirement Fund.

21 The Northern Mariana Islands Retirement Fund shall be an
22 autonomous agency and a public corporation of the Government
23 of the Commonwealth of the Northern Mariana Islands.

24 Section 8314. Definitions.

25 In this part, unless the context otherwise requires, words

1 and phrases shall have the following meanings:

2 (a) "Accumulated Contributions" means the sum of
3 all the amounts paid by, or deducted from the
4 compensation of, a member and credited to his/her
5 individual account together with regular interest
6 thereon.

7 (b) "Agent" means a person, firm or organization,
8 other than an employee or Board member, who is engaged
9 by the board to render service.

10 (c) "Annuitant" means any person in receipt of a
11 benefit payable from the Northern Mariana Islands
12 Retirement Fund.

13 (d) "Average Annual Salary" means the average of
14 the three highest annual salaries received by a member
15 during the member's years of credited service or
16 \$6,000.00, whichever is greater.

17 (e) "Beneficiary" means the recipient of any
18 benefit from the system or, as the context may indicate,
19 the natural person or persons designated by a member to
20 receive the benefits payable in the event of his or her
21 death.

22 (f) "Board" means the Board of Trustees provided
23 for herein as the governing body responsible for the
24 direction and operation of the affairs and business of
25 the Fund. Title to all assets of the Fund shall be held

1 instrumentalities of the government, hired on or
2 after the date of this Act.

3 (2) All employees of the government, including
4 employees of all government agencies, government
5 instrumentalities and public corporations, who had
6 an option to become members of the CNMI Retirement
7 Fund prior to the effective date of this Act, but
8 did not elect to become Fund members.

9 (3) All government employees, including
10 employees of all government agencies,
11 instrumentalities and public corporations who had,
12 prior to the effective date of this act, terminated
13 government service and received a refund of
14 contributions previously paid to the CNMI
15 Retirement Fund, and who re-entered employment
16 after the effective date of this act.

17 (4) All government employees who were members
18 of the Fund prior to the effective date of this act
19 and who elect to transfer their membership to
20 Class I membership under the provisions of this
21 act.

22 (m) "Class II Member" means all persons who were
23 Fund members prior to the effective date of this Act,
24 and who do not elect to become Class I members under the
25 terms of this act.

1 for the Fund by the Board or its qualified agents or
2 custodians.

3 (g) "Child" means unmarried child, including an
4 adopted child or recognized natural child, who receives
5 more than one-half of his support from the member and
6 who is under the age of 18 years, or such unmarried
7 child regardless of age who has been examined prior to
8 age eighteen and pronounced by two licensed physicians
9 to be permanently physically or mentally disabled and
10 incapable of self-support.

11 (h) "Custodian" means any agent who is qualified
12 and has assumed the responsibility for the physical
13 possession of Fund assets.

14 (i) "Fund" means the Northern Mariana Islands
15 Retirement Fund.

16 (j) "Investment Agent" means any agent who is
17 qualified and has been engaged by the Board to provide
18 investment advice.

19 (k) "Member" means any person who is included
20 within the membership of the Fund at any time, and
21 includes both Class I and Class II members unless the
22 context indicates otherwise.

23 (1) "Class I Member" means:

24 (1) All employees of the government including
25 employees of all public corporations, agencies and

1 (n) "Regular Interest" means the interest rate as
2 fixed by the Board.

3 (o) "Salary" means the amount received by an
4 employee for service as shown on the employee's form W-2
5 wage and tax statement.

6 (p) "Service" means actual employment by the
7 Government as an employee for salary or compensation, or
8 service otherwise creditable as herein provided.

9 (q) "Membership Service" means service rendered on
10 or after becoming a member of the Fund.

11 (r) "Prior Service" means service rendered prior to
12 becoming a Fund member.

13 (s) "Credited Service" means prior service and
14 membership service, plus accumulated sick leave.

15 (t) "Spouse" means the person to whom an individual
16 is legally married.

17 (u) "Education Service" means that period of time
18 when a member attended an accredited institution of
19 higher learning as prescribed by rules and regulations
20 to be promulgated by the Board; provided, that the
21 member must have obtained a degree and that a maximum of
22 two years of service will be earned for a completed
23 associates degree and a maximum of four years of service
24 will be earned for a completed bachelors degree or
25 higher.

1 (v) "Military Service" means that period of time
2 when a member served in the Armed Forces of the United
3 States, including but not limited to the Army, Navy, Air
4 Force, Marine Corps, and Coast Guard.

5 (w) "Vesting Service" means the sum of credited
6 service, education service and military service, which
7 service shall be deemed creditable for the purpose of
8 determining a member's eligibility for the additional
9 five (5) years of credited service pursuant to
10 "Constitutional Amendment # 19." Vesting Service shall
11 only be used to determine whether a member is eligible
12 for benefits and shall not be used to determine the
13 amount of benefits to be paid to a member, be used to
14 determine the amount of benefits to be paid to a member.

15 **Section 8315. Retirement Fund: Board of Trustees.**

16 (a) All powers vested in the Fund shall be
17 exercised by the Board of Trustees, composed of seven
18 members called trustees, appointed by the the Governor
19 with the advice and consent of the Senate. The Board
20 shall select a chairman by a majority vote. Members
21 shall serve for a term of four years. Trustees of the
22 Fund prior to the effective date of this Act shall
23 continue to serve the remainder of their previous term.
24 Vacancies shall be filled in the same manner as the
25 original appointment.

1 (b) Four members constitute a quorum of the Board
2 for the transaction of business. The concurrence of
3 four members constitutes official action of the Board.
4 The Board may adopt rules and regulations governing the
5 conduct of its affairs.

6 (c) Each Trustee of the Board shall receive
7 compensation for attendance at meetings of the Board at
8 a rate established by the Board in conformance with
9 Commonwealth Law. No Trustee may receive any other
10 compensation, but shall be reimbursed for actual travel,
11 subsistence and out-of-pocket expenses incurred in the
12 discharge of the Trustee's responsibilities.

13 (d) No Trustee shall be liable for any decision
14 made in the good faith non-malicious fulfillment of his
15 or her duties.

16 Section 8316. Board of Trustees: Powers and Duties.

17 The Fund, through its Trustees, has the following powers
18 and duties:

19 (a) To establish, maintain and operate a Retirement
20 Fund program for the public employees of the
21 Commonwealth.

22 (b) To establish its internal organization and
23 management.

24 (c) To adopt a seal.

25 (d) To sue or be sued in its corporate name.

1 (e) To employ, retain or contract with individuals
2 or organizations for their services as qualified
3 managers and specialists.

4 (f) To adopt rules and regulations as necessary for
5 the exercise of the Fund's powers, performance of its
6 duties and administration of its operations.

7 (g) To adopt and maintain a travel authorization
8 policy consistent with the laws and policies of the
9 Commonwealth.

10 (h) To provide for the installation of a system of
11 accounts and records which will give full effect to the
12 requirements of this act; to adopt all necessary
13 actuarial tables to be used in the operation of the
14 Fund; and to provide for the compilation of statistical
15 and financial data as required for actuarial valuations,
16 periodic surveys and calculations.

17 (i) To obtain information from the participating
18 members and government as necessary for the proper
19 operation of the Fund.

20 (j) To authorize expenditures in accordance with
21 the provisions of this act.

22 (k) To accept any gift, grant or bequest of any
23 money or property of any kind for the purposes
24 designated by the grantor, if the purposes are specified
25 as providing cash benefits to some or all of the members

1 or annuitants of the Fund; if no such purposes are
2 designated, the benefits are to be credited to the
3 account representing income from investments.

4 (1) To have the accounts of the Fund audited as of
5 the end of each fiscal year, and submit an annual report
6 to the government as soon as possible following the
7 close of the year, embodying, among other things, a
8 balance sheet showing the financial and actuarial
9 condition of the Fund; a statement of income and
10 expenditures for the year; a statement showing changes
11 in the assets, liabilities and reserves during the year;
12 a statement of investment owned by the Fund; and other
13 financial or statistical data as necessary for a proper
14 interpretation of the condition of the Fund and the
15 result of its operation. The Board shall also cause a
16 synopsis of the report to be published for distribution
17 among the members.

18 (m) To appoint an attorney, under such arrangements
19 as the Board may establish, to advise the Board and the
20 Administrator on all legal matters to which the Fund is
21 a party or in which the Fund is legally interested, and
22 represent the Fund in connection with legal matters
23 before the Executive Branch, Legislature, Boards and
24 other agencies of the Commonwealth and before courts in
25 any jurisdiction.

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

Section 8317. Board of Trustees; Administrator; Powers and Duties.

(a) The Board shall appoint an Administrator to be its chief executive officer. The Administrator serves at the pleasure of the Board, which shall fix his compensation in a manner consistent with the laws and policies of the Commonwealth. The Administrator shall have full charge and control of the operation and maintenance of the Fund.

(b) The Administrator has the following powers and duties:

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

(2) To attend, unless excused by the Board, all meetings of the Board and to submit reports on the affairs of the Fund as required by the Board.

(3) To keep the Board advised on the needs of the Fund and approve demands for payment of obligations within the purposes and amount authorized by the Board.

(4) To keep all books, records, files and accounts of the Fund and receive and act on

1 all applications for annuities, benefits, and
2 refunds.

3 (5) To prepare periodic reports relative
4 to the operations of the Fund and an annual
5 report as of the close of each fiscal year
6 reflecting the results of the financial
7 operations of the Fund and embodying all
8 important financial and statistical data
9 pertinent to its operation.

10 (c) The Administrator may employ clerical, medical,
11 or other assistance as necessary for the proper
12 administration of the Fund. The Administrator may also
13 engage actuarial or other professional services to
14 assist in the preparation of the annual reports, to
15 advise in matters of policy and to make the periodic
16 actuarial surveys. The costs and expenses of the
17 administration of the Fund, including any custodial and
18 audit fees incurred in connection with the financial
19 operations of the Fund, shall be paid out of the Fund.
20 At least once every five years an actuarial survey and
21 investigation shall be made of the operating experience
22 of the Fund, including a study of rates of mortality,
23 disability, retirement, separation and other essential
24 factors relating to the operation of the Fund. The
25 survey shall also provide for a verification or

1 redetermination of the rates of contributions by the
2 government. The cost of the survey shall be paid from
3 the Fund.

4 CHAPTER 2.

5 Membership in Retirement Fund.

6 Section 8321. Election of Membership Class.

7 Section 8322. Fund Membership: Ineligible Persons.

8 Section 8323. Prior Service Credit for Class I Members.

9 Section 8324. Requirements for Credit for Prior Service
10 for Class I Members.

11 Section 8325. Prior Service Credit for Class II
12 Members.

13 Section 8326. Requirements for Credit for Prior Service
14 for Class II Members.

15 Section 8327. Prior Service Administrative Provisions.

16 Section 8328. Certification of Service: Affidavits
17 Invalid.

18 Section 8329. Education Service Credits.

19 Section 83210. Requirements for Education Service
20 Credits.

21 Section 83211. Military Service Credits.

22 Section 83212. Requirements for Military Service
23 Credits.

24 Section 8321. Election of Membership Class.

25 All Class II members shall have the option of transferring

1 to Class I membership.

2 (a) Exercise of the option to transfer membership
3 shall be made on forms to be provided by the Board.

4 (b) Exercise of the option may be made anytime
5 after the effective date of this act. Failure to
6 exercise the option shall be deemed a rejection of the
7 option.

8 (c) All members electing to transfer membership
9 from Class II to Class I shall receive a refund of the
10 additional 3.5% of salary member contributions made to
11 the Fund, plus regular interest thereon, for a maximum
12 period of 12 months beginning from the effective date of
13 this act.

14 Section 8322. Fund Membership: Ineligible Persons.

15 The following employees are not eligible for membership:

16 (a) Persons whose services are compensated on a fee
17 basis.

18 (b) Independant contractors.

19 (c) Persons whose employment is for a specific projec

20 The Board shall determine who are employees and entitled t
21 membership within the meaning of this part.

22 Section 8323. Prior Service Credit for Class I Members.

23 All persons becoming Class I members of the Fund pursuant
24 the terms of this act and meeting all other requirements of thi
25 act may be entitled to prior service credit for:

1 (a) Service rendered prior to October 1, 1980 for
2 the Government of the Trust Territory of the Pacific
3 Islands, and for the Government of the United States
4 including any agencies and instrumentalities thereof,
5 provided such services was rendered in the Northern
6 Mariana Islands;

7 (b) Service rendered after April 1, 1976, for the
8 Government of the Northern Mariana Islands or the
9 Commonwealth of the Northern Mariana Islands, their
10 agencies, instrumentalities and public corporations.

11 Section 8324. Requirements for Credit for Prior Service
12 for Class I Members.

13 (a) Each Class I member may elect, in writing, on a
14 form to be prescribed by the Board, to be credited for
15 prior service credit. Such election must be made by
16 persons becoming Class I members on the effective date
17 within 180 days. Persons becoming Class I members after
18 the effective date must elect to be credited for prior
19 service within 180 days of the effective date or within
20 30 days of their becoming a Class I member, whichever is
21 later. Failure to apply to be credited for prior .
22 service credit shall be deemed to be a rejection of the
23 election to be credited for prior services.

24 (b) Each person becoming a Class I member pursuant
25 to the term of this act, and who elects to receive

1 credit for prior service, shall receive such credit only
2 upon paying to the Fund the sum of:

3 (i) 6.5% of all salary received for such
4 prior service performed for the Government of
5 the Commonwealth of the Northern Mariana
6 Islands after October 1, 1980; and

7 (ii) 13% of all salary received for such
8 prior service from the Trust Territory of the
9 Pacific Islands after October 1, 1980; and

10 (iii) 13% of all salary rendered to the
11 Peace Corps in the Northern Mariana Islands
12 from October 1, 1980.

13 All payments made under this section shall
14 include regular interest from the time the salary
15 was first paid to the individual. Such payment
16 shall be paid by lump sum or through payroll
17 deduction over a period not to exceed the normal
18 retirement date of the member or seven years of the
19 effective date of membership whichever is earlier.

20 (c) In the event of Class I member who has
21 elected to be credited for prior service dies,
22 leaving survivors entitled to an annuity prior to
23 the member having fully paid the contributions
24 necessary to be entitled to prior service credit,
25 such prior service shall be credited but the

1 annuity of the survivors shall be reduced by 50%
2 and such amount plus interest shall be credited
3 against the unpaid contributions plus interest
4 until they have been paid in full, at which time
5 full benefits shall resume.

6 (d) Any Class I member who retires or becomes
7 disabled having elected to receive prior service
8 credit but before having fully paid the
9 contributions necessary to be entitled to prior
10 service credit shall be credited with such prior
11 service but the benefits of such member shall be
12 reduced by 50% and such amount shall be credited
13 against the unpaid contributions and interest until
14 they have been paid in full, at which time full
15 benefits shall resume.

16 (e) No Class I member, except employees of the
17 CNMI hired after October 1, 1980 who were age 60 or
18 over at date of hire or who would have twenty years
19 or more of credited service from the sum of prior
20 service and contributing membership service, shall
21 receive or be entitled to prior service credit for
22 service rendered before October 1, 1980 unless such
23 person has completed at least three years of
24 contributing membership service after the effective
25 date of this act, and complied with the other

1 requirement herein.

2 Section 8325. Prior Service Credit for Class II
3 Members. Each person who was a member of the Fund prior
4 to the effective date of this act shall be entitled to
5 prior service credit for service rendered to the
6 Government of the Northern Mariana Islands; the
7 Government of the Trust Territory of the Pacific Islands
8 provided that such service after October 1, 1980 was
9 rendered in the Northern Mariana Islands; and the
10 Government of the United States including any agencies
11 and instrumentalities thereof, provided that such
12 services was rendered in the Northern Mariana Islands
13 prior to October 1, 1980 or, in case of the Peace Corps,
14 prior to February 5, 1983.

15 (a) In the case of any Class II member who has
16 made any contribution to any retirement fund in
17 connection with service for which he is entitled to
18 prior service credit, and who has received any
19 refund of that contribution, the allowance of prior
20 service credit shall be conditioned upon the person
21 making a contribution to the Fund in the full
22 amount of refund. Payment of such contributions
23 shall be made in lump sum, or in installments as
24 provided for Class I members. Regular interest
25 thereon shall begin to accrue from the operative

1 date, which interest shall become a part of the
2 principal sum to be paid by the person.

3 (b) No Class II member who was not in service
4 on October 1, 1980, except employees of the
5 Commonwealth of the Northern Mariana Islands hired
6 after October 1, 1980 who would have twenty years
7 or more of credited service from the sum of prior
8 service and contributing membership service, shall
9 receive or be entitled to prior service credit for
10 service rendered before October 1, 1980 unless such
11 person has completed at least three years of
12 contributing membership service and complied with
13 the other requirements herein.

14 (c) In the case of any Class II member who is
15 receiving any monetary benefit for the same service
16 from the United States Civil Service Retirement
17 System, the member shall receive benefits from the
18 Fund reduced by the amount of monetary benefit
19 received from the United States Civil Service
20 Retirement System.

21 (d) Persons who are Class II members on the
22 effective date of this act shall be entitled to
23 prior service credit under the terms of this
24 section notwithstanding any election on the part of
25 such individual to transfer to Class I membership.

1 (e) Notwithstanding any other provision of
2 law, the current or prior employees of the Saipan
3 Credit Union shall be entitled to prior service
4 credit for all service rendered in such employment
5 capacity before January 1, 1990, and provided
6 that the provisions of this Section are observed.

7 (f) Notwithstanding any other provision of
8 law, those persons serving, or who at any time
9 served, as members of any local Municipal Council
10 shall be entitled to prior service credit for all
11 service rendered in such capacity for the term of
12 office; provided that any such individual did not
13 concurrently hold any government position which
14 entitled that person to service credit; and
15 provided that the provisions of this Section are
16 observed.

17 Section 8326. Requirements for Credit for Prior
18 Service for Class II Members. Each person who was a
19 member of the Fund prior to the effective date of this
20 act and who elected to receive credit for prior service
21 subsequent to October 1, 1980, shall receive such credit
22 only upon paying to the Fund the sum of:

23 (a) 6.5% of all salary received for such prior
24 service performed for the Government of the
25 Commonwealth of the Northern Mariana Islands after

1 October 1, 1980; and

2 (b) a percentage of each year's salary
3 received for such service performed for the Trust
4 Territory of the Pacific Islands after October 1,
5 1980, whereby the percentage shall be determined as
6 the sum of the member contributions as required by
7 Section 8341 and the government contributions as
8 required by Section 8342; and

9 (c) a percentage of each year's salary
10 received for such services performed for the Peace
11 Corps after October 1, 1980, whereby the percentage
12 shall be determined as the sum of the member
13 contributions as required by Section 8341 and the
14 government contributions as required by Section 8342.

15 All payments made under this section shall
16 include regular interest from the time the salary
17 was first paid to the individual.

18 Section 8327. Prior Service Administration

19 Provisions.

20 (a) Each member entitled to prior service
21 credit shall file with the Board, on a form
22 prescribed by the board and under rules it may
23 adopt, a detailed statement of all prior service
24 for which the member claims credit. Such credit
25 shall be verified by the Board as soon as

1 practicable after the statement is filled. When
2 verified, the Board shall cause to be issued a
3 certificate of prior service, certifying to the
4 member the length of prior service for which credit
5 has been granted.

6 (b) Except for the correction of error, the
7 certificate of prior service shall be final and
8 conclusive for the purposes of the Fund as to such
9 service, provided, that any member may within one
10 year from the date of original issuance of the
11 certificate, request the Board to modify or correct
12 the prior service certificate. The certificate
13 shall be cancelled automatically upon receipt by a
14 member of a refund of his contributions. The
15 certificate may be reinstated only under the
16 conditions prescribed by this act.

17 Section 8328. Certification of Service:

18 Affidavits Invalid. Affidavits will no longer be a
19 valid means of certifying to creditable service after
20 one year from the effective date of this act.

21 Section 8329. Education Service Credits. Vesting
22 service shall be given for attendance at an accredited
23 institution of higher learning as provided by rules and
24 regulations to be promulgated by the Board; provided,
25 that the member must have obtained a degree and that a

1 maximum of two years of vesting service credit shall be
2 given for a completed associates degree and a maximum of
3 four years of vesting service credit shall be given for
4 a completed bachelors degree or higher.

5 Section 83210. Requirements for Education Service
6 Credits.

7 (a) Each member may elect, in writing, on a
8 form to be prescribed by the Board, to receive
9 vesting service credit for education service. Such
10 election must be made within 90 days of the later
11 of the effective date of this act, the date the
12 person became a member of the Fund, or the date the
13 member obtained the degree from the accredited
14 institution of higher learning. Failure to
15 exercise the option shall be deemed a rejection of
16 the option. The member shall be required to submit
17 the transcript or diploma from the accredited
18 institution of higher learning to receive such
19 vesting service credits.

20 Section 83211. Military Service Credits. Vesting
21 service credit shall be given for service in the Armed
22 Forces of the United States, including but not limited
23 to the Army, Navy, Air Force, Marine Corps, and Coast
24 Guard; provided, that the member must have received an
25 honorable discharge and that a maximum of two years of

1 vesting service credit shall be given for such military
2 service.

3 Section 83212. Requirements for Military Service
4 Credits.

5 (a) Each member may elect, in writing, on a
6 form to be prescribed by the Board, to receive
7 vesting service credit for military service. Such
8 election must be made within 90 days of the later
9 of the effective date of this act, the date the
10 person became a member of the Fund, or the member
11 received the honorable discharge from the military.
12 Failure to exercise the option shall be deemed a
13 rejection of the option. The member shall be
14 required to submit such evidence of military
15 service as may be required by the Board.

16 CHAPTER 3.

17 Benefits.

18 Section 8331. Normal Retirement Benefits for Class I
19 Members.

20 Section 8332. Early Retirement Benefits for Class I
21 Members.

22 Section 8333. Retirement: Class II Members.

23 Section 8334. Retirement Annuity for Class II Members.

24 Section 8335. Occupational Disability Benefits.

25 Section 8336. Non-Occupational Disability Benefits.

1 Section 8337. Disability: Administrative Provisions.

2 Section 8338. Benefits: Death Prior to Retirement

3 Without Survivor Benefits.

4 Section 8339. Benefits: Death After Retirement Without

5 Survivor Benefits.

6 Section 83310. Benefits: Survivor Annuities for Class I

7 Members.

8 Section 83311. Benefits: Survivor Annuity Rate Formula

9 for Class I Members.

10 Section 83312. Benefits: Survivor Annuities for Class II

11 Members.

12 Section 83313. Benefits: Survivor Annuity Rate Formula

13 for Class II Members.

14 Section 83314. Benefit Improvement for Class II Members.

15 Section 83315. Contingency Benefit.

16 Section 83316. Benefits: Refund on Separation.

17 Section 83317. Special Benefits for Governor and

18 Lieutenant Governor.

19 Section 8331. Normal Retirement Benefits for Class

20 I Members. Any Class I member who is at least 62 years

21 of age and who has three years of contributing

22 membership service from the effective date of this act,

23 may retire on a service retirement annuity upon written

24 application to the Board of Trustees except that

25 employees of the Commonwealth of the Northern Mariana

1 Islands who were hired after October 1, 1980, but prior
2 to the effective date of this act and were 60 years of
3 age or older on date of hire may retire with three years
4 of credited prior service. Such members shall receive
5 an annual annuity upon retirement calculated as
6 followed:

7 (a) For Class I members retiring with less
8 than 25 years of credited service the annual
9 annuity shall be 2.5 percent times the average
10 annual salary times years of credited service with
11 a maximum of no more than 50 percent times average
12 annual salary.

13 (b) For Class I members retiring with 25 years
14 or more of credited service the annual annuity
15 shall be 50 percent times average annual salary,
16 plus 2 1/2 percent times average annual salary
17 times all credited service in excess of 25 years,
18 not to exceed 85 percent of average annual salary
19 at the time of retirement.

20 (c) Notwithstanding the foregoing, in no event
21 shall the annual annuity of any member entitled to
22 normal retirement be less than \$1,200, provided
23 that such minimum annuity may be reduced by 50
24 percent as provided herein if contributions for
25 prior service credit have not been paid in full.

1 (d) For service rendered by a member after
2 January 8, 1978 as Governor, Commonwealth Trial
3 Court Judge, Lieutenant Governor, Mayor, member of
4 the legislature, Resident Representative to the
5 United States, an additional three percent times
6 average annual salary times years of service in
7 such capacity, provided, however, that such
8 additional credit may not increase the annuity
9 payable to more than 100% of of the highest annual
10 salary received.

11 (e) Class I members in receipt of service
12 retirement annuity shall be entitled to a 2 percent
13 annual cost of living increase commencing on the
14 anniversary of the member's retirement date
15 provided the member is at least 62 years of age.
16 The cost of living increase shall be computed
17 utilizing simple interest.

18 Section 8332. Early Retirement Benefits for Class
19 I Members. Any Class I member who has attained 52 years
20 of age and has a minimum of 10 years of vesting service,
21 or any member who has achieved a minimum of 25 years of
22 vesting services, may elect to take early retirement,
23 upon written application of the Board of Trustees,
24 provided such member has at least three years of
25 credited service earned after the effective date of this

1 act.

2 (a) Any Class I members electing to take early
3 retirement shall receive an amount equal to the
4 amount the member would have been entitled to at
5 normal retirement age reduced by an actuarially
6 determined amount for each month the member is
7 under 62 years of age.

8 (b) Any Class I member who elects to receive
9 prior service credit and who takes early retirement
10 prior to having fully paid the contributions
11 necessary to be entitled to prior service credit
12 shall be credited with such prior service but the
13 benefits of such member shall be reduced by 50% and
14 such amount shall be credited against the unpaid
15 contributions plus regular interest until they have
16 been paid in full, at which time full benefits
17 shall resume.

18 Section 8333. Retirement: Class II Members.

19 (a) Any Class II member who is at least 60
20 years of age may retire on a service retirement
21 annuity upon written application to the Board.

22 (b) Any Class II member who has 25 years of
23 vesting service may retire on a service retirement
24 annuity upon written application to the Board.

25 Section 8334. Retirement Annuity for Class II

1 **Members.** Class II members retirement annuity shall be
2 calculated as follows:

3 (a) An amount equal to 2 percent of average
4 annual salary for each of the first ten years of
5 credited service, and 2.5 percent of average annual
6 salary for each year or part thereof of credited
7 service over ten years.

8 (b) In addition, there shall be added to the
9 amount set forth in subdivision (a) an amount equal
10 to \$20 multiplied by each year of credited service,
11 the total of which shall then be reduced by an
12 amount equal to 1/100 of 1 percent of the total for
13 each \$1 that a member's average annual salary
14 exceeds the amount of \$6,000.

15 (c) No basic annuity shall exceed 85 percent
16 of the average annual salary at time of retirement.

17 (d) The basic minimum annual annuity shall not
18 in any case be less than \$1,200 per year per
19 member.

20 (e) Members in receipt of service retirement
21 annuity shall be entitled to a 2 percent cost of
22 living increase commencing on the anniversary of
23 the member's retirement date, provided the member
24 is at least 62 years of age. The cost of living
25 increase shall be computed utilizing simple

1 interest.

2 (f) For service rendered by a member after
3 January 8, 1978 as Governor, Commonwealth Trial
4 Court Judge, Lieutenant Governor, Mayor, member of
5 the legislature, Resident Representative to the
6 United States, an additional three percent times
7 average annual salary times years of service in
8 such capacity, provided, however, that such
9 additional credit may not increase the annuity
10 payable to more than 100% of of the highest annual
11 salary received.

12 Section 8335. Occupational Disability Benefits.

13 (a) Any member who becomes totally and
14 permanently disabled for service from an
15 occupational cause shall receive an annuity equal
16 to 66-2/3 percent of the salary such member was
17 receiving at the time the disability was incurred.
18 Such annuity shall continue until the member
19 reaches 62 years of age.

20 (b) Upon reaching 62 years of age a disability
21 annuitant shall have such annuity recomputed
22 utilizing the normal retirement annuity formula for
23 Class I members with an assumption that the
24 annuitant had continued working as a member until
25 age 62 with the same salary being received as was

1 received at the time the disability was incurred.
2 Such annuitant shall also, upon reaching age 62 be
3 entitled to cost of living allowances equal to
4 those received by members receiving a normal
5 retirement annuity. For Class II annuitants no
6 recomputation shall result in an annuity of less
7 than the individual received under subparagraph
8 (a).

9 **Section 8336. Non-Occupational Disability**

10 **Benefits.** Any member with at least eighteen months of
11 vesting service who becomes totally and permanently
12 disabled for service from non-occupational causes shall
13 receive the same benefits as those provided members with
14 an occupationally caused disability.

15 **Section 8337. Disability: Administrative**

16 **Provisions.**

17 (a) A member shall be considered totally and
18 permanently disabled after the Board receives
19 written certification by at least two licensed and
20 practicing physicians selected by the Board that
21 the member is totally and permanently disabled for
22 the further performance of the duties of any
23 assigned position in the service of the government.
24 If, upon consideration of the reports of the
25 physicians and any other evidence presented to the

1 Board by the member or others interested therein,
2 the Board finds the member to be totally and
3 permanently disabled, it shall grant the member a
4 disability retirement annuity upon written
5 certification that the member has been separated
6 from the service of the employer because of total
7 disability of such nature as to reasonably prevent
8 further service for the employer, and as a
9 consequence is not entitled to compensation from
10 the government.

11 (b) At least once each year during the first
12 five years following the allowance of a disability
13 annuity to any member, and at least once in every
14 three-year period thereafter, the Board shall
15 require any disability annuitant to undergo a
16 medical examination to be made at the place of
17 residence of the annuitant, or at any other place
18 mutually agreed upon, by a physician or physicians
19 engaged by the Board. If any examination indicates
20 that the annuitant is no longer physically of
21 mentally incapacitated for service, or that the
22 annuitant is engaged or is able to engage in a
23 gainful occupation, payments of the disability
24 annuity by the Fund shall be discontinued.

25 (c) Notwithstanding the foregoing section, if

1 the annuitant becomes able to resume a gainful
2 occupation but the earnings therefrom are less than
3 the salary at the date of retirement or the salary
4 currently paid for similar positions, whichever is
5 lower, the Board shall continue the disability
6 allowance in an amount which when added to the
7 annuitant's earnings from a gainful occupation,
8 shall not exceed his or her salary at the date of
9 retirement.

10 (d) If any disability annuitant refuses to
11 submit to a medical examination as herein provided,
12 payments by the Fund shall be discontinued until
13 the member submits to such an examination. If the
14 refusal continues for one year, all rights of the
15 member in any disability annuity shall be
16 permanently revoked by the Board.

17 (e) Any disability annuitant restored to
18 active service shall have deductions taken for the
19 retirement fund and upon subsequent retirement have
20 his retirement allowance based upon all allowable
21 service including that upon which the disability
22 allowance is based.

23 (f) An occupational disability is a disability
24 which is the natural and proximate result of an
25 accident occurring while in the performance of duty

1 at some definite time or place, or as the
2 cumulative result of some occupational hazard,
3 through no willful negligence on the part of the
4 employee.

5 (g) Any member who receives any payment when a
6 disability has been sustained under circumstances
7 creating in some person or entity a legal liability
8 to pay damages for loss of income, and the disabled
9 member elects to claim a disability annuity, the
10 Fund shall be subrogation to the rights of the
11 disabled member insofar as any claim for loss of
12 wages exist. In the event of such subrogation, the
13 Board in its sole discretion may decide what action
14 to take, if any, to enforce such rights as it has
15 attained by the subrogation. Such subrogation
16 shall not limit or effect rights to other claims,
17 including but not limited to claims for pain and
18 suffering, mental anguish, loss of consortium, that
19 the member may have against the person or entity
20 causing the disability. Any recovery by way of
21 such subrogation in excess of the actuarially
22 calculated present value of the disability annuity
23 shall be returned to the member.

24 (h) Any annuity received by Class I member as
25 a result of any disability shall be reduced by an

1 amount equal to any sum the member is entitled to
2 from U.S. Social Security, any workman's
3 compensation insurance or any other insurance
4 covering such disability.

5 Section 8338. Benefits: Death Prior to Retirement
6 Without Survivor Benefits. Upon death of a member
7 occurring before his or her retirement on a retirement
8 annuity, leaving no persons eligible for survivor
9 annuities as provided herein, the following shall be
10 payable:

11 (a) For Class I members, a refund of one third
12 of the total amount of contributions made by the
13 member, including regular interest, for Class II
14 members, a refund of the total amount of
15 contributions made by the member, including regular
16 interest, and

17 (b) If the member was an employee at the date
18 of death, a single death benefit payment in the
19 amount of \$1,000.00. Payment of these refunds and
20 benefits shall be made to a beneficiary or
21 beneficiaries designated by the member in a
22 nomination petition filed with the Board, or if no
23 such designation has been made, payment shall be
24 made as follows:

25 (1) If a surviving spouse survives and

1 there are no children, the spouse shall
2 receive the refund.

3 (2) If a child or children but no spouse
4 survive the member, the children shall share
5 the refund equally.

6 (3) If a surviving spouse and a child or
7 children survive the member, the spouse shall
8 receive fifty percent (50%) of the refund and
9 the children fifty percent (50%) divided
10 equally amongst them.

11 (4) If no spouse or children survive the
12 member, but parents of the member survive, the
13 parents shall share the refund equally. If
14 only one parent survives, he or she shall
15 receive the entire refund.

16 (5) If no spouse, parent or children
17 survive the member, any sibling of the member
18 shall share the refund equally.

19 (6) If no parents, spouse, children, or
20 siblings survive the member, and no
21 beneficiary has been designated, the refund
22 shall be paid to the estate of the member.

23 (7) The administrator shall provide forms
24 to members on which the members shall indicate
25 their family members. For purposes of a

1 refund of contributions, the information
2 provided by the member shall be final and
3 conclusive.

4 Section 8339. Benefits: Death After Retirement
5 Without Survivor Benefits. Upon death of a member while
6 in receipt of a service retirement annuity or disability
7 retirement annuity, leaving no person entitled to
8 survivor annuities as provided herein, the following
9 shall be payable:

10 (a) For Class I members, the total amount of
11 one-third of the total contributions made by the
12 member, including regular interest less the total
13 amount of annuity payments received by the member,
14 whereas, for Class II members, the total amount of
15 the contributions made by the member, including
16 regular interest less the total amount of annuity
17 payments received by the member, and

18 (b) A single sum death benefit payment in the
19 amount of \$1,000.00.

20 Payments of these refunds and benefits shall
21 be made to the beneficiary or beneficiaries
22 designated by the member, in a nomination petition
23 filed with the Board, or if no such designation has
24 been made, payment shall be made as follows:

25 (1) If a surviving spouse survives and

1 there are no children, the spouse shall
2 receive the refund.

3 (2) If a child or children but no spouse
4 survive the member, the children shall share
5 the refund equally.

6 (3) If a surviving spouse and a child or
7 children survive the member, the spouse shall
8 receive fifty percent (50%) of the refund and
9 the children fifty percent (50%) divided
10 equally amongst them.

11 (4) If no spouse or children survive the
12 member, but parents of the member survive, the
13 parents shall share the refund equally. If
14 only one parent survives, he or she shall
15 receive the entire refund.

16 (5) If no spouse, parent or children
17 survive the member, any siblings of the member
18 shall share the refund equally.

19 (6) If no parents, spouse, children, or
20 siblings survive the member, and no
21 beneficiary has been designated, the refund
22 shall be paid to the estate of the member.

23 (7) The administrator shall provide forms
24 to members on which the members shall indicate
25 their family members. For purposes of a

1 refund of contributions, the information
2 provided by the member shall be final and
3 conclusive.

4 Section 83310. Benefits - Survivor Annuities for
5 Class I Members. Upon death of a Class I member while
6 in service having completed at least eighteen months of
7 vesting service, or death of a Class I member who is in
8 a receipt of a disability or retirement annuity,
9 survivor's benefits shall be payable:

10 (a) If a spouse and children survive, spouse
11 and children's annuities shall begin as of the date
12 of death of the member, and shall continue until
13 such minor children attain the age of 18 years old,
14 are married, or die.. Spousal benefits discontinued
15 by virtue of these provisions shall be reinstated
16 upon the spouse attaining age 62 along with the
17 cost of living increase of 2% per annum, calculated
18 utilizing simple interest.

19 (b) If a minor child or children survive the
20 member, and no parent or child is living, an
21 annuity shall begin immediately upon the death of
22 the member and continue until the child reaches 18
23 years of age, is married or dies.

24 (c) If a spouse survives the member, and there
25 are no minor children, spousal benefits will

1 commence upon the spouse attaining age 62 along
2 with cost of living increases of 2% per annum,
3 calculated utilizing simple interest.

4 (d) Payment of spousal and children's
5 annuities shall be continued up to the child
6 reaching 22 years of age, provided such child or
7 children are full time students in an accredited
8 college, university or educational institution.

9 (e) If any minor child or children is
10 disabled, spousal and the child or children's
11 annuities shall continue until such child or
12 children's death or loss of disability. This
13 section shall apply only where the child has been
14 examined by two licensed physicians, approved by
15 the Board, prior to attaining age 18 and has been
16 found in a report submitted to the Board of
17 Trustees to be permanently and totally disabled.
18 The Board may request further examinations and
19 reports in its discretion.

20 Section 83311. Benefits: Survivor Annuity Rate
21 Formula for Class I Members. The annual survivor
22 annuity payable for Class I members shall be as follows:
23 (a) Spouse - The basic annual survivor annuity
24 shall be equal to 50 percent of the normal
25 retirement annuity accrued by the member at the

1 Class II Members.

2 (a) Upon death of a Class II member, while in
3 service, having completed at least three years of
4 vesting service, if a surviving spouse or minor
5 children survive the member, the following
6 annuities shall be payable:

7 (1) If a spouse survives, an annuity
8 shall begin as of the date of the death of the
9 member if the surviving spouse shall then have
10 attained the age of at least 35 years, or if
11 the surviving spouse is under the age of 35
12 years at the date of death, payment shall
13 begin upon his or her attainment of that age.
14 The annuity shall terminate upon death of the
15 surviving spouse or remarriage. Upon reaching
16 62 years of age the spouse shall be entitled
17 to annual cost of living increases of 2%,
18 calculated utilizing simple interest.

19 (2) If both the surviving spouse and
20 minor children under age 18 survive the
21 member, an annuity shall begin immediately
22 upon death of the member without regard to
23 whether the surviving spouse shall have
24 attained the age of 35 years. The allowance
25 for a minor child shall be payable until the

1 date of death or in the case of a member receiving
2 a disability or retirement annuity, 50 percent of
3 the amount to which the member was entitled. The
4 minimum spouse annuity shall be \$1,200 per year.

5 (b) Children - The basic annual survivor
6 annuity shall be equal to 16-2/3 percent of the
7 normal retirement annuity accrued to the member at
8 the date of death, or 16-2/3 percent of any
9 disability or retirement annuity to which the
10 member was entitled, but not less than \$1,080 per
11 child per year, provided that no additional benefit
12 shall accrue for more than three children.

13 (c) Upon death of a Class I member, while in
14 service or in receipt of a service retirement
15 annuity or disability retirement annuity, if a
16 surviving spouse or minor children survive the
17 member, a single sum death benefit payable in the
18 amount of \$1,000 shall be payable.

19 (d) Notwithstanding other provisions of this
20 section, survivor's annuities will be reduced by 50
21 percent per year if the member who has elected to
22 be credited for prior service at time of death has
23 not fully paid all contributions due to the Fund,
24 until the amount owed is offset in full.

25 Section 83312. Benefits: Survivor Annuities for

1 child's attainment of age 18, marriage or
2 death, whichever first occurs. The annuity of
3 the surviving spouse shall terminate upon
4 death or remarriage, whichever occurs first.

5 (3) If a minor child or children under
6 age 18 survive a member and no parent of the
7 child or children is living, annuity on
8 account of any child shall be payable until
9 the child's attainment of age 18, marriage, or
10 death, whichever first occurs, to be paid to
11 the legal guardian of such child or children
12 for the child or children's benefit.

13 (4) Payment of the annuity or allowance
14 for a minor child or children provided for
15 under subdivisions (2) and (3) may be
16 continued up to 22 years of age if the minor
17 child or children are full-time students in an
18 accredited college or university or
19 educational institution.

20 (b) Upon death of a Class II member after
21 retirement, if a surviving spouse or children
22 survive, annuities shall be payable to them at the
23 same rate and under the same conditions as are
24 applicable to survivors of a member whose death
25 occurs while in service.

1 (c) Upon death of a Class II member while in
2 service having completed at least three years of
3 vesting service, or after retirement on a service
4 annuity, if a surviving child or children are
5 disabled, annuities shall continue to be payable to
6 them after age 18 at the same annual rate as if
7 they were minor children under the age of 18;
8 provided, however, that such continuing annuity
9 shall be conditional upon the child being disabled
10 and having been examined by two licensed physicians
11 before attaining the age of 18 and found to be
12 permanently physically or mentally disabled and
13 incapable of self-support: The results of the
14 examination may be submitted to the Board at any
15 time prior to the child's 18th birthday. The
16 annuity shall continue until death or until such
17 child loses his permanent disability and becomes
18 capable of self-support, under the same terms and
19 conditions applicable to disabled members.

20 (d) Upon retirement from service, any
21 unmarried Class II member whether male or female,
22 if in good health as determined upon medical
23 examination, may elect to receive in lieu of his or
24 her full service retirement annuity, on an
25 actuarial equivalent basis, a reduced annuity

1 payable during his or her lifetime with an annuity
2 payable to his or her designated beneficiary at the
3 same rate and under the same conditions as are
4 applicable to survivors of a married member whose
5 death occurs while in service. The reduced
6 retirement annuity payable to the member under this
7 option shall be 90 percent of the full service
8 retirement annuity if the designated beneficiary is
9 of the same age, or older, or less than five years
10 younger than the retired employee. The retirement
11 annuity shall be reduced to the extent of 1 percent
12 for each additional year above five that the age of
13 the member exceeds the age of the beneficiary;
14 provided, that the annuity for the member shall in
15 no event be less than 60 percent of the full
16 service retirement annuity.

17 (e) Upon death of a Class II member, while in
18 service or in receipt of a retirement annuity or
19 disability retirement annuity, if a surviving
20 spouse or minor children survive the member, a
21 single sum death benefit payable in the amount of
22 \$1,000 shall be payable to the individual
23 designated by the member or if no designation has
24 been made, to the member's estate.

25 Section 83313. Benefits: Survivor Annuity Rate

1 formula for Class II Members.

2 (a) Spouse. The basic annual spouse annuity
3 for spouses of Class II members shall be equal to
4 50 percent of the disability or service retirement
5 annuity earned by the member and accruing to his or
6 her credit at the date of death for the period of
7 his or her total service.

8 The spouse's basic annual annuity shall not,
9 in any case, be less than \$1,200 per year.

10 (b) Children. The basic annual annuity shall
11 be \$1,080 per year for a minor child up to 18 years
12 of age. The total basic annual annuity for
13 children shall not, in any case, exceed \$3,240 per
14 year for three or more minor children.

15 Section 83314. Benefit Improvement for Class II
16 Members. Notwithstanding any other provision of this
17 act, Class II members and survivors will receive the
18 greater of any benefit they are entitled to under Class
19 II eligibility and benefit determinations or the benefit
20 they would have been entitled to under Class I
21 eligibility and benefit determinations, determined as if
22 all service have been rendered as a Class I member.

23 Section 83315. Contingency Benefit. If it is
24 determined that a Class I or Class II member would have
25 been eligible for a benefit under the Northern Mariana

1 Islands Social Security System or United States Old Age,
2 Survivor and Disability Insurance but is not eligible
3 for a benefit as otherwise provided in this act, such
4 member will be deemed to meet the eligibility
5 requirements for the appropriate benefit under this act.

6 Section 83316. Benefits: Refund on Separation.

7 Upon complete separation from service before a Class I
8 member shall have completed three years vesting service,
9 the Class I member shall receive a refund of his or her
10 total contributions, including regular interest. Except
11 as provided in other sections of this act, no refund of
12 any contributions shall be permitted for Class I members
13 after completion of three years of vesting service.

14 Refund of contributions shall be permitted for
15 Class II members as follows:

16 (a) Upon complete separation from service
17 before a member shall have completed at least 3
18 years vesting service the member shall receive a
19 refund of his or her total contributions, including
20 regular interest. Total contributions shall
21 include all contributions made by the member to
22 obtain various types of credit authorized by this
23 law.

24 (b) If the member has less than 20 years of
25 vesting service, the member may elect to receive

1 his or her contributions, with regular interest, as
2 provided above, in lieu of the service retirement
3 annuity. If the member has more than 20 years of
4 vesting service, the member may not receive a
5 refund but shall be entitled to retirement benefits
6 under the terms of this act.

7 (c) Any member receiving a refund of
8 contributions shall by that fact forfeit, waive,
9 and relinquish all accrued rights and benefits in
10 the system, including all credited and creditable
11 service. The Board may, in its discretion,
12 regardless of cause, withhold payment of a refund
13 for a period not to exceed three months after
14 receipt of an application from a member.

15 (d) Any member who has received a refund shall
16 be considered a new member upon subsequent
17 reemployment if the person qualifies for membership
18 under provisions of this part. The member shall
19 have the right to make repayments to the system of
20 the amount or amounts previously received as a
21 refund, including regular interest from the date of
22 refund to the date of repayment. Upon the
23 restoration of the refunds, as herein provided, the
24 member shall have reinstated to his or her account
25 all credited service represented by the refunds of

1 which repayment has been made. Repayments of
2 refunds by any member shall include all refunds
3 received by a member prior to the date of his or
4 her last withdrawal from service and shall be made
5 in a single sum or provided, however, that the
6 Board may, in its discretion provide by uniform
7 regulation for repayments to be made in
8 installments and/or by a reduction in any annuity
9 payments.

10 Section 83317. Special Benefits for Governor and
11 Lieutenant Governor.

12 (a) Special retirement annuities under this
13 section shall only be available to former governors
14 and lieutenant governors of the Commonwealth of the
15 Northern Mariana Islands who have served at least
16 one full term in office. Any governor or
17 lieutenant governor who is impeached or convicted
18 of a felony while in office or convicted of other
19 misconduct while in office shall forfeit all rights
20 to the benefits provided under this section.

21 (b) Every former governor and lieutenant
22 governor of the Commonwealth of the Northern
23 Mariana Islands shall be entitled to a special
24 retirement annuity of 65% of the last annual salary
25 paid to them as governor or lieutenant governor,

1 respectively.

2 (c) No former governor or lieutenant governor
3 receiving annuities authorized by this section may
4 receive any other compensation (except for cost,
5 such as travel or per diem) for the performance of
6 any service or any employment or consultation
7 whatsoever for any branch, agency or department of
8 the Commonwealth of the Northern Mariana Islands
9 Government, provided, however, that a former
10 governor or lieutenant governor may elect to
11 receive such compensation in lieu of the payments
12 provided for in this section, but not both. In the
13 event a special retirement annuity is discontinued
14 as a result of such an election by a former
15 governor or lieutenant governor, the special
16 retirement annuity will recommence upon the
17 subsequent election by that former governor or
18 lieutenant governor to once again receive the
19 special retirement annuity in lieu of any other
20 such compensation.

21 (d) If any former governor or lieutenant
22 governor is entitled to any other retirement
23 compensation from the Commonwealth of the Northern
24 Mariana Islands' Government, he or she must elect
25 to receive either that retirement compensation or

1 the special retirement annuity under this section,
2 but not both.

3 (e) Any lieutenant governor who qualifies for
4 a special retirement annuity as a governor shall
5 forfeit all rights under this section as a
6 lieutenant governor.

7 (f) All rights for a special retirement
8 annuity under this section shall terminate upon the
9 death of the recipient.

10 (g) After the effective date of this act, the
11 governor and lieutenant governor shall not be
12 required to contribute to the Fund pursuant to
13 Section 8341 while serving in those capacities to
14 be eligible for the benefits of this act.

15 (h) The government shall make contributions to
16 the Fund each year necessary to fund special
17 retirement annuities which result from this
18 section. Such government contributions shall be in
19 addition to, and a separate line item from, the
20 contributions to the Fund pursuant to Section 8342
21 of this act.

22 CHAPTER 4

23 Contributions to Fund.

24 Section 8341. Contributions to Fund: By Member.

25 Section 8342. Contributions to Fund: By Government.

1 Section 8341. Contributions to Fund: By Member.

2 (a) Each Class I member of the Fund shall
3 contribute 6.5 percent of salary earned and
4 accruing to the member.

5 (b) Each Class II member of the Fund shall
6 contribute 9 percent of salary earned and accruing
7 to the member.

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

12 Section 8342. Contributions to Fund: By the
13 Government.

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

19 (1) For Class I members: an amount equal
20 to the sum of normal cost determined under the
21 frozen initial liability funding method,
22 allowance for expenses, interest on any due
23 but unpaid obligations, plus an amount
24 sufficient to amortize the initial unfunded
25 liability as a level percentage of total

1 payroll over a specified period, as determined
2 by the Board upon recommendation of the
3 actuary, but not to exceed a period of 40
4 years from the effective date.

5 (2) For Class II members: an amount
6 equal to the sum of normal cost determined
7 under the entry age funding method, allowance
8 for expenses, interest on any due but unpaid
9 obligations, plus an amount sufficient to
10 amortize any unfunded accrued liability as a
11 level percentage of total payroll over a
12 specified period, as determined by the Board
13 upon recommendation of the actuary, but not to
14 exceed a period of 40 years from the effective
15 date.

16 (b) Each autonomous agency, instrumentality or
17 public corporation of the Commonwealth Government
18 shall contribute a similar amount as the government
19 contribution rate of the gross salary or wages of
20 its active employees to the Fund on behalf of its
21 employees.

22 (c) The Director of Finance and the head of
23 each autonomous agency and public corporation shall
24 withhold the employees' contributions and remit
25 said amount to the Fund within five working days

1 following the end of each payroll date.

2 (d) Each autonomous agency and public
3 corporation shall remit their employer's
4 contribution concurrently with the employee's
5 contribution.

6 (e) Any employer who fails to pay or remit
7 contributions as required by this act shall pay a
8 penalty of ten percent (10%) per month or part
9 thereof for which the contribution remains unpaid,
10 up to a maximum penalty of twenty-five percent
11 (25%) of the unpaid contribution.

12 (f) A copy of all personnel action forms shall
13 be provided to the Fund.

14 CHAPTER 5.

15 Investment of Funds

16 Section 8351. Investment of Funds.

17 Section 8352. Investment of Funds: Custodian.

18 Section 8353. Investment of Funds: Investment
19 Agent.

20 Section 8354. Investments.

21 Section 8355. Investment Guidelines.

22 Section 8356. Power to Make Agreements to Protect
23 Securities or Reorganization or Otherwise.

24 Section 8357. Power to Enter Into Security Loan
25 Agreements.

1 **Section 8351. Investment of Funds.**

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

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

24 (c) All proceeds and income from investments,
25 of whatever nature, shall be credited to the

1 account of the Fund. Transactions in marketable
2 securities shall be carried out at prevailing
3 market prices.

4 (d) The Board may commingle securities and
5 monies subject to the crediting of receipts and
6 earnings and charging of payments to the
7 appropriate accounts established by this act.

8 (e) No member of the Board and no employee of
9 the Board shall have any direct or indirect
10 interest in the income, gains or profits on any
11 investment made by the Board, nor shall any such
12 person receive any pay or emolument for services in
13 connection with any investment made by the Board.
14 Participation in the Fund under the terms of this
15 act shall not be construed to include interest, pay
16 or emolument within the meaning of this subsection.

17 (f) No member of the Board, employee or agent
18 shall become an endorser or surety or in any manner
19 an obligator of investments made by the Fund, nor
20 shall any member, employee or agent be held liable
21 for actions taken in good faith and in performance
22 of his or her duties.

23 (g) Investments may be held in bearer form, or
24 may be registered either in the name of the Fund or
25 nominee of the custodian.

1 (h) Due bills may be accepted from the brokers
2 against payment for securities purchased, pending
3 delivery within a reasonable period of time of
4 certificates representing such investments.

5 (i) The Board may, for the purpose of
6 protecting the Fund, and at its discretion,
7 purchase insurance on the lives of the members of
8 the Funds.

9 (j) Notwithstanding any other provision of
10 this Act, no member shall be excluded from
11 participating in a Home Mortgage Loan Program of
12 the Fund.

13 The Board shall under no circumstances allow
14 investments in a corporation, business enterprise, or
15 other investment securities of such business entities,
16 when such companies:

17 (1) Deal in any form or degree whatsoever in
18 the disposal of nuclear wastes.

19 Section 8352. Investment of Funds: Custodians.

20 The Board shall engage one or more fund custodians to
21 assume responsibility for the physical possession of
22 Fund assets or evidences of assets. The custodian shall
23 submit such reports, accountings and other information
24 in such forms and at such times as requested by the
25 Board. All costs incurred for custodial services shall

1 be paid from the Fund. The custodian shall hold all
2 assets for the account of the Fund and shall act only
3 upon the instruction of the Board, its administrator, or
4 a member, committee or agent so authorized by the Board.
5 No custodian shall be engaged unless it:

6 (a) Is a United States bank or trust company
7 regulated by the Federal Reserve Board, a state
8 authority or the federal comptroller of the
9 currency as appropriate.

10 (b) Has a net worth in excess of \$10 million.

11 (c) Is a member of the Depository Trust
12 Company, I.D. System.

13 (d) Has at least ten years experience as a
14 custodian of financial assets.

15 (e) Has at least \$1 Billion in custodial
16 assets.

17 Section 8353. Investment of Funds: Investment
18 Agent.

19 (a) In order to secure expert advice and
20 counsel, the Board may engage one or more
21 investment agents which shall be an investment
22 counsel as hereinafter qualified. All costs
23 incurred in this connection shall be paid from the
24 Fund.

25 (b) No person, firm or corporation shall be

1 eligible for employment as investment counsel which
2 act as principal for its own account or as broker
3 for a client other than the Fund in connection for
4 the sale of any security to or the purchase of any
5 security from the Fund.

6 (c) No investment counsel shall be engaged
7 unless:

8 (1) The principal business of the person,
9 firm or corporation selected by the Board
10 consists of rendering investment supervisory
11 services, that is, the giving of continuous
12 advice as to the investment of funds on the
13 basis of the individual needs of each client;
14 and

15 (2) The principal ownership and control
16 of the person, firm or corporation rests with
17 individuals who are actively engaged in that
18 business; and

19 (3) The person, firm or corporation and
20 its predecessors have been continuously
21 engaged in such business for a period of ten
22 or more years; and

23 (4) The person, firm or corporation is
24 registered as an investment advisor under laws
25 of the United States of America as from time

1 to time are in effect; and

2 (5) The contract between the Board and
3 the investment counsel is of no specific
4 duration and is voidable at any time by either
5 party; and

6 (6) The person, firm or corporation
7 certifies, in writing, to the Board, that the
8 assets under its direct investment supervision
9 are in excess of \$200 million.

10 (d) The Board or its designee may from time to
11 time change operating arrangements with the
12 investment agent in order to facilitate efficient
13 management and timely investment action.

14 (e) No investment shall be made unless in the
15 opinion of the investment agent it is an
16 appropriate investment for the Fund and is an
17 authorized investment under the provision of this
18 act or, in the absence of such opinion, unless
19 preceded by a resolution of the Board directing the
20 investment.

21 Section 8354. Investments. Investments may be
22 made in:

23 (a) Real estate loans and mortgages.

24 Obligations of any of the following classes:

25 (1) Obligations secured by mortgages of

1 nonprofit corporations desiring to build
2 multi-rental units (ten units or more) subject
3 to control of the government for occupancy by
4 families displaced as a result of government
5 action.

6 (2) Obligations secured by mortgages
7 insured by the Federal Housing Administration.

8 (3) Obligations for the repayment of home
9 loans made under the Servicemen's Readjustment
10 Act of 1944 or under Title II of the National
11 Housing Act.

12 (4) Other obligations secured by first
13 mortgages on unencumbered improved real estate
14 owned in fee simple, provided that the amount
15 of the obligation shall not at the time
16 investment is made therein exceed seventy-five
17 percent of the value of the real estate and
18 improvements mortgaged to secure it, except
19 that if the obligation is for an amount of
20 \$75,000 or less, the amount of the obligation
21 shall not exceed eighty percent of the real
22 estate and improvements mortgaged to secure
23 it, and except that the amount of the
24 obligation at the time investment is made
25 therein may exceed seventy-five percent but no

1 more than ninety percent of the value of the
2 real estate and improvement mortgaged to
3 secure it, provided that the obligation is
4 insured or guaranteed against default or loss
5 under a mortgage insurance policy issued by a
6 casualty insurance company. The coverage
7 provided by the insurer should be sufficient
8 to reduce the system's exposure to not more
9 than seventy-five percent of the value of the
10 real estate and improvements mortgaged to
11 secure it. Such insurance coverage shall
12 remain in force until the principal amount of
13 the obligation is reduced to seventy-five
14 percent of the market value of the real estate
15 and improvements mortgaged to secure it, at
16 which time the coverage shall be subject to
17 cancellation solely at the option of the Board
18 of Trustees. As used in this section
19 "improved real property" means real property
20 on which are situated or shall be constructed
21 permanent buildings suitable for residence,
22 industry or commerce. The term "mortgage"
23 shall be construed to include a deed of trust
24 for security. The term "interest in real
25 property" shall be construed to include a

1 leasehold in real property. For the purposes
2 of this section, real property shall not be
3 deemed to be encumbered by reason of the
4 existence of instruments reserving
5 rights-of-way, sewer rights and rights in wall
6 nor by reason of building restrictions or
7 other restrictive covenants, nor by reason of
8 the fact that it is subject to lease under
9 which rents or profits are reserved to the
10 owner, if the security for such investment is
11 a full and unrestricted first lien upon the
12 real property and there is no condition nor
13 right of re-entry or forfeiture under which
14 the investments can be cut off, subordinated
15 or otherwise disturbed.

16 (5) Other obligations secured by first
17 mortgages of leasehold interests in improved
18 real estate, provided that, (i) each such
19 leasehold interest at such time shall have a
20 current term extending at least two years
21 beyond the stated maturity of the obligation
22 it secures, and (ii) the amount of the
23 obligation shall not at the time investment is
24 made therein exceed seventy-five percent of the
25 value of the respective leasehold interest and

1 improvements that if the obligation is for an
2 amount of \$75,000.00 or less, the amount of
3 the obligation shall not exceed eighty percent
4 of the value of the respective leasehold
5 interest and improvements, and except that the
6 amount of the obligation, at the time
7 investment is made therein, may exceed
8 seventy-five percent but no more than ninety
9 percent of the value of the leasehold interest
10 and improvements mortgaged to secure it,
11 provided that the obligation is insured or
12 guaranteed against default or loss under a
13 mortgage insurance policy issued by a casualty
14 insurance company licensed to do business in
15 the Commonwealth. The coverage provided by
16 the insurer should be sufficient to reduce the
17 system's exposure to not more than
18 seventy-five percent of the value of the
19 leasehold interest and improvements mortgaged
20 to secure it. Such insurance coverage shall
21 remain in force until the principal amount of
22 the obligation is reduced to seventy-five
23 percent of the market value of the leasehold
24 interest and improvements mortgaged to secure
25 it, at which time the coverage shall be

1 subject to cancellation solely at the option
2 of the Board of Trustees.

3 (6) Obligations secured by second
4 mortgages on improved real estate for which
5 the mortgagor produces a second mortgaged on
6 the improved real estate for the purposes of
7 acquiring the leaseholder's fee simple
8 interest in the improved real estate, provided
9 that any prior mortgage does not contain
10 provisions which might jeopardize the security
11 position of the retirement system or the
12 borrower's ability to repay the mortgage loan.

13 The Board of Trustees may retain such
14 real estate, including leasehold interest
15 therein, as it may acquire by foreclosure of
16 the mortgages or in enforcement of security,
17 or as may be convey to it in satisfaction of
18 debts previously contracted, provided that all
19 such real estate, other than leasehold
20 interests, shall be sold within five years
21 after acquiring the same subject to extension
22 by the Board for additional periods not
23 exceeding five years each and all such
24 leasehold interests shall be sold within one
25 year after acquiring the same subject to

1 extension by the Board for additional periods
2 not exceeding one year each.

3 (b) Government obligations, etc. Obligations
4 of any of the following classes:

5 (1) Obligations issued or guaranteed as
6 to principal and interest by the United States
7 or by any state or territory thereof, or by
8 the Dominion of Canada or by any province
9 thereof, or by any municipal or political
10 subdivision or school district of any of the
11 foregoing, provided that principal of and
12 interest on such obligations are payable in
13 currency of the United States.

14 (2) Revenue bonds, whether or not
15 permitted by any provision hereof, of the
16 Commonwealth or any agency, municipal
17 subdivision thereof.

18 (3) Obligations issued or guaranteed by
19 the Federal Home Loan Bank including
20 consolidated Federal Home Loan Bank
21 obligations, the Home Owner's Loan
22 Corporation, the Federal National Mortgage
23 Association or the Small Business
24 Administration.

25 (c) Corporate obligations. Obligations of any

1 corporation created or existing under the laws of
2 the Commonwealth or of the United States or of any
3 political subdivision thereof, and qualified under
4 any of the following:

5 (1) Fixed interest-bearing obligations,
6 if the average annual net earnings of the
7 obligor or guarantor available for its fixed
8 charges for a period of five fiscal years next
9 preceding the date of the investment have
10 equalled at least one hundred and fifty
11 percent of its average annual fixed charges
12 applicable to the period and if its net
13 earnings for the last year of the period have
14 equalled at least one hundred and fifty
15 percent of its fixed charges for such year.

16 (2) Fixed interest-bearing obligations
17 secured by assignment of a lease or leases, or
18 the rentals payable thereunder, of real or
19 personal property (including, without
20 limitation, chargers of vessels) to a
21 corporation created or existing under the laws
22 of the United States or of any state or
23 district thereof; provided that, (i) the fixed
24 rentals assigned shall be sufficient to repay
25 the principal of and interest on the

1 obligation within the unexpired term of the
2 lease, exclusive of the term which may be
3 provided by any option of renewal, and (ii)
4 the net earnings of the corporation shall meet
5 the requirements described in subparagraph
6 (1).

7 (3) Fixed interest-bearing obligations
8 secured by rights or assignment of rights
9 under a contract (including, without
10 limitations, a contract for the sale of
11 products, materials, supplies or other
12 property, or for the furnishing of
13 transportation or services) with a corporation
14 created or existing under the laws of the
15 United States or of any state or district
16 thereof, provided that, (i) the rights
17 securing such obligations shall include the
18 right to receive payments sufficient to repay
19 the principal of and interest on the
20 obligations within the unexpired term of the
21 contract, and (ii) the net earnings of the
22 corporation shall meet the requirements
23 described in subparagraph (1).

24 (d) Preferred and common stocks. Shares of
25 the preferred or common stock of any corporation

1 created or existing under the laws of the
2 Commonwealth or of the United States or of any
3 political subdivision thereof.

4 (e) Obligation eligible by law for purchase in
5 the open market by Federal Reserve Banks.

6 (f) Obligations issued or guaranteed by the
7 International Bank for Reconstruction and
8 Development, by the InterAmerican Development Bank,
9 by the Asian Development Bank, or by any regional
10 development bank operating and organized in our own
11 region.

12 (g) Obligations secured by collateral
13 consisting of any of the securities or stock listed
14 above and worth, at the time the investment is made
15 at least fifteen percent more than the amount of
16 the respective obligations.

17 (h) Insurance company obligations. Contracts
18 and agreements supplemental thereto providing for
19 participation in one or more accounts of a life
20 insurance company authorized to do business in any
21 state or the Commonwealth, including its separate
22 accounts, and whether the investments allocated
23 thereto are comprised of stocks or other securities
24 or of real or personal property or interests
25 therein.

1 (i) Other securities. Securities and stock in
2 which in the informed opinion of the Board of
3 Trustees it is prudent to invest funds of the
4 system, whether or not the securities or stock are
5 expressly authorized by or qualify under the
6 foregoing paragraphs, and notwithstanding any
7 limitations of any of the foregoing paragraphs
8 (including paragraph d); provided that the total
9 book value of investments under this paragraph
10 shall at no time exceed fifteen percent of the
11 total book value of all investments of the system.

12 Section 8355. Investment Guidelines.

13 Notwithstanding any other law to the contrary, real
14 estate loans and mortgages made pursuant to this act
15 shall be in accordance with conditions and restrictions
16 set forth by the Board of Trustees; provided, that the
17 Board shall review its policy on the conditions and
18 restrictions from time to time and formulate, amend, or
19 repeal the conditions and restrictions giving full
20 consideration to the prevailing economic conditions in
21 the real estate industry; provided further, that for
22 good cause shown the Board of Trustees shall duly
23 consider a member's application for waiver of any
24 condition or restriction imposed by the Board of
25 Trustees. The Board of Trustees shall liberally

1 construe this section; provided, that no exception shall
2 be made which may substantially impair the fiscal
3 integrity of the System's funds.

4 Section 8356. Power to Make Agreements to protect
5 Securities on Reorganization or Otherwise. Anything in
6 this Part to the contrary notwithstanding, the Board of
7 Trustees may enter into an agreement or agreements for
8 the purpose of protecting the interest of the system in
9 securities held by the system, or for the purposes of
10 reorganization of a corporation which issued securities
11 so held, and deposit of securities thereunder with a
12 committee or depositories appointed under the agreement,
13 but the agreement and deposit must first be approved in
14 writing by a majority of the members of the Board with a
15 statement of their reasons for such approval. The Board
16 may accept corporate stock or bonds or other securities
17 which may be distributed pursuant to any such agreement
18 approved as aforesaid or to any plan or reorganization
19 approved in writing by a majority of the members of the
20 Board with a statement of their reason for such
21 approval. But if securities so received consist in
22 whole or part of stock in any corporation or of bonds or
23 obligations which are not secured by adequate collateral
24 security or where less than two-thirds of the total
25 value of the required collateral security thereof

1 consist of collateral other than stock, then any stock
2 and any such bond or obligation so received shall be
3 disposed of within five years from the time of
4 acquisition or before expiration of such further period
5 or periods of time as may be fixed in writing for that
6 purpose by the Board of Trustees.

7 Section 8357. Power to Enter Into Security Loan
8 Agreements. Subject to conflict of interest protections
9 provided by Section 8351(e), the Board of Trustees may
10 enter into an agreement or agreements with a financially
11 responsible stock or brokerage firm, bank, or similar
12 financial institution ("borrower") authorized to do
13 business under the laws of the Commonwealth, any state
14 or the United States, for the purpose of lending to the
15 borrower securities held by the system, subject to the
16 following conditions:

17 (1) The securities shall be loaned to the
18 borrower for a period not to exceed one year;

19 (2) At the termination of the loan period, the
20 borrower shall deliver to the Board of Trustees
21 certificates for identical securities which are of
22 the same class and issue as the loaned securities;

23 (3) For the protection of the system, the
24 borrower shall deliver to the Board of Trustees or
25 its agent, collateral in the form of cash, letters

1 of credit, bonds, or other interest-bearing notes
2 and obligations of the United States or federal
3 instrumentalities which are eligible for investment
4 by the Board of Trustees, in an amount not less
5 than one hundred two percent of the market value of
6 the loaned securities, as determined by the Board
7 of Trustees. The system shall have a security
8 interest in the collateral to secure borrower's
9 obligations under the agreement. The Board of
10 Trustees shall not be obligated to return the
11 collateral or any part thereof to the borrower,
12 except upon borrower's delivery to the Board or its
13 agent of securities identical to the loaned
14 securities, as provided in paragraph (2). The
15 Board of Trustees or its designated agent shall
16 monitor the market value of the loaned securities
17 daily, and if, on any business day, the amount of
18 the collateral deposited by the borrower is less
19 than one hundred two percent of the market value of
20 the loaned securities on that day, the borrower
21 shall immediately deposit with the Board or its
22 agent additional collateral in the form of cash,
23 letters of credit, bonds or other interest-bearing
24 notes and obligations of the United States or
25 federal instrumentalities which are eligible for

1 investment by the Board of Trustees. Such
2 additional collateral, together with the collateral
3 previously on deposit, shall be in an amount not
4 less than one hundred two percent of the market
5 value of the loaned securities at the time of such
6 deposit;

7 (4) The Board of Trustees, at its election,
8 may use or invest any collateral delivered by a
9 borrower to the Board or its agent pursuant to the
10 agreement, and any income and profits earned on the
11 collateral shall be retained for the benefit of the
12 system;

13 (5) Until the termination of the loan, the
14 borrower may exercise all the incidents of
15 ownership of loaned securities, including the right
16 to transfer the loaned securities to others and
17 vote or otherwise consent as a holder of such
18 securities; provided, that the borrower shall be
19 obligated to the Board of Trustees for all
20 dividends and distributions made with respect to
21 the loaned securities during the period of the
22 agreement, including, without limitation, cash,
23 stock or property dividends or distributions,
24 interest payments, and subscription rights;

25 (6) In the event that the borrower, at the

1 termination of the loan period, fails to deliver to
2 the Board trust certificates for identical
3 securities which are of the same class and issue as
4 the loan securities, the borrowers shall forfeit to
5 the system the collateral deposited.

6 CHAPTER 6.

7 [RESERVED]

8 CHAPTER 7.

9 Reserve Accounts.

10 Section 8371. Reserve Accounts.

11 Section 8371. Reserve Accounts. All assets of the
12 Fund shall be credited according to the purposes for
13 which they are held in the following designated reserve
14 accounts:

15 (a) Member's Contribution Reserve: The
16 amounts contributed by the members shall be
17 credited to the member's contribution reserve,
18 together with regular interest thereon as herein
19 provided. An individual account shall be
20 maintained for each member to which shall be
21 credited the amounts of his contributions and
22 interest thereon. Regular interest on such
23 contributions shall be credited annually, as of the
24 close of each year, and shall be allowed only on
25 the amount of the accumulated contributions

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

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

1 benefit over the accumulated contributions of the
2 member, including interest, shall be transferred
3 from this reserve to the retirement reserve.

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

1 (d) Death Benefit Account: The amount
2 representing the contributions by the government
3 for death benefits shall be credited to the death
4 benefit account. All death benefit payments on
5 account of death of the member while in service
6 shall be charged to this account.

7 (e) Interest and Investment Income Reserve:
8 All income from investments, including gains on
9 investment transactions, shall be credited to the
10 interest and investment income reserve. All losses
11 on investments shall be charged to this reserve.
12 All amounts required for interest on the other
13 reserve accounts of the Fund shall be transferred
14 from this reserve.

15 CHAPTER 8.

16 Rights and Obligations.

17 Section 8381. Vested Interest of Members in Fund.

18 Section 8382. Rights to Annuity.

19 Section 8383. Time for Payments.

20 Section 8384. Obligation of Government: Intent of Law.

21 Section 8385. Criminal and Civil Penalties.

22 Section 8386. No Taxation Under Gross Receipts Tax.

23 Section 8387. Withholding of Taxes, Insurance Premiums,
24 and Obligations to the Fund.

25 Section 8388. Underpayment or Non-Payment by Members.

1 Section 8389. Overpayment or Underpayment of Benefits.

2 Section 83810. Benefit Consolidation.

3 Section 83811. Reemployment and Double Dipping.

4 Section 83812. Legislative Changes.

5 Section 83813. Administrative Cola Provisions.

6 Section 83814. Severability.

7 Section 83815. Effective Date.

8 Section 8381. Vested Interest of Members in Fund. Each

9 member shall, by virtue of the payment of contributions to
10 the system, receive a vested interest as provided in other
11 sections of this act, and in consideration of this vested
12 interest, shall be conclusively deemed to undertake and agree
13 to pay those contributions and to have the amounts deducted
14 from his compensation as herein provided.

15 Section 8382. Rights to Annuity. The right to a
16 retirement annuity, disability annuity, survivor's annuity or
17 benefit, death benefit, or any other benefit under the
18 provision of this part, by whatever name called, or the right
19 to refund, is personal with the recipient thereof, and the
20 assignment or transfer of a benefit or any part thereof,
21 shall be voided, except as herein provided; any such annuity,
22 benefit or refund shall not answer for debts contracted by
23 the person receiving the same. It is the intention of this
24 act that they shall not be attached or affected by any
25 judicial proceedings.

1 Section 8383. Time for Payments.

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

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

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

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

8 (d) The last semi-monthly payment of
9 annuities, whether occurring by reason of death,
10 ineligibility, or otherwise, shall be prorated to
11 provide benefits only for the portion of the
12 preceding period during which the annuitant was
13 eligible for such annuity.

14 Section 8384. Obligation of Government: Intent of
15 Law. It is the intention of this law that the payment
16 of required contributions by any governmental entity
17 shall be an obligation of the government.

18 Section 8385. Criminal and Civil Penalties.

19 (a) Any person who knowingly makes any false
20 statement, or falsifies or permits to be falsified
21 any record or records of this system, in any
22 attempt to defraud the system, is guilty of a
23 misdemeanor, and upon conviction may be fined not
24 more than \$2,000.00 and imprisoned for not more
25 than one year.

1 (b) The Fund shall have the right to recover
2 any payments made under false representations.

3 Section 8386. No Taxation Under Gross Receipts
4 Tax. Annuities shall not be taxable as wages, salaries,
5 or gross receipts for the purpose of any tax imposed by
6 the Commonwealth of the Northern Mariana Islands, other
7 than the Territorial Income Tax.

8 Section 8387. Withholding of Taxes, Insurance
9 Premiums, and Obligations to the Fund.

10 (a) Notwithstanding any other provision of
11 this act, any taxes required to be withheld
12 pursuant to any applicable Commonwealth Law will be
13 withheld from a retired member's annuity.

14 (b) Notwithstanding any other provision of
15 this act, a retired member who consents in writing
16 may have withheld from his or her annuity payments
17 for life and health insurance premiums for any
18 group life or health insurance program approved by
19 the Board.

20 (c) Notwithstanding any other provision of
21 this act, a retired member may have withheld from
22 his or her annuity any amount necessary to repay
23 any obligation owed to the Fund by that member.

24 Section 8388. Underpayment or Non-Payment by
25 Members. Any member who has not paid or who has

1 underpaid his or her employee contribution shall be
2 required to pay to the Fund the amount of such unpaid or
3 underpaid contributions in the same manner as is
4 provided for payments for prior service credit as
5 provided by this act, but such non-payment or under
6 payment shall not otherwise effect the member's
7 entitlement to benefits.

8 Section 8389. Overpayment or Underpayment of
9 Benefits.

10 (a) Whenever the Administrator finds that more
11 or less than the correct amount of benefits have
12 been paid with respect to any individual, proper
13 adjustment or recovery shall be made by appropriate
14 adjustments to future payments to the member or any
15 survivors, or from the estate of any recipient of
16 benefits.

17 (b) Unless fraud, misrepresentation or
18 concealment of material information was involved in
19 connection with an overpayment, an amount of no
20 more than 50% of any benefit to be paid in any
21 benefit period may be withheld and offset against
22 previous overpayments.

23 In his discretion, the Administrator may
24 authorize a lesser percent of annuity to be
25 withheld, taking into consideration the financial

1 condition of the annuitant, provided that such
2 overpayment can be recovered within two years.

3 (c) In the case of fraud, misrepresentation or
4 concealment of material information by a member or
5 annuitant, all annuities and other benefits shall
6 be withheld completely until the amount of
7 overpayment is offset in full. This section shall
8 not effect any other civil or criminal liability
9 provided by law for such fraud, misrepresentation
10 or concealment.

11 (d) In the event of the underpayment by the
12 Fund to an annuitant the amount of such
13 underpayments plus regular interest shall be paid
14 to the annuitant or beneficiary as soon as
15 discovered.

16 **Section 83810. Benefit Consolidation.** No person
17 shall be eligible for more than one benefit at any one
18 time. Annuitants who have a choice among benefits
19 available to them shall elect which benefit they are to
20 receive benefits under. In the absence of an election
21 by the employee the benefit shall be based on any
22 benefit utilized from among the options as is used by
23 the Administrator. A change in category of benefits to
24 be received by an annuitant may be effectuated by the
25 annuitant filing a written request indicating what

1 category of benefit the annuitant elects to receive.

2 Section 83811. Reemployment and Double Dipping.

3 No person who has retired and received any retirement
4 benefits from the government of the Northern Mariana
5 Islands shall be allowed to be employed by or under an
6 employment or consulting contract with the government of
7 the Northern Mariana Islands or its public corporations,
8 boards or commissions. All government contracts and
9 employment application form shall contain a declaration
10 to be made under penalty of perjury, stating that the
11 employee or independent contractor has not retired from
12 and is not receiving retirement benefits from the
13 Commonwealth Government. Provided, that a person who
14 has retired is receiving retirement benefits may accept
15 "employment" by election to public office. Receipt of
16 retirement benefits for a retiree elected to public
17 office in the Commonwealth shall be suspended during the
18 time the retiree is actually holding such elective post.
19 Benefit payments shall recommence after the retiree has
20 left elective office.

21 Section 83812. Legislative Changes.

22 (a) All proposed legislation which concerns
23 membership in the Fund, benefits paid by the Fund,
24 contributions to the Fund, investment of Fund
25 assets, or management of the Fund shall be referred

1 to the Senate and House Health, Education and
2 Welfare Committees.

3 (b) Before the final vote is taken in either
4 the Senate or House on any such legislation, the
5 House Health , Education and Welfare Committee of
6 that body must submit to the voting members a
7 written report from both the actuary and the Board
8 of Trustees regarding the proposed legislation.
9 The actuary's report shall indicate the financial
10 impact of the legislation on the future benefit
11 payments, and the solvency of the Fund. The report
12 of the Board of Trustees shall contain its
13 recommendation concerning the legislation: whether
14 the Board supports or opposes it, any recommended
15 changes, and the Board's detailed reasons.

16 (c) Any legislation which is passed but which
17 does not follow the procedures set forth in this
18 section is null and void.

19 Section 83813. Administrative COLA Provisions.

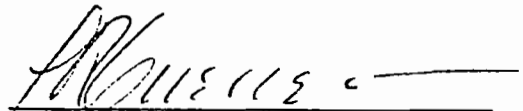
20 All cost of living increases provided by this act shall
21 not be retroactively applied or calculated but shall
22 commence on the effective date hereof.

23 Section 83814. Severability. If any provision of
24 this act or application thereof to any person or
25 circumstance is held invalid, the invalidity does not

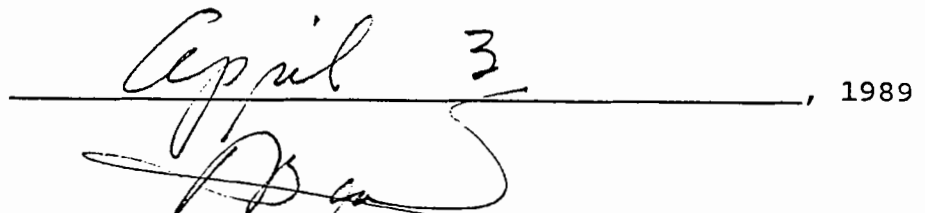
1 affect other provisions or applications of the act which
2 can be given effect without the invalid provision or
3 application; and to this end the provision of this act
4 are severable.

5 Section 83815. Effective Date. This act shall be
6 effective on the government pay day first following
7 thirty days after its approval by the Governor or thirty
8 days after its becoming law without such approval.

9 Attest:


PEDRO R. GUERRERO
Speaker of the House


EVELYN T. CASTRO
House Clerk


APRIL 3, 1989
PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands