

EDUCATION (24 PA.C.S.), MILITARY AND VETERANS CODE (51 PA.C.S.)
AND STATE GOVERNMENT (71 PA.C.S.) - OMNIBUS AMENDMENTS
Act of Jun. 12, 2017, P.L. 11, No. 5 Cl. 24
Session of 2017
No. 2017-5

SB 1

AN ACT

Amending Titles 24 (Education), 51 (Military Affairs) and 71 (State Government) of the Pennsylvania Consolidated Statutes, extensively revising pension provisions as follows:

In Title 24:

for retirement for school employees, in the areas of preliminary provisions, of membership, contributions and benefits, of school employees' defined contribution plan and of administration and miscellaneous provisions; and

for health insurance for retired school employees, in the area of preliminary provisions.

In Title 51:

for employment preferences and pensions, in the area of military leave of absence.

In Title 71:

for boards and offices, in the area of Independent Fiscal Office; and

for retirement for State employees and officers, in the areas of preliminary provisions, of membership, credited service, classes of service and eligibility for benefits, of contributions, of benefits, of State employees' defined contribution plan and of administration, funds, accounts, general provisions.

Providing, as to the revisions:

for construction and administration, for applicability, for liability, for member statements and for suspension of provisions of the Public Employee Retirement Study Commission Act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I

Section 101. The definitions of "alternate payee," "basic contribution rate," "beneficiary," "class of service multiplier," "compensation," "creditable nonschool service," "credited service," "date of termination of service," "distribution," "domestic relations order," "final average salary," "inactive member," "intervening military service," "irrevocable beneficiary," "leave for service with a collective bargaining organization," "reemployed from USERRA leave," "required beginning date," "salary deductions," "shared-risk contribution rate," "standard single life annuity," "superannuation or normal retirement age," "valuation interest" and "vestee" in section 8102 of Title 24 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions to read:

§ 8102. Definitions.

The following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Accumulated employer defined contributions." The total of the employer defined contributions paid into the trust on account of a participant's school service, together with any investment earnings and losses and adjustments for fees, costs and expenses credited or charged thereon and reduced by any distributions.

"Accumulated mandatory participant contributions." The total of the mandatory pickup participant contributions paid into the trust on account of a participant's school service, together with any investment earnings and losses and adjustments for fees, costs and expenses credited or charged thereon and reduced by any distributions.

"Accumulated total defined contributions." The total of the accumulated mandatory participant contributions, accumulated employer defined contributions and accumulated voluntary contributions standing to the credit of a participant in an individual investment account in the trust.

"Accumulated voluntary contributions." The total of voluntary contributions paid into the trust by a participant and any amounts rolled over by a participant or transferred by a direct trustee-to-trustee transfer into the trust, together with any investment earnings and losses and adjustments for fees, costs and expenses credited or charged thereon and reduced by any distributions.

* * *

"Active participant." A school employee for whom mandatory pickup participant contributions are being made to the trust or for whom contributions otherwise required are not being made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415).

* * *

"Alternate payee." Any spouse, former spouse, child or dependent of a member **or participant** who is recognized by a domestic relations order as having a right to receive all or a portion of the moneys payable to that member **or participant** under this part.

* * *

"Basic contribution rate." For Class T-A, T-B and T-C service, the rate of 6 1/4%. For Class T-D service, the rate of 7 1/2%. For all active members on the effective date of this provision who are currently paying 5 1/4% and elect Class T-D service, the rate of 6 1/2%. For Class T-E service, the rate of 7 1/2%. For Class T-F service, the rate of 10.30%. **For Class T-G service, the rate of 5.5%. For Class T-H service, the rate of 4.5%.**

"Beneficiary." [The] **In the case of the system, the person or persons last designated in writing to the board by a member to receive his accumulated deductions or a lump sum benefit upon the death of such member. In the case of the plan, the person or persons last designated in writing to the board by a participant to receive the participant's vested accumulated total defined contributions or a lump sum benefit upon the death of the participant.**

* * *

"Class of service multiplier."

Class of service	Multiplier
T-A	.714
T-B	.625
T-C	1.000

T-D	1.000
T-E	1.000
T-F	1.000
T-G	1.000
T-H	1.000

* * *

"Compensation." Pickup contributions **and mandatory pickup participant contributions** plus any remuneration received as a school employee excluding reimbursements for expenses incidental to employment and excluding any bonus, severance payments, any other remuneration or other emolument received by a school employee during his school service which is not based on the standard salary schedule under which he is rendering service, payments for unused sick leave or vacation leave, bonuses or other compensation for attending school seminars and conventions, payments under health and welfare plans based on hours of employment or any other payment or emolument which may be provided for in a collective bargaining agreement which may be determined by the Public School Employees' Retirement Board to be for the purpose of enhancing compensation as a factor in the determination of final average salary, and excluding payments for military leave and any other payments made by an employer while on USERRA leave, leave of absence granted under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees), military leave of absence granted under 51 Pa.C.S. § 7302 (relating to granting military leaves of absence), leave granted under section 1178 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or other types of military leave, including other types of leave payments, stipends, differential wage payments as defined in IRC § 414(u)(12) and any other payments, provided, however, that the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)) taken into account for the purpose of member contributions, including regular or joint coverage member contributions, regardless of class of service, shall apply to each member who first became a member of the Public School Employees' Retirement System on or after July 1, 1996, and who by reason of such fact is a noneligible member subject to the application of the provisions of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)), **and shall apply to each participant pertaining to the participant's participation in the plan.**

* * *

"Creditable nonschool service." Service other than service as a school employee for which an active member may obtain credit **in the system.**

"Credited service." School or creditable nonschool service for which the required contributions have been made **to the fund**, or for which the contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), or for which salary deductions **to the system** or lump sum payments have been agreed upon in writing.

"Date of termination of service." The **latest of the following dates:**

- (1) The last [date] **day** of service for which pickup contributions are made for an active member or[,] **for which the contributions otherwise required for service were not made solely by reason of any provision of this part relating**

to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415);

(2) in the case of an inactive member or an inactive participant, the effective date of his resignation or the date his employment is formally discontinued by his employer or two years following the last day of service for which contributions were made, whichever is earliest[.]; or

(3) the last day of service for which mandatory pickup participant contributions are made for an active participant.

* * *

"Distribution." Payment of all or any portion of a person's interest in **either** the Public School Employees' Retirement Fund **or the School Employees' Defined Contribution Trust, or both**, which is payable under this part.

"Domestic relations order." Any judgment, decree or order, including approval of a property settlement agreement, entered on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a member **or participant**, including the right to receive all or a portion of the moneys payable to that member **or participant** under this part in furtherance of the equitable distribution of marital assets. The term includes orders of support as that term is defined by 23 Pa.C.S. § 4302 (relating to definitions) and orders for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

* * *

"Employer defined contributions." For Class T-G service, contributions equal to 2.25% of an active participant's compensation that are made by an employer to the trust, to be credited in the active participant's individual investment account. For Class T-H service and Class DC participants, contributions equal to 2.0% of an active participant's compensation that are made by an employer to the trust, to be credited in the active participant's individual investment account.

"Final average salary." [The] **As follows:**

(1) For purposes of calculating annuities and benefits from the system attributable to a class of service other than Class T-G and Class T-H, the highest average compensation received as an active member during any three nonoverlapping periods of 12 consecutive months with the compensation for part-time service being annualized on the basis of the fractional portion of the school year for which credit is received; except, if the employee was not a member for three such periods, the total compensation received as an active member annualized in the case of part-time service divided by the number of such periods of membership; in the case of a member with multiple service credit, the final average salary shall be determined by reference to compensation received by him as a school employee or a State employee or both; and, in the case of a noneligible member, subject to the application of the provisions of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)). Final average salary shall be determined by including in compensation, payments deemed to have been made to a member reemployed from USERRA leave to the extent member contributions have been made as provided in section 8302(d)(2) (relating to credited school service) and payments made to a member on leave of absence under 51 Pa.C.S. § 4102

(relating to leaves of absence for certain government employees) as provided in section 8302(d)(6).

(2) For purposes of calculating annuities and benefits from the system attributable to Class T-G and Class T-H service, the following shall apply:

(i) The highest average compensation received as an active member during any five nonoverlapping periods of 12 consecutive months, with the compensation for part-time service being annualized on the basis of the fractional portion of the school year for which credit is received, shall be used or the calculation shall be made in accordance with the following:

(A) If the employee was not a member for five periods, the total compensation received as an active member annualized in the case of part-time service divided by the number of periods of membership.

(B) In the case of a member with multiple service credit, the final average salary shall be determined by reference to compensation received by the member as a school employee or a State employee or both.

(C) In the case of a noneligible member, subject to the application of the provisions of section 8325.1.

(ii) Final average salary shall be determined by including in compensation, payments deemed to have been made to a member reemployed from USERRA leave to the extent member contributions have been made as provided in section 8302(d)(2) and payments made to a member on leave of absence under 51 Pa.C.S. § 4102 as provided in section 8302(d)(6).

* * *

"Inactive member." A member for whom no pickup contributions are being made **to the fund**, except in the case of an active member for whom such contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415) or because the member is on USERRA leave, who has accumulated deductions standing to his credit in the fund and for whom contributions have been made within the last two school years or a multiple service member who is active in the State Employees' Retirement System.

"Inactive participant." A participant for whom no mandatory pickup participant contributions are being made to the trust, except in the case of an active participant for whom the contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), but who has vested accumulated total defined contributions standing to the participant's credit in the trust and who has not filed an application for a distribution.

"Individual investment account." The account in the trust to which are credited the amounts of the contributions made by a participant and the participant's employer in accordance with the provisions of this part, together with all investment earnings after deduction for fees, costs and expenses, investment losses and charges for distributions.

"Intervening military service." Active military service of a member who was a school employee **and an active member of the**

system immediately preceding his induction into the armed services or forces of the United States in order to meet a draft obligation excluding any voluntary extension of such obligational service and who becomes a school employee **and an active member of the system** within 90 days of the expiration of such service.

* * *

"Irrevocable beneficiary." The person or persons permanently designated by a member **or participant** in writing to the board pursuant to an approved domestic relations order to receive all or a portion of the accumulated deductions, **vested accumulated total defined contributions** or lump sum benefit payable upon the death of such member **or participant**.

"Irrevocable successor payee." The person permanently designated by a participant receiving distributions in writing to the board under an approved domestic relations order to receive one or more distributions from the plan upon the death of such participant.

* * *

"Leave for service with a collective bargaining organization." Paid leave granted to an active member **or active participant** by an employer for purposes of working full time for or serving full time as an officer of a Statewide employee organization or a local collective bargaining representative under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act: Provided, That greater than one-half of the members of the employee organization are active members of the system **or active participants of the plan**; that the employer shall fully compensate the member **or participant**, including, but not limited to, salary, wages, pension and retirement contributions and benefits, **employer defined contributions**, other benefits and seniority, as if he were in full-time active service; and that the employee organization shall fully reimburse the employer for such salary, wages, pension and retirement contributions and benefits, **employer defined contributions** and other benefits and seniority.

"Mandatory pickup participant contributions." Contributions equal to a percentage of compensation that are made by the employer for active participants for current school service that are picked up by the employer and credited in the plan as follows:

- (1) For Class T-G members, 2.75%, and Class T-H members, 3.0%.
- (2) For Class DC participants, 7.5%.

* * *

"Participant." An active participant, inactive participant or participant receiving distributions.

"Participant receiving distributions." A participant in the plan who has commenced receiving distributions from the participant's individual investment account, but who has not received a total distribution of the vested interest in the individual investment account.

* * *

"Plan." The School Employees' Defined Contribution Plan as established by the provisions of this part and the board.

"Plan document." The documents created by the board under section 8402 (relating to plan document) that contain the terms and provisions of the plan and trust as established by the board regarding the establishment, administration and investment of the plan and trust.

* * *

"Reemployed from USERRA leave." Resumption of active membership **or active participation** as a school employee after a period of USERRA leave, if the resumption of active membership **or active participation** was within the time period and under conditions and circumstances such that the school employee was entitled to reemployment rights under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services).

* * *

"Required beginning date." The [beginning] **latest** date by which distributions of a member's interest **or a participant's interest in the participant's individual investment account** must commence under section 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(9)).

* * *

"Salary deductions." The amounts certified by the board, deducted from the compensation of an active member **or active participant** or the State service compensation of a multiple service member who is an active member of the State Employees' Retirement System and paid into the fund **or trust**.

* * *

"Shared-risk contribution rate." The additional contribution rate that is added to the basic contribution rate for Class T-E [and T-F], **Class T-F, Class T-G and Class T-H** members, as provided for in section 8321(b) (relating to regular member contributions for current service).

"Standard single life annuity." For Class T-A, T-B and T-C credited service of a member, an annuity equal to 2% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-D credited service of a member, an annuity equal to 2.5% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service. For Class T-E credited service of a member, an annuity equal to 2% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-F credited service of a member, an annuity equal to 2.5% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. **For Class T-G credited service of a member, an annuity equal to 1.25% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-H credited service of a member, an annuity equal to 1.0% of the final average salary, multiplied by the total number of years and fractional parts of a year of credited service of a member.**

"State Employees' Defined Contribution Plan." The defined contribution plan for State employees established by 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers).

* * *

"Successor payee." The person or persons last designated by a participant receiving distributions in writing to the board to receive one or more distributions upon the death of the participant.

* * *

"Superannuation or normal retirement age."

Class of service	Age
T-A	62 or any age upon accrual of 35 eligibility points
T-B	62

T-C and T-D	62 or age 60 provided the member has at least 30 eligibility points or any age upon accrual of 35 eligibility points
T-E and T-F	65 with accrual of at least three eligibility points or a combination of age and eligibility points totaling 92, provided the member has accrued at least 35 eligibility points
T-G	67 with accrual of at least 3 eligibility points, or a combination of age and eligibility points totaling 97, provided the member has accrued at least 35 eligibility points
T-H	67 with accrual of at least 3 eligibility points

* * *

"Trust." The School Employees' Defined Contribution Trust established under Chapter 84 (relating to School Employees' Defined Contribution Plan).

* * *

"Valuation interest." Interest at 5 1/2% per annum, compounded annually and applied to all accounts of the fund other than the members' savings account.

"Vestee." A member with five or more eligibility points in a class of service other than Class T-E, Class T-F, Class T-G or Class T-H who has terminated school service, has left his accumulated deductions in the fund and is deferring filing of an application for receipt of an annuity. For Class T-E [and], Class T-F, Class T-G and Class T-H members, a member with ten or more eligibility points who has terminated school service, has left his accumulated deductions in the fund and is deferring filing of an application for receipt of an annuity.

"Voluntary contributions." Contributions made by a participant to the trust and credited to the participant's individual investment account in excess of the mandatory pickup participant contributions, either by after-tax salary deductions paid through the employer or by an eligible rollover or direct trustee-to-trustee transfers.

Section 102. Section 8103 of Title 24 is amended by adding subsections to read:

§ 8103. Construction of part.

* * *

(f) Exclusive source of rights and benefits.--Regardless of any other provision of law, pension and benefit rights of school employees shall be determined solely by this part or any amendment thereto, or the plan document established by the board, and no collective bargaining agreement nor any arbitration award between the employer and the employer's employees or the employee's collective bargaining representatives shall be construed to do any of the following:

(1) Change any of the provisions of this part.

(2) Require the board to administer pension or retirement benefits not set forth in this part or not established by the board in the plan document.

(3) Require the board to modify, amend or change any of the terms and provisions of the plan document.

(4) Otherwise require action by any other government body pertaining to pension or retirement benefits or rights of school employees.

(g) References to certain Federal statutes.--References in this part to the IRC or USERRA, including administrative regulations promulgated under the IRC or USERRA, are intended to include laws and regulations in effect on the effective date of this section and amended, supplemented or supplanted on and after the effective date of this section.

(h) Construction.--This part may not be construed to mean any of the following:

(1) That the limitations on benefits or other requirements under IRC § 401(a) or other applicable provisions of the IRC that are applicable to participants in the plan do not apply to the participants or to the members of the system and the benefits payable under this part.

(2) That an interpretation or application of a provision of this part or benefits available to members of the Public School Employees' Retirement System was not in accordance with the provisions of this part or other applicable law, including the IRC and the Uniformed Services Employment and Reemployment Rights Act of 1994 before the effective date of this section.

(3) That the release or publicizing of a record, material or data that would not constitute a public record under section 8502(e)(2) (relating to administrative duties of board) is a violation of the fiduciary duties of the board.

Section 103. Title 24 is amended by adding a section to read:

§ 8103.2. Reference to Public School Employees' Retirement System.

(a) General rule.--As of the effective date of this section, unless the context clearly indicates otherwise, a reference to the Public School Employees' Retirement System in a statutory provision, other than this part and 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers), shall include a reference to the plan, and a reference to the Public School Employees' Retirement Fund shall include a reference to the trust.

(b) Certain agreements.--The agreement of an employer to make contributions to the fund or to enroll employees as members in the system shall be deemed to be an agreement to make contributions to the trust or to enroll employees in the plan.

Section 104. Section 8301 of Title 24 is amended to read:

§ 8301. Mandatory and optional membership in the system and participation in the plan.

(a) Mandatory membership.--Membership in the system shall be mandatory as of the effective date of employment for all school employees except the following:

(1) Any officer or employee of the Department of Education, State-owned educational institutions, community colleges, area vocational-technical schools, technical institutes, or [the] **The** Pennsylvania State University and who is a member of the State Employees' Retirement System or a member of another retirement program approved by the employer.

(2) Any school employee who is not a member of the system and who is employed on a per diem or hourly basis for

less than 80 full-day sessions or 500 hours in any fiscal year or annuitant who returns to school service under the provisions of section 8346(b) (relating to termination of annuities).

(3) Any officer or employee of a governmental entity who subsequent to December 22, 1965 and prior to July 1, 1975 administers, supervises, or teaches classes financed wholly or in part by the Federal Government so long as he continues in such service.

(4) Any part-time school employee who has an individual retirement account pursuant to the Federal act of September 2, 1974 (Public Law 93-406, 88 Stat. 829), known as the Employee Retirement Income Security Act of 1974.

(b) Prohibited membership.--The school employees categorized in subsection (a)(1) and (2) shall not have the right to elect membership in the system **and shall not be eligible to participate in the plan.**

(c) Optional membership.--The school employees categorized in subsection (a)(3) and, if otherwise eligible, subsection (a)(4) shall have the right to elect membership in the system. Once such election is exercised, membership shall commence from the original date of eligibility and shall continue until the termination of such service.

(d) Mandatory participation in the plan.--A school employee who is a mandatory member of either Class T-G or Class T-H shall also be a mandatory participant in the plan as of the effective date of membership in the system.

Section 105. Section 8302(a), (c) and (d) of Title 24 are amended and the section is amended by adding a subsection to read:

§ 8302. Credited school service.

(a) Computation of credited service.--In computing credited school service of a member for the determination of benefits, a full-time salaried school employee shall receive one year of credit for each school year or the corresponding fraction thereof, in accordance with the proportion of the full school year for which the required regular member contributions have been made **to the fund**, or for which such contributions otherwise required for such service were not made **to the fund** solely by reason of any provision of this part relating to the limitations under IRC § 401(a)(17) or 415. A per diem or hourly school employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months in which he is employed and for which contributions are made **to the fund**, or would have been made **to the fund** but for such limitations under the IRC, for at least 180 full-day sessions or 1,100 hours of employment. If such member was employed and contributions were made **to the fund** for less than 180 full-day sessions or 1,100 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of full-day sessions or hours of service actually rendered to 180 full-day sessions or 1,100 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the service actually rendered **and for which contributions are or would have been made to the fund except for the limitations under the IRC** in relation to the service required as a comparable full-time salaried employee. In no case shall a member receive more than one year of credited service for any 12 consecutive months or a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

* * *

(c) Cancellation of credited service.--All credited service **in the system** shall be cancelled if a member withdraws his accumulated deductions[.], **except that a partial or total distribution of accumulated total defined contributions to a participant who is also a member may not cancel service credited in the system.**

(d) Credit for military service.--**A school employee who has performed USERRA leave may receive credit in the system as follows:**

(1) For purposes of determining whether a member is eligible to receive credited service **in the system** for a period of active military service, other than active duty service to meet periodic training requirements, rendered after August 5, 1991, and that began before the effective date of this paragraph, the provisions of 51 Pa.C.S. Ch. 73 (relating to military leave of absence) shall apply to all individuals who were active members of the system when the period of military service began, notwithstanding if the member is not defined as an employee under 51 Pa.C.S. § 7301 (relating to definitions). School employees may not receive service credit or exercise the options under 51 Pa.C.S. § 7306(a), (b) and (c) (relating to retirement rights) for military leaves that begin on or after the effective date of this subsection, except otherwise provided under this subsection.

(2) A school employee who has performed USERRA leave may receive credit as provided by this paragraph.

(i) A school employee who is reemployed from USERRA leave **as an active member of the system** shall be treated as not having incurred a break in school service by reason of the USERRA leave and shall be granted eligibility points as if the school employee had not been on the USERRA leave. If a school employee who is reemployed from USERRA leave **as an active member of the system** subsequently makes regular member contributions, shared-risk member contributions and any other member contributions in the amounts and in the time periods required by 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) as if the school employee had continued in his school office or employment and performed school service and been compensated during the period of USERRA leave, **then** the school employee shall be granted school service credit for the period of USERRA leave. The employee shall have his benefits, rights and obligations determined under this part as if he was an active member who performed creditable school service during the USERRA leave in the job position that he would have held had he not been on USERRA leave and received the compensation on which the member contributions to receive school service credit for the USERRA leave were determined.

(ii) For purposes of determining whether a school employee has made the required employee contributions for school service credit for USERRA leave, if an employee who is reemployed from USERRA leave **as an active member of the system** terminates school service or dies in school service before the expiration of the allowed payment period, school service credit for the USERRA leave shall be granted as if the required member contributions were paid the day before termination or death. The amount of the required member contributions

shall be treated as an incomplete payment subject to the provisions of section 8325 (relating to incomplete payments). Upon a subsequent return to school service or to State service as a multiple service member, the required member contributions treated as incomplete payments shall be treated as member contributions that were either withdrawn in a lump sum at termination or paid as a lump sum under section 8345(a)(4) (relating to member's options). For this purpose, the exclusion of Class T-E and Class T-F members from electing a form of payment under section 8345(a)(4)(iii) shall be ignored.

(iii) A school employee who is reemployed from USERRA leave **as an active member of the system** and who does not make the required member contributions or makes only part of the required member contributions within the allowed payment period shall not be:

(A) Granted credited service for the period of USERRA leave for which the required member contributions were not timely made.

(B) Eligible to subsequently make contributions.

(C) Granted either school service credit or nonschool service credit for the period of USERRA leave for which the required member contributions were not timely made.

(3) A school employee who **is a member of the system** and performs USERRA leave from which the employee could have been reemployed from USERRA leave had the school employee returned to school service in the time frames required by 38 U.S.C. Ch. 43 for reemployment rights, but did not do so, shall be able to receive creditable nonschool service as nonintervening military service for the period of USERRA leave if the employee later returns to school service and is otherwise eligible to purchase the service as nonintervening military service.

(4) [A school employee] **An active or inactive member** who, on or after the effective date of this subsection, is granted a leave of absence under section 1178 of the Public School Code, a leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) or a military leave under 51 Pa.C.S. Ch. 73, that is not USERRA leave shall be able to receive creditable nonschool service as nonintervening military service should the employee return to school service **as an active member of the system** and is otherwise eligible to purchase the service as nonintervening military service.

(5) If a member dies while performing USERRA leave, the beneficiaries or survivor annuitants of the deceased member shall be entitled to any additional benefits, including eligibility points, other than benefit accruals relating to the period of qualified military service, provided under this part as if the member resumed and then terminated employment on account of death.

(6) A school employee who is on a leave of absence from his duties as a school employee and for which 51 Pa.C.S. § 4102 provides that he is not to suffer a loss of pay, time or efficiency shall not be an active member, receive service credit or make member contributions for the leave of absence except as provided for in this part. Notwithstanding this paragraph, any pay the member receives under section 1178 of the Public School Code or 51 Pa.C.S. § 4102 shall be included in the determination of final average salary and

other calculations in the system utilizing compensation as if the payments were compensation under this part.

(e) **Military service by a participant.**--A participant who has performed USERRA leave shall be treated and may make contributions as follows:

(1) A participant who is reemployed from USERRA leave may not be treated as having incurred a break in school service by reason of the USERRA leave and shall be granted eligibility points as if the participant had not been on USERRA leave. If a participant who is reemployed from USERRA leave subsequently makes mandatory pickup participant contributions in the amounts and in the time periods required by 38 U.S.C. Ch. 43 and IRC § 414(u) as if the participant had continued in the participant's school employment and performed school service and been compensated during the period of USERRA leave, then the participant's employer shall make the corresponding employer defined contributions. The employee shall have contributions, benefits, rights and obligations determined under this part as if the employee was an active participant who performed school service during the USERRA leave in the job position that the employee would have held had the employee not been on USERRA leave and received the compensation on which the mandatory pickup participant contributions to receive school service credit for the USERRA leave were determined, including the right to make voluntary contributions on such compensation as permitted by law.

(2) A participant who is reemployed from USERRA leave and does not make the mandatory pickup participant contributions or makes only part of the mandatory pickup participant contributions within the allowed payment period may not be eligible to make mandatory pickup participant contributions and voluntary contributions at a later date for the period of USERRA leave for which the mandatory pickup participant contributions were not timely made.

(3) A participant who performs USERRA leave from which the employee could have been reemployed from USERRA leave had the school employee returned to school service in the time frames required by 38 U.S.C. Ch. 43 for reemployment rights, but did not do so, may not be eligible to make mandatory pickup participant contributions or voluntary contributions for the period of USERRA leave should the employee later return to school service and be a participant in the plan.

(4) An active participant or inactive participant who, on or after the effective date of this subsection, is granted a leave of absence under 51 Pa.C.S. § 4102 or a military leave under 51 Pa.C.S. Ch. 73 that is not USERRA leave may not be eligible to make mandatory pickup participant contributions or voluntary contributions during or for the leave of absence or military leave, and may not have employer defined contributions made during such leave, without regard to whether or not the participant received salary, wages, stipends, differential wage payments or other payments from the participant's employer during the leave, notwithstanding any provision to the contrary in 51 Pa.C.S. § 4102 or 51 Pa.C.S. Ch. 73.

(5) If a participant dies while performing USERRA leave, then the beneficiaries or successor payees of the deceased participant are entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided under this part had the

participant resumed and then terminated employment on account of death.

Section 106. Sections 8303(c) and (d) and 8304(a) of Title 24 are amended to read:

§ 8303. Eligibility points for retention and reinstatement of service credits.

* * *

(c) Purchase of previous creditable service.--Every active member of the system or a multiple service member who is an active member of the State Employees' Retirement System on or after the effective date of this part may purchase credit and receive eligibility points:

(1) as a member of Class T-C, Class T-E [or], Class T-F, **Class T-G or Class T-H** for previous creditable school service or creditable nonschool service; or

(2) as a member of Class T-D for previous creditable school service, provided the member elects to become a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member);

upon written agreement by the member and the board as to the manner of payment of the amount due for credit for such service; except, that any purchase for reinstatement of service credit shall be for all service previously credited.

(d) Purchase of previous noncreditable service.--Class T-C and Class T-D members who are active members on the effective date of this subsection shall have three years from the effective date of this subsection to file a written application with the board to purchase any previous noncreditable school service. Class T-C and Class T-D members who are not active members on the effective date of this subsection but who become active members after the effective date of this subsection and Class T-E [and], class T-F, **Class T-G and Class T-H** members shall have 365 days from entry into the system to file a written application with the board to purchase any previous noncreditable school service.

§ 8304. Creditable nonschool service.

(a) Eligibility.--An active member or a multiple service member who is an active member of the State Employees' Retirement System shall be eligible to receive Class T-C, Class T-E [or], Class T-F, **Class T-G or Class T-H** service credit for creditable nonschool service and Class T-D, Class T-E [or], Class T-F, **Class T-G or Class T-H** service for intervening military service, provided the member becomes a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member) or Class T-F member pursuant to section 8305.2 (relating to election to become a Class T-F member) or 8305 (relating to classes of service) **or Class T-H service pursuant to section 8305.3 (relating to election to become a Class T-H member)**, as set forth in subsection (b) provided that he is not entitled to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency or by any private employer, or a retirement program approved by the employer in accordance with section 8301(a)(1) (relating to mandatory and optional membership), and further provided that such service is certified by the previous employer and the manner of payment of the amount due is agreed upon by the member, the employer, and the board.

* * *

Section 107. Section 8305(c)(1) and (d) of Title 24 are amended and the section is amended by adding subsections to read:

§ 8305. Classes of service.

* * *

(c) Class T-D membership.--

(1) A person who becomes a school employee and an active member, or a person who becomes a multiple service member who is a State employee and a member of the State Employees' Retirement System, on or after the effective date of this subsection **and before July 1, 2011**, shall be classified as a Class T-D member upon payment of regular member contributions. Any prior school service credited as Class T-C service shall be credited as Class T-D service, subject to the limitations contained in paragraph (4).

* * *

(d) Class T-E membership.--Notwithstanding any other provision, a person who first becomes a school employee and an active member, or a person who first becomes a multiple service member who is a State employee and a member of the State Employees' Retirement System, on or after the effective date of this subsection **and before July 1, 2019**, shall be classified as a Class T-E member upon payment of regular member contributions and the shared-risk contributions.

* * *

(f) Class T-G membership.--A person who first becomes a school employee and an active member on or after July 1, 2019, shall be classified as a Class T-G member upon payment of regular member contributions and the shared-risk contributions.

(g) Class T-H membership or Class DC participant.--A person who first becomes a school employee and an active member on or after July 1, 2019, and who is eligible to become a Class T-G member shall have the right to elect to become one of the following:

- (1) a Class T-H member, provided the person elects to become a Class T-H member pursuant to section 8305.3 (relating to election to become a Class T-H member), upon written election filed with the board and payment of regular member contributions and the shared-risk contributions; or
- (2) a Class DC participant, provided the person elects to become a Class DC participant pursuant to section 8305.4 (relating to election to become a Class DC participant), upon written election filed with the board and payment of mandatory pickup participant contributions.

Section 107.1. Title 24 is amended by adding sections to read:

§ 8305.3. Election to become a Class T-H member.

(a) General rule.--A person who first becomes a school employee and an active member on or after July 1, 2019, and who is eligible to become a Class T-G member may elect to become a member of Class T-H.

(b) Time for making election.--A member must elect to become a Class T-H member by filing a written election with the board within 90 days of notification by the board that the member is eligible for the election. A school employee who is eligible to elect to become a Class T-H member who begins USERRA leave during the election period without having elected Class T-H membership may make the election within 90 days after being reemployed from USERRA leave.

(c) Effect of election.--An election to become a Class T-H member shall be irrevocable and shall commence from the original date of eligibility. A member who elects Class T-H membership shall receive Class T-H service credit on any and all future service, regardless of whether the member terminates service or has a break in service.

(d) Effect of failure to make election.--If a member fails to timely file an election to become a Class T-H member, and does not elect to become a Class DC participant under section 8305.4 (relating to election to become a Class DC participant), then the member shall be enrolled as a member of Class T-G, and the member shall never be able to elect Class T-H service, regardless of whether the member terminates service or has a break in service.

§ 8305.4. Election to become a Class DC participant.

(a) General rule.--A person who first becomes a school employee and an active member on or after July 1, 2019, and who is eligible to become a Class T-G member may elect to become a participant of Class DC.

(b) Time for making election.--A member must elect to become a Class DC participant by filing a written election with the board within 90 days of notification by the board that the member is eligible for the election. A school employee who is eligible to elect to become a Class DC participant who begins USERRA leave during the election period without having elected to become a Class DC participant may make the election within 90 days after being reemployed from USERRA leave.

(c) Effect of election.--An election to become a Class DC participant shall be irrevocable and shall commence from the original date of eligibility. A member who elects to become a Class DC participant shall remain a Class DC participant on any and all future service, regardless of whether the participant terminates service or has a break in service.

(d) Effect of failure to make election.--If a member fails to timely file an election to become a Class DC participant, and does not elect to become a member of Class T-H under section 8305.3 (relating to election to become a Class T-H member), then the member shall be enrolled as a member of Class T-G, and the member shall never be able to elect to become a Class DC participant, regardless of whether the member terminates service or has a break in service.

§ 8305.5. Election to become Class T-G, Class T-H or Class DC.

(a) General rule.--A person who:

(1) is a Class T-C, Class T-D, Class T-E or Class T-F member of the system or a Class T-C, Class T-D, Class T-E or Class T-F multiple service member who is a State employee and a member of the State Employees' Retirement System; and

(2) on July 1, 2019, is an active member of the system or an active member of the State Employees' Retirement System if a multiple service member,

may elect to become a member of Class T-G, Class T-H or a participant of Class DC.

(b) Time for making election.--The member must elect to become a member of Class T-G or Class T-H or a participant of Class DC by filing a written notice with the board within 90 days of notification by the board that the member is eligible to make the election or before the termination of school service or State service, as applicable, whichever occurs first. A school employee who is eligible to elect to become a member of Class T-G or Class T-H or a participant of Class DC who begins USERRA leave during the election period without having elected the membership may make the election within 90 days after being reemployed from USERRA leave.

(c) Effect of election.--An election to become a member of Class T-G or Class T-H or a participant in Class DC shall be irrevocable. The election shall apply to all service performed on or after January 1, 2020.

(1) Total contribution rate. A member electing membership in Class T-G or Class T-H shall be deemed to have accepted the basic contribution rate for the class of membership as defined in section 8102 (relating to definitions) in effect at the time of the election, provided that the sum of the total contribution rate plus the mandatory pickup participant contributions of a member who elects membership in Class T-G or Class T-H shall not be more or less than the total contribution rate the member would have contributed had the member not elected such membership. Class T-C and Class T-D members electing membership in Class T-G or Class T-H shall not be subject to the shared-risk contribution rate as determined by section 8321 (relating to regular member contributions for current service).

(2) Mandatory pickup participant contributions. The mandatory pickup participant contribution of a member electing Class T-G or Class T-H shall be the difference between the total contribution rate of the member's prior class of service and the total contribution rate of the elected class of service. A member electing participation in Class DC shall be deemed to have accepted the mandatory pickup participant contribution rate for Class DC equal to the total contribution rate the member would have contributed had the member not elected participation.

(d) Effect of failure to make election.--If the member fails to timely file an election to become a member of Class T-G or Class T-H or a participant of Class DC, the member shall continue to be enrolled as a member of Class T-C, Class T-D, Class T-E or Class T-F as applicable and the member shall never be able to elect membership in Class T-G or Class T-H or participation in Class DC, regardless of whether the member terminates service, has a break in service or refunds and returns to service.

(e) Former members.--Class T-C, Class T-D, Class T-E and Class T-F members, or former Class T-C, Class T-D, Class T-E and Class T-F members who, on July 1, 2019, are not eligible to make an election, or who return to service on or after July 1, 2019, shall not be eligible to elect membership in Class T-G or Class T-H or participation in Class DC.

(f) Multiple classes of service.--A member with more than one class of service who vests the member's retirement benefits in any class of service may not receive distributions from other classes of service until the member's effective date of retirement, regardless of whether the member's benefits resulting from such other classes of service are vested or the member is eligible to receive an annuity. A member with service credited in more than one class of service may not separately vest the benefits and receive annuities from different classes of service with different effective dates.

(g) Eligibility points.--In determining whether a member, who elects membership in Class T-G or Class T-H or participation in Class DC, accrues the eligibility points required in sections 8102, 8305 (relating to classes of service), 8307 (relating to eligibility for annuities), 8308 (relating to eligibility for vesting), 8345 (relating to member's options) and 8346 (relating to termination of annuities), eligibility points earned by performing credited school service as a member of Class T-C, Class T-D, Class T-E, Class T-F, Class T-G and Class T-H shall be counted in the aggregate for eligibility purposes only. A member who elects participation in Class DC shall earn one

eligibility point for each fiscal year in which the Class DC participant contributes to the trust.

Section 108. Sections 8306, 8307, 8308, 8310, 8321, 8322.1(a), 8323(a), (c) and (d)(1), 8324, 8325.1(a), 8326(a) and (c) and 8327 of Title 24 are amended to read:

§ 8306. Eligibility points.

(a) General rule.--An active member of the system shall accrue one eligibility point for each year of credited service as a member of the [school or State retirement system] **system or if a multiple service member, as a member of the State Employees' Retirement System.** A member shall accrue an additional two-thirds of an eligibility point for each year of Class D-3 credited service under the State Employees' Retirement System. In the case of a fractional part of a year of credited service, a member shall accrue the corresponding fractional portion of an eligibility point.

(a.1) USERRA leave.--A member **or participant** who is reemployed from USERRA leave or who dies while performing USERRA leave shall be granted the eligibility points that he would have accrued had he continued in his school office or employment instead of performing USERRA leave. If a school employee who is reemployed from USERRA leave makes the member **or mandatory pickup participant** contributions to be granted school service credit for the USERRA leave, no additional eligibility points may be granted.

(b) Transitional rule.--For the purposes of the transition:

(1) In determining whether a member, other than a disability annuitant who returns to school service after June 30, 2001, upon termination of the disability annuity, who is not a school employee or a State employee on June 30, 2001, and July 1, 2001, and who has previous school service, has the five eligibility points required by the definition of "vestee" in sections 8102 (relating to definitions), 8307 (relating to eligibility for annuities), 8308 (relating to eligibility for vesting) and 8345 (relating to member's options), only eligibility points earned by performing credited school service, USERRA leave or credited State service **as an active member of the State Employees' Retirement System** after June 30, 2001, shall be counted until such member earns one eligibility point by performing credited school service or, **if a multiple service member,** credited State service after June 30, 2001, at which time all eligibility points as determined under subsection (a) shall be counted.

(2) A member subject to paragraph (1) shall be considered to have satisfied any requirement for five eligibility points contained in this part if the member has at least ten eligibility points determined under subsection (a).

§ 8307. Eligibility for annuities.

(a) Superannuation annuity.--An active or an inactive member who attains superannuation age shall be entitled to receive a superannuation annuity upon termination of service and filing of a proper application. All members must begin receiving a superannuation annuity by the member's required beginning date.

(b) Withdrawal annuity.--

(1) A vestee in Class T-C or Class T-D with five or more eligibility points or an active or inactive Class T-C or Class T-D member who terminates school service having five or more eligibility points shall, upon filing a proper application, be entitled to receive an early annuity.

(2) A vestee in Class T-E or Class T-F with ten or more eligibility points or an active or inactive Class T-E or Class T-F member who terminates school service having ten or more eligibility points shall, upon filing a proper application, be entitled to receive an early annuity.

(3) A vestee in Class T-G or Class T-H with ten or more eligibility points or an active or inactive Class T-G or Class T-H member who terminates school service having ten or more eligibility points shall, upon filing a proper application, be entitled to receive an early annuity.

(c) Disability annuity.--An active or inactive member who has credit for at least five years of service shall, upon filing of a proper application, be entitled to a disability annuity if he becomes mentally or physically incapable of continuing to perform the duties for which he is employed and qualifies for an annuity in accordance with the provisions of section 8505(c)(1) (relating to duties of board regarding applications and elections of members **and participants**).
§ 8308. Eligibility for vesting.

Any Class T-C or Class T-D member who terminates school service, **or if a multiple service member and an active member of the State Employees' Retirement System who terminates State service**, with five or more eligibility points shall be entitled to vest his retirement benefits until the member's required beginning date. Any Class T-E [or], Class T-F, **Class T-G or Class T-H** member who terminates school service, **or if a multiple service member and an active member of the State Employees' Retirement System who terminates State service**, with ten or more eligibility points shall be entitled to vest his retirement benefits until his required beginning date.
§ 8310. Eligibility for refunds.

Upon termination of service any active member, regardless of eligibility for benefits, may elect to receive his accumulated deductions by his required beginning date in lieu of any benefit **from the system** to which he is entitled.
§ 8321. Regular member contributions for current service.

(a) General.--Regular member contributions shall be made to the fund on behalf of each active member for current service except for any period of current service in which the making of such contributions has ceased solely by reason of any provision of this part relating to the limitations under IRC § 401(a)(17) or 415.

(b) Class T-E [and], Class T-F, **Class T-G and Class T-H** shared-risk contributions.--

(1) Commencing with the annual actuarial valuation performed under section 8502(j) (relating to administrative duties of board), for the period ending June 30, 2014, and every three years thereafter, the board shall compare the actual investment rate of return, net of fees, to the annual interest rate adopted by the board for the calculation of the normal contribution rate, based on the market value of assets, for the prior ten-year period. If the actual investment rate of return, net of fees, is less than the annual interest rate adopted by the board by an amount of 1% or more, **then** the shared-risk contribution rate of Class T-E and T-F members will increase by .5% **and the shared-risk contribution rate of Class T-G and Class T-H members will increase by .75%**. If the actual investment rate of return, net of fees, is equal to or exceeds the annual interest rate adopted by the board[,], **by less than 1%**, **then** the shared-risk contributions rate of Class T-E and T-F members will decrease

by .5% [. Class T-E and T-F members will contribute at the total member contribution rate in effect when they are hired. The] and the shared-risk contribution rate of Class T-G and Class T-H members will decrease by .75%, provided the total member contribution rate on the date of the actuarial valuation is above the member's basic contribution rate. If the actual investment rate of return, net of fees, is more than the annual interest rate adopted by the board by an amount of 1% or more, then the shared-risk contribution rate of Class T-E and Class T-F members will decrease by .5% and the shared-risk contribution rate of Class T-G and Class T-H members will decrease by .75%. If the actual investment rate of return, net of fees, is equal to or below the annual interest rate adopted by the board by less than 1%, then:

(i) the shared-risk contribution rate of Class T-E and Class T-F members will increase by .5%; and

(ii) the shared-risk contribution rate of Class T-G and Class T-H members will increase by .75%, provided the total member contribution rate on the date of the actuarial valuation is below the member's basic contribution rate.

(2) Notwithstanding paragraph (1), the total member contribution rate for Class T-E members shall not be less than [7.5%] **5.5%**, nor more than 9.5%. The total member contribution rate for Class T-F members shall not be less than [10.3%] **8.3%**, nor more than 12.3%. **The total member contribution rate for Class T-G members shall not be less than 2.5% nor more than 8.5%. The total member contribution rate for Class T-H members shall not be less than 1.5% nor more than 7.5%.** Notwithstanding this subsection, if the system's actuarial funded status is 100% or more as of the date used for the comparison required under this subsection, as determined in the current annual actuarial valuation, the shared-risk contribution rate shall [be] **not be greater than** zero. In the event that the annual interest rate adopted by the board for the calculation of the normal contribution rate is changed during the period used to determine the shared-risk contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate. **The following provisions apply:**

[(1)] (i) Until the system has a ten-year period of investment rate of return experience following the effective date of this subsection, the look-back period shall begin not earlier than the effective date of this subsection.

[(2)] (ii) For any fiscal year in which the employer contribution rate is lower than the final contribution rate under section 8328(h) (relating to actuarial cost method), the total member contribution rate for Class T-E [and T-F], **Class T-F, Class T-G and Class T-H** members shall be prospectively reset to the basic contribution rate, **provided the total member contribution rate is at or above the basic contribution rate.**

[(3)] (iii) There shall be no increase in the member contribution rate if there has not been an equivalent increase to the employer contribution rate over the previous three-year period.

(3) Notwithstanding paragraph (1), shared-risk member contributions for Class T-E, Class T-F, Class T-G and Class T-H service shall not be made in any fiscal year in which

the Commonwealth fails to make the annually required contribution to the fund as provided under section 8328.

§ 8322.1. Pickup contributions.

(a) Treatment for purposes of IRC § 414(h).--All contributions **to the fund** required to be made under sections 8321 (relating to regular member contributions for current service), 8322 (relating to joint coverage member contributions) and 8305 (relating to classes of service), with respect to current school service rendered by an active member on or after January 1, 1983, shall be picked up by the employer and shall be treated as the employer's contribution for purposes of IRC § 414(h).

* * *

§ 8323. Member contributions for creditable school service.

(a) Previous school service, sabbatical leave and full coverage.--The contributions to be paid by an active member or an eligible State employee for credit **in the system** for reinstatement of all previously credited school service, school service not previously credited, sabbatical leave as if he had been in full-time daily attendance, or full-coverage membership shall be sufficient to provide an amount equal to the accumulated deductions which would have been standing to the credit of the member for such service had regular member contributions been made with full coverage at the rate of contribution necessary to be credited as Class T-C service, Class T-D service if the member is a Class T-D member, Class T-E service if the member is a Class T-E member [or], Class T-F service if the member is a Class T-F member, **Class T-G service if the member is a Class T-G member or Class T-H service if the member is a Class T-H member** and had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent school and State service up to the date of purchase.

* * *

(c) Approved leave of absence other than sabbatical leave and activated military service leave.--The contributions to be paid by an active member for credit for an approved leave of absence, other than sabbatical leave and activated military service leave, shall be sufficient to transfer his membership to Class T-C or to Class T-D if the member is a Class T-D member, to Class T-E if the member is a Class T-E member [or], to Class T-F if the member is a Class T-F member, **to Class T-G service if the member is a Class T-G member or to Class T-H service if the member is a Class T-H member** and further to provide an annuity as a Class T-C member or Class T-D member if the member is a Class T-D member, to Class T-E if the member is a Class T-E member [or], to Class T-F if the member is a Class T-F member, **to Class T-G service if the member is a Class T-G member or to Class T-H service if the member is a Class T-H member** for such additional credited service. Such amount shall be the sum of the amount required in accordance with the provisions of subsection (b) and an amount determined as the sum of the member's basic contribution rate and the normal contribution rate as provided in section 8328 (relating to actuarial cost method) during such period multiplied by the compensation which was received or which would have been received during such period and with statutory interest during all periods of subsequent school and State service up to the date of purchase.

* * *

(d) Certification and payment of contributions.--

(1) In all cases other than for the purchase of credit for sabbatical leave and activated military service leave beginning before the effective date of paragraph (2), the amount payable shall be certified by the board in accordance with methods approved by the actuary and may be paid in a lump sum within 90 days or in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System it may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

* * *

§ 8324. Contributions for purchase of credit for creditable nonschool service and noncreditable school service.

(a) Source of contributions.--The total contributions to purchase credit as a member of Class T-C, Class T-E [or], Class T-F, **Class T-G or Class T-H** for creditable nonschool service of an active member or an eligible State employee shall be paid either by the member, the member's previous employer, the Commonwealth, or a combination thereof, as provided by law.

(b) Nonintervening military service.--The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 (relating to actuarial cost method) at the time of entry of the member into school service subsequent to such military service to one-third of his total compensation received during the first three years of such subsequent credited school service and multiplying the product by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with statutory interest during all periods of subsequent school and State service to date of purchase. Upon certification of the amount due, payment may be made in a lump sum within 90 days or in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System it may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid. Application may be filed for all such military service credit upon completion of three years of subsequent credited school service and shall be credited as Class T-C service. In the event

that a Class T-E member makes a purchase of credit for such military service, then such service shall be credited as Class T-E service. In the event that a Class T-F member makes a purchase of credit for such military service, then such service shall be credited as Class T-F service. **In the event that a Class T-G member makes a purchase of credit for such military service, then such service shall be credited as Class T-G service. In the event that a Class T-H member makes a purchase of credit for such military service, then such service shall be credited as Class T-H service.**

(c) Intervening military service.--Contributions on account of credit for intervening military service shall be determined by the member's basic contribution rate and compensation at the time of entry of the member into active military service, together with statutory interest during all periods of subsequent school and State service to date of purchase. Upon application for such credit the amount due shall be certified in the case of each member by the board, in accordance with methods approved by the actuary, and contributions may be made by one of the following methods:

(1) Regular monthly payments during active military service.

(2) A lump sum payment within 90 days of certification of the amount due.

(3) Salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(d) Other creditable nonschool service and noncreditable school service.--

(1) Contributions on account of Class T-C credit for creditable nonschool service other than military service shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 at the time of the member's entry into school service subsequent to such creditable nonschool service to his total compensation received during the first year of subsequent credited school service and multiplying the product by the number of years and fractional part of a year of creditable nonschool service being purchased together with statutory interest during all periods of subsequent school or State service to the date of purchase, except that in the case of purchase of credit for creditable nonschool service as set forth in section 8304(b)(5) (relating to creditable nonschool service) the member shall pay only the employee's share unless otherwise provided by law. Upon certification of the amount due, payment may be made in a lump sum within 90 days or in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System it may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the members

and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(2) Contributions on account of Class T-E [or], Class T-F, **Class T-G or Class T-H** credit for creditable nonschool service other than military service shall be the present value of the full actuarial cost of the increase in the projected superannuation annuity caused by the additional service credited on account of the purchase. Upon certification of the amount due, payment may be made in a lump sum within 90 days or, in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System, it may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to the terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(3) Contributions on account of Class T-E [or], Class T-F, **Class T-G or Class T-H** credit for noncreditable school service other than military service shall be the present value of the full actuarial cost of the increase in the projected superannuation annuity caused by the additional service credited on account of the purchase. Upon certification of the amount due, payment may be made in a lump sum within 90 days or, in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System, it may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to the terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(e) Creditable work experience.--Contributions on account of Class T-C, Class T-E [or], Class T-F, **Class T-G or Class T-H** credit for creditable work experience pursuant to section 8304(b)(6) shall be the present value of the full actuarial cost of the increase in the projected superannuation annuity caused by the additional service credited on account of the

purchase of creditable work experience. The amount paid for the purchase of credit for creditable work experience shall not be payable as a lump sum under section 8345(a)(4)(iii) (relating to member's options). Any individual eligible to receive an annuity, excluding an annuity received under the Federal Social Security Act (42 U.S.C. § 301 et seq.), in another pension system, other than a military pension system, shall not be eligible to purchase this service.

(f) Creditable maternity leave.--Contributions on account of Class T-C, Class T-E or Class T-F credit for creditable maternity leave pursuant to section 8304(b)(7) shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 at the time of the member's return to school service to the total compensation received during the first year of subsequent school service and multiplying the product by the number of years and fractional part of a year of creditable service being purchased, together with statutory interest during all periods of subsequent school or State service to the date of purchase. The amount paid for the purchase of credit for creditable maternity leave shall not be eligible for withdrawal as a lump sum under section 8345(a)(4)(iii).

§ 8325.1. Annual compensation limit under IRC § 401(a)(17).

(a) General rule.--In addition to other applicable limitations set forth in this part, and notwithstanding any provision of this part to the contrary, the annual compensation of each noneligible member **and each participant** taken into account for benefit purposes under this subchapter shall not exceed the limitation under IRC § 401(a)(17). On and after July 1, 1996, any reference in this part to the limitation under IRC § 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103-66, 107 Stat. 312) annual compensation limit set forth in this subsection. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the commissioner for increases in the cost of living in accordance with IRC § 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any determination period which is a period, not exceeding 12 months, over which compensation is determined, beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12.

* * *

§ 8326. Contributions by the Commonwealth.

(a) Contributions on behalf of active members.--The Commonwealth shall make contributions into the fund on behalf of all active members **and participants**, including members **and participants** on activated military service leave, in an amount equal to one-half the amount certified by the board as necessary to provide, together with the members' contributions, annuity reserves on account of prospective annuities as provided in this part in accordance with section 8328 (relating to actuarial cost method). In case a school employee has elected membership in a retirement program approved by the employer, the Commonwealth shall contribute to such program on account of his membership an amount no greater than the amount it would have contributed had the employee been a member of the Public School Employees' Retirement System.

* * *

(c) Contributions after June 30, 1995.--

(1) The Commonwealth shall make contributions into the fund on behalf of all active members **and participants**, including members **and participants** on activated military service leave, for service performed after June 30, 1995, in the following manner:

(i) For members **and participants** who are employees of employers that are school entities, no Commonwealth contributions shall be made.

(ii) For members **and participants** who are employees of employers that are not school entities, the amount computed under subsection (a).

(2) The Commonwealth shall make contributions into the fund on behalf of annuitants for all amounts due to the fund after June 30, 1995, including, but not limited to, amounts due pursuant to section 8328(d) and (f), in the following manner:

(i) For members **and participants** who are employees of employers who are school entities, no Commonwealth contributions shall be made.

(ii) For members **and participants** who are employees of employers who are not school entities, the amount computed under subsection (b).

* * *

§ 8327. Payments by employers.

(a) General rule.--Each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens College of Technology, Western Pennsylvania School for the Deaf, Scotland School for Veterans' Children[,] and [the] **The Pennsylvania State University**, shall make payments to the fund each quarter in an amount equal to one-half the sum of the percentages, as determined under section 8328 (relating to actuarial cost method), applied to the total compensation during the pay periods in the preceding quarter of all its employees who were members of the system during such period, including members on activated military service leave. In the event a member on activated military service leave does not return to service for the necessary time or receives an undesirable, bad conduct or dishonorable discharge or does not elect to receive credit for activated military service under section 8302(b.1)(3) (relating to credited school service), the contributions made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.

(b) Deduction from appropriations.--

(1) To facilitate the payment of amounts due from any employer to the fund **and the trust** through the State Treasurer and to permit the exchange of credits between the State Treasurer and any employer, the Secretary of Education and the State Treasurer shall cause to be deducted and paid into the fund **and the trust** from the amount of any moneys due to any employer on account of any appropriation for schools or other purposes amounts equal to the employer **contributions, employer defined contributions** and pickup contributions which an employer is required to pay to the fund **and the trust**, as certified by the board, and as remains unpaid on the date such appropriations would otherwise be paid to the employer. Such amount shall be credited to the appropriate accounts in the fund **and the trust**.

(2) To facilitate the payments of amounts due from any charter school, as defined in Article XVII-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, to the fund **and the trust** through the State

Treasurer and to permit the exchange of credits between the State Treasurer and any employer, the Secretary of Education and the State Treasurer shall cause to be deducted and paid into the fund **and the trust** from any funds appropriated to the Department of Education for basic education of the chartering school district of a charter school and public school employees' retirement contributions amounts equal to the employer **contributions, employer defined contributions** and pickup contributions which a charter school is required to pay to the fund **and the trust**, as certified by the board, and as remains unpaid on the date such appropriations would otherwise be paid to the chartering school district or charter school. Such amounts shall be credited to the appropriate accounts in the fund **and the trust**. Any reduction in payments to a chartering school district made pursuant to this section shall be deducted from the amount due to the charter school district pursuant to the Public School Code of 1949.

(c) Payments by employers after June 30, 1995, **and before June 30, 2019.**--After June 30, 1995, **and before June 30, 2019**, each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens College of Technology, Western Pennsylvania School for the Deaf, Scotland School for Veterans' Children and The Pennsylvania State University, shall make payments to the fund **and the trust** each quarter in an amount computed in the following manner:

(1) For an employer that is a school entity, the amount shall be the sum of the percentages as determined under section 8328 applied to the total compensation during the pay periods in the preceding quarter of all employees who were active members of the system **or active participants of the plan** during such period, including members **or active participants** on activated military service leave. In the event a member on activated military service leave does not return to service for the necessary time or receives an undesirable, bad conduct or dishonorable discharge or does not elect to receive credit for activated military service under section 8302(b.1)(3), the contribution made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.

(2) For an employer that is not a school entity, the amount computed under subsection (a).

(3) For any employer, whether or not a school entity, in computing the amount of payment due each quarter, there shall be excluded from the total compensation referred to in this subsection and subsection (a) any amount of compensation of a noneligible member on the basis of which member **or participant** contributions have not been made by reason of the limitation under IRC § 401(a)(17), **except as otherwise provided in this part**. Any amount of contribution to the fund paid by the employer on behalf of a noneligible member on the basis of compensation which was subject to exclusion from total compensation in accordance with the provisions of this paragraph shall, upon the board's determination or upon application by the employer, be returned to the employer with valuation interest. **Any amount of contribution to the trust paid by the employer on behalf of a noneligible member on the basis of compensation that was subject to exclusion from total compensation in accordance with the provisions of this paragraph shall,**

upon the board's determination or upon application by the employer, be returned to the employer plus interest and investment gains or losses on such amount but minus investment fees and administrative charges.

(d) Payments by employers after June 30, 2019.--After June 30, 2019, each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens College of Technology, Western Pennsylvania School for the Deaf, Scotland School for Veterans' Children and The Pennsylvania State University, shall make payments to the fund and the trust each quarter in an amount computed in the following manner:

(1) For an employer that is a school entity, the amount shall be the sum of the percentages as determined under section 8328 applied to the total compensation during the pay periods in the preceding quarter of all employees who were active members of the system during such period, including members on activated military service leave and USERRA leave. In the event a member on activated military service leave or USERRA leave does not return to service for the necessary time or receives an undesirable, bad conduct or dishonorable discharge or does not elect to receive credit for activated military service under section 8302(b.1)(3), the contribution made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.

(2) For an employer that is not a school entity, the amount computed under subsection (a).

(3) For any employer, whether or not a school entity, in computing the amount of payment due each quarter, there shall be excluded from the total compensation referred to in this subsection and subsection (a) any amount of compensation of a noneligible member or participant on the basis of which member or participant contributions have not been made by reason of the limitation under IRC § 401(a)(17). Any amount of contribution to the fund paid by the employer on behalf of a noneligible member or participant on the basis of compensation that was subject to exclusion from total compensation in accordance with the provisions of this paragraph shall, upon the board's determination or upon application by the employer, be returned to the employer with valuation interest.

(e) Agreement.--The agreement of an employer listed in the definition of school employee under section 8102 (relating to definitions) or any other law to make contributions to the fund or to enroll its employees as members in the system shall be deemed to be an agreement to make contributions to the trust or enroll its employees in the plan.

(f) Contributions.--The employer employing a participant shall pick up the required mandatory participant contributions by a reduction in the compensation of the participant.

(g) Reemployed from USERRA leave.--When a school employee reemployed from USERRA leave makes the member contributions required to be granted school service credit for the USERRA leave after June 30, 2019, either by actual payment or by actuarial debt under section 8325 (relating to incomplete payments), the employer that employed the school employee when the member contributions are made, or the last employer before termination in the case of payment under section 8325, shall make the employer contributions that would have been made under this section if the employee making the member contributions after he is reemployed from USERRA leave continued to be

employed in his school office or position instead of performing USERRA leave.

Section 108.1. Sections 8328(a), (b), (c), (e)(1) and (g) and 8330 of Title 24 are amended to read:

§ 8328. Actuarial cost method.

(a) Employer contribution rate.--The amount of the total employer contributions shall be computed by the actuary as a percentage of the total compensation of all active members **and active participants, as applicable**, during the period for which the amount is determined and shall be so certified by the board. The total employer contribution rate shall be the sum of the final contribution rate as computed in subsection (h) plus the premium assistance contribution rate as computed in subsection (f). The actuarially required contribution rate shall consist of the normal contribution rate as defined in subsection (b), the accrued liability contribution rate as defined in subsection (c) and the supplemental annuity contribution rate as defined in subsection (d). Beginning July 1, 2004, the actuarially required contribution rate shall be modified by the experience adjustment factors as calculated in subsection (e). **The actuarially required contribution shall be no less than the normal cost plus the cost to fully amortize the unfunded actuarial accrued liability calculated using actuarial methods and assumptions that are consistent with generally accepted actuarial standards and generally accepted accounting principles, including professional actuarial standards of practice.**

(b) Normal contribution rate.--The normal contribution rate shall be determined after each actuarial valuation. Until all accrued liability contributions have been completed, the normal contribution rate shall be determined, on the basis of an annual interest rate and such mortality and other tables as shall be adopted by the board in accordance with generally accepted actuarial principles, as a level percentage of the compensation of [the average new active member] **all active members**, which percentage, if contributed **from the start of their employment** on the basis of [his] **their** prospective compensation through [the] **their** entire period of active school service, would be sufficient to fund the liability for any prospective benefit payable to [him] **them**, in excess of that portion funded by [his] **their** prospective member contributions, excluding the shared-risk contributions. **In no case shall the employer's normal cost be less than zero.**

(c) Accrued liability contribution rate.--

(1) For the fiscal years beginning July 1, 2002, and ending June 30, 2011, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund over a period of ten years from July 1, 2002, the present value of the liabilities for all prospective benefits of active members, except for the supplemental benefits provided in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional supplemental annuities), 8348.3 (relating to supplemental annuities commencing 1994), 8348.4 (relating to special supplemental postretirement adjustment), 8348.5 (relating to supplemental annuities commencing 1998), 8348.6 (relating to supplemental annuities commencing 2002) and 8348.7 (relating to supplemental annuities commencing 2003), in excess of the total assets in the fund (calculated by

recognizing the actuarially expected investment return immediately and recognizing the difference between the actual investment return and the actuarially expected investment return over a five-year period), excluding the balance in the annuity reserve account, and of the present value of normal contributions and of member contributions payable with respect to all active members on July 1, 2002, during the remainder of their active service.

(2) For the fiscal years beginning July 1, 2003, and ending June 30, 2011, the amount of each annual accrued liability contribution shall be equal to the amount of such contribution for the fiscal year, beginning July 1, 2002, except that, if the accrued liability is increased by legislation enacted subsequent to June 30, 2002, but before July 1, 2003, such additional liability shall be funded over a period of ten years from the first day of July, coincident with or next following the effective date of the increase. The amount of each annual accrued liability contribution for such additional legislative liabilities shall be equal to the amount of such contribution for the first annual payment.

(3) Notwithstanding any other provision of law, beginning July 1, 2004, and ending June 30, 2011, the outstanding balance of the increase in accrued liability due to the change in benefits enacted in 2001 and the outstanding balance of the net actuarial loss incurred in fiscal year 2000-2001 shall be amortized in equal dollar annual contributions over a period that ends 30 years after July 1, 2002, and the outstanding balance of the net actuarial loss incurred in fiscal year 2001-2002 shall be amortized in equal dollar annual contributions over a period that ends 30 years after July 1, 2003. For fiscal years beginning on or after July 1, 2004, if the accrued liability is increased by legislation enacted subsequent to June 30, 2003, such additional liability shall be funded in equal dollar annual contributions over a period of ten years from the first day of July coincident with or next following the effective date of the increase.

(4) For the fiscal year beginning July 1, 2011, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund as a level percentage of compensation over a period of 24 years from July 1, 2011, the present value of the liabilities for all prospective benefits calculated as of June 30, 2010, including the supplemental benefits as provided in sections 8348, 8348.1, 8348.2, 8348.3, 8348.4, 8348.5, 8348.6 and 8348.7, in excess of the actuarially calculated assets in the fund (calculated recognizing all realized and unrealized investment gains and losses each year in level annual installments over a ten-year period). In the event that the accrued liability is increased by legislation enacted subsequent to June 30, 2010, **as a result of an increase in benefits determined on a total plan basis**, such additional liability shall be funded as a level percentage of compensation over a period of ten years from the July 1 second succeeding the date such legislation is enacted.

(5) **For the fiscal year beginning on or after July 1, 2017, the actuarially calculated assets in the fund determined in accordance with paragraph (4) shall be no less than 70% and no more than 130% of market value.**

* * *

(e) Experience adjustment factor.--

(1) For each **fiscal** year after the establishment of the accrued liability contribution rate for the fiscal year beginning July 1, 2011, any increase or decrease in the unfunded accrued liability, excluding the gains or losses on the assets of the health insurance account, due to actual experience differing from assumed experience, changes in actuarial assumptions, changes in contributions caused by the final contribution rate being different from the actuarially required contribution rate, active members making shared-risk contributions or changes in the terms and conditions of the benefits provided by the system by judicial, administrative or other processes other than legislation, including, but not limited to, reinterpretation of the provisions of this part, shall be amortized as a level percentage of compensation over a period of 24 years beginning with the July 1 second succeeding the actuarial valuation determining said increases or decreases.

* * *

(g) Temporary application of collared contribution rate.--

(1) The collared contribution rate for each **fiscal** year shall be determined by comparing the actuarially required contribution rate, calculated without regard for the costs added by legislation, to the prior year's final contribution rate.

(2) If, for any of the fiscal years beginning July 1, 2011, July 1, 2012, and on or after July 1, 2013, the actuarially required contribution rate, calculated without regard for the costs added by legislation, is more than 3%, 3.5% and 4.5%, respectively, of the total compensation of all active members greater than the prior year's final contribution rate, then the collared contribution rate shall be applied and be equal to the prior year's final contribution rate increased by 3%, 3.5% and 4.5%, respectively, of total compensation of all active members. Otherwise, and for all other fiscal years, the collared contribution rate shall not be applicable. In no case shall the collared contribution rate be less than 4% of the total compensation of all active members.

* * *

§ 8330. Appropriations by the Commonwealth.

(a) Annual submission of budget.--The board shall prepare and through the Governor submit annually to the General Assembly an itemized budget consisting of the amounts necessary to be appropriated by the Commonwealth out of the General Fund required to meet the **separate obligations to the fund and the trust** accruing during the fiscal period beginning July 1 of the following year.

(b) Appropriation and payment.--The General Assembly shall make an appropriation sufficient to provide for the **separate obligations of the Commonwealth to the fund and the trust as certified by the board**. Such amount shall be paid by the State Treasurer through the Department of Revenue into the fund **or the trust** within 30 days of receipt of the requisition presented each quarter by the board.

Section 109. (Reserved).

Section 110. Section 8341 of Title 24 is amended to read:
§ 8341. Return of accumulated deductions.

Any member upon termination of service may, in lieu of all benefits payable **from the system** under this chapter to which he may be entitled, elect to receive his accumulated deductions by his required beginning date.

Section 111. Sections 8342(a) and 8344(a), (b) and (d) of Title 24 are amended and the sections are amended by adding subsections to read:

§ 8342. Maximum single life annuity.

(a) General rule.--Upon termination of service, any full coverage member who is eligible to receive an annuity pursuant to the provisions of section 8307(a) or (b) (relating to eligibility for annuities) and has made an application in accordance with the provisions of section 8507(f) (relating to rights and duties of school employees [and members], **members and participants**) shall be entitled to receive a maximum single life annuity attributable to his credited service and equal to the sum of the following single life annuities beginning at the effective date of retirement and, in case the member on the effective date of retirement is under superannuation age, multiplied by a reduction factor calculated to provide benefits actuarially equivalent to an annuity starting at superannuation age: Provided however, That on or after July 1, 1976, in the case of any member **other than a Class T-G or Class T-H member** who has attained age 55 and has 25 or more eligibility points such sum of single life annuities shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 1/4%: **Further provided, That on or after July 1, 2019, in the case of any Class T-G member who terminates service on or after attaining age 57 and has 25 or more eligibility points, such sum of single life annuities shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 1/4%: Further provided, That on or after July 1, 2019, in the case of any Class T-H member who has 25 or more eligibility points and who terminates service on or after attaining age 55, such sum of single life annuities shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 1/4%:** Further provided, In no event shall a Class T-E [or], Class T-F, **Class T-G or Class T-H** member receive an annual benefit, calculated as of the effective date of retirement, greater than the member's final average salary:

(1) A [standard single life annuity multiplied by the] **single life annuity that is the sum of annuities determined separately for each class of service [multiplier] and** calculated on the basis of the number of years of credited school service other than concurrent service.

(2) A standard single life annuity multiplied by the class of service multiplier and calculated on the basis of the number of years of concurrent service and multiplied by the ratio of total compensation received in the school system during the period of concurrent service to the total compensation received during such period.

(3) A supplemental annuity such that the total annuity prior to any optional modification or any reduction due to retirement prior to superannuation age shall be at least \$100 for each full year of credited service.

* * *

(d) **Coordination of benefits.--The determination and payment of the maximum single life annuity under this section shall be in addition to any payments a member may be entitled to receive,**

has received or is receiving as a result of being a participant in the plan.

(e) Special calculation for Class T-G and Class T-H.--For the calculation under subsection (a) for all Class T-G and Class T-H members who are under age 62 and have less than 25 years of credited service, the reduction factor used in the calculation for an annuity shall be determined so that a maximum single life annuity with an effective date of retirement before the member attains age 62 shall be actuarially equivalent to the maximum single life annuity the member would receive if the member had become a vestee and applied for an annuity with an effective date of retirement on the date the member attained age 62. For purposes of this subsection, the maximum single life annuity actually being received shall be actuarially equivalent to the maximum single life annuity with an effective date of attaining age 62 if the actual maximum single life annuity has the same present value as the maximum single life annuity at age 62, computed on the basis of interest at the rate as calculated by the board's actuary and the mortality tables adopted by the board.

§ 8344. Disability annuities.

(a) Amount of annuity.--A member who has made application for a disability annuity as provided in section 8507(k) (relating to rights and duties of school employees [and], members **and participants**) and has been found to be eligible in accordance with the provisions of sections 8307(c) (relating to eligibility for annuities) and 8505(c)(1) (relating to duties of board regarding applications and elections of members **and participants**) shall receive a disability annuity payable from the effective date of disability and continued until a subsequent determination by the board that the annuitant is no longer entitled to a disability annuity. The disability annuity shall be **a single life annuity that is equal to a sum of the standard single life [annuity] annuities determined separately for each class of service** if the total number of years of credited service is greater than 16.667, otherwise [the] **each** standard single life annuity shall be multiplied by the lesser of the following ratios:

$$Y^*/Y \text{ or } 16.667/Y$$

where Y = **total** number of years of credited service and Y* = total years of credited service if the member were to continue as a school employee until attaining superannuation age, or if the member has attained superannuation age then the number of years of credited service. **For purposes of calculating a disability annuity for a member of Class T-G or Class T-H, the standard single life annuity shall equal 2% of the final average salary, multiplied by the total number of years and fractional part of a year of service credited for such class of service.** In no event shall the disability annuity plus any cost-of-living increases be less than \$100 for each full year of credited service. The member shall be entitled to the election of a joint and survivor annuity on that portion of the disability annuity to which he is entitled under section 8342 (relating to maximum single life annuity).

(b) Reduction on account of earned income.--Payments on account of disability shall be reduced by that amount by which the earned income of the annuitant, as reported in accordance with section 8508(b) (relating to rights and duties of annuitants) for the preceding year together with the disability annuity payments for the year, exceeds the greater of \$5,000 or the last year's salary of the annuitant as a [school employee] **member of the system**, provided that the annuitant

shall not receive less than his member's annuity or the amount to which he may be entitled under section 8342, whichever is greater.

* * *

(d) Withdrawal of accumulated deductions.--Upon termination of disability annuity payments in excess of an annuity calculated in accordance with section 8342, a disability annuitant who[:

(1) is a Class T-C or Class T-D member; or

(2) is a Class T-E or Class T-F member with less than ten eligibility points

and who] does not return to school service may file an application with the board for an amount equal to the accumulated deductions, shared-risk member contributions and statutory interest standing to his credit at the effective date of disability less the total payments received on account of his member's annuity.

* * *

(f) Coordination of benefits.--The determination and payment of a disability annuity under this section shall be in addition to any payments a school employee may be entitled to receive, has received or is receiving as a result of being a participant in the plan.

Section 112. Sections 8345(a), 8346(a), (a.1), (b), (b.1)(1) and (d)(1) and (2), 8347(a) and (b) and 8349 heading, (a) and (b) of Title 24 are amended to read:

§ 8345. Member's options.

(a) General rule.--Any Class T-C or Class T-D member who is a vestee with five or more eligibility points, any Class T-E [or], Class T-F, **Class T-G or Class T-H** member who is a vestee with ten or more eligibility points, or any [other] eligible member upon termination of school service [who has not withdrawn his accumulated deductions as provided in section 8341 (relating to return of accumulated deductions)] **who is eligible to receive an annuity**, may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 8342 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options, except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse or alternate payee of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity and no member may elect a payment option that would provide benefits that do not satisfy the minimum distribution requirements or would violate the incidental death benefit rules of IRC § 401(a)(9). In no event shall a Class T-E or Class T-F member receive an annual benefit, calculated as of the effective date of retirement, greater than the member's final average salary.

(1) Option 1.--A life annuity to the member with a guaranteed total payment equal to the present value of the maximum single life annuity on the effective date of retirement with the provision that, if, at his death, he has received less than such present value, the unpaid balance shall be payable to his beneficiary.

(2) Option 2.--A joint and survivor annuity payable during the lifetime of the member with the full amount of such annuity payable thereafter to his survivor annuitant, if living at his death.

(3) Option 3.--A joint and fifty percent (50%) survivor annuity payable during the lifetime of the member with one-half of such annuity payable thereafter to his survivor annuitant, if living at his death.

(4) Option 4.--Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) Any annuity shall be payable without reduction during the lifetime of the member.

(ii) The sum of all annuities payable to the designated survivor annuitants shall not be greater than the annuity payable to the member.

(iii) A portion of the benefit may be payable as a lump sum, except that such lump sum payment shall not exceed an amount equal to the accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 8342(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) of this paragraph. [This subparagraph shall not apply to a Class T-E or Class T-F member.] **For purposes of this subparagraph:**

(A) The term "actuarially equivalent," as applied to any lump sum withdrawal attributable to contributions credited to the member's savings account of Class T-C and Class T-D members who elected membership in Class T-G or Class T-H pursuant to section 8305.5 (relating to election to become Class T-G, Class T-H or Class DC), on or after July 1, 2019, together with statutory interest thereon, shall mean equal present values, computed on the basis of the interest rate and such mortality and other tables as adopted by the board under section 8328(b) (relating to actuarial cost method) in effect on the effective date of retirement of the member.

(B) the term "actuarially equivalent," as applied to any lump sum withdrawal attributable to contributions credited to the member's savings account of Class T-E, Class T-F, Class T-G or Class T-H members, together with statutory interest thereon, shall mean equal present values, computed on the basis of the interest rate and such mortality and other tables as adopted by the board under section 8328(b) in effect on the effective date of retirement of the member.

* * *

§ 8346. Termination of annuities.

(a) General rule.--If an annuitant returns to school service or enters or has entered State service and elects multiple service membership, any annuity payable to him under this part shall cease effective upon the date of his return to school service or entering State service **without regard to whether he is a mandatory, optional or prohibited member of the system or participant in the plan or, if a multiple service member, whether he is a mandatory, optional or prohibited member or participant of the State Employees' Retirement System or State Employees' Defined Contribution Plan;** and, in the case of an annuity other than a disability annuity the present value of such annuity, adjusted for full coverage in the case of a joint

coverage member who makes the appropriate back contributions for full coverage, shall be frozen as of the date such annuity ceases. An annuitant who is credited with an additional 10% of membership service as provided in section 8302(b.2) (relating to credited school service) and who returns to school service, except as provided in subsection (b), shall forfeit such credited service and shall have his frozen present value adjusted as if his 10% retirement incentive had not been applied to his account. In the event that the cost-of-living increase enacted December 18, 1979, occurred during the period of such State or school employment, the frozen present value shall be increased, on or after the member attains superannuation age, by the percent applicable had he not returned to service.

(a.1) Return of benefits.--In the event an annuitant whose annuity **from the system** ceases pursuant to this section receives any annuity payment, including a lump sum payment pursuant to section 8345 (relating to member's options) on or after the date of his return to school service or entering State service, the annuitant shall return to the board the amount so received **from the system** plus statutory interest. The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 90 days or in the case of an active member or a State employee who is an active member of the State Employees' Retirement System may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the member and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of a State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

* * *

(b) Return to school service during emergency.--When, in the judgment of the employer, an emergency creates an increase in the work load such that there is serious impairment of service to the public or in the event of a shortage of appropriate subject certified teachers or other personnel, an annuitant **or participant receiving distributions** may be returned to school service for a period not to extend beyond the school year during which the emergency or shortage occurs, without loss of his annuity **or distributions**, provided that the annuitant meets the conditions set forth in subsection (b.2). The annuitant **or participant receiving distributions** shall not be entitled to earn any credited service, and no contributions may be made **to the fund or the trust** by the annuitant **or participant receiving distributions**, the employer or the Commonwealth on account of such employment. **Such service shall not be subject to member or participant contributions or be eligible for qualification as creditable school service or for participation in the plan, mandatory pickup participant contributions, voluntary contributions or employer defined contributions.**

(b.1) Return to school service in an extracurricular position.--

(1) An annuitant **or participant receiving distributions** may be employed under separate contract by a public school

or charter school in an extracurricular position performed primarily outside regular instructional hours and not part of mandated curriculum without loss of annuity, provided that the annuitant meets the conditions set forth in subsection (b.2). [Neither the annuitant nor] **The annuitant, the participant receiving distributions and** the employer shall **not** make contributions to the member's savings account, **the individual investment account** or State accumulation account respectively for such service. Further, such contract shall contain a waiver whereby the annuitant waives any potential retirement benefits that could arise from the contract and releases the employer and the board from any liability for such benefits. **Such service shall not be subject to member or participant contributions or be eligible for qualification as creditable school service or for participation in the plan, mandatory pickup participant contributions or employer defined contributions.**

* * *

(d) Elimination of the effect of frozen present value.--

(1) An annuitant who returns to school service **as an active member of the system** and earns three eligibility points by performing credited school service or reemployment from USERRA leave following the most recent period of receipt of an annuity under this part, or an annuitant who enters State service and:

(i) is a multiple service member; or

(ii) who elects multiple service membership, and earns three eligibility points by performing credited State service, reemployment from USERRA leave or credited school service following the most recent period of receipt of an annuity under this part, and who had the present value of his annuity frozen in accordance with subsection (a), shall qualify to have the effect of the frozen present value resulting from all previous periods of retirement eliminated, provided that all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph (3) shall be returned to the fund in the form of an actuarial adjustment to his subsequent benefits or in such form as the board may otherwise direct.

(2) Upon subsequent discontinuance of service and the filing of an application for an annuity **from the system**, a former annuitant who qualifies to have the effect of a frozen present value eliminated under this subsection shall be entitled to receive the higher of either:

(i) an annuity (prior to optional modification) calculated as if the freezing of the former annuitant's account pursuant to subsection (a) had not occurred, adjusted by crediting Class T-C school service as Class T-D service as provided for in section 8305(c) (relating to classes of service) and further adjusted according to paragraph (3), provided that a former annuitant of the system or a former annuitant of the State Employees' Retirement System who retired under a provision of law granting additional service credit if termination of school or State service or retirement occurred during a specific period of time shall not be permitted to retain the additional service credit under the prior law when the annuity is computed for his most recent retirement; or

(ii) an annuity (prior to optional modification) calculated as if the former annuitant did not qualify

to have the effect on the frozen present value eliminated,
unless the former annuitant notifies the board in writing by the later of the date the application for annuity is filed or the effective date of retirement that the former annuitant wishes to receive the lower annuity.

* * *

§ 8347. Death benefits.

(a) Members eligible for annuities.--Any member or former member on USERRA leave, other than an annuitant, who dies and was eligible for an annuity in accordance with section 8307(a) or (b) (relating to eligibility for annuities) shall be considered as having applied for an annuity **from the fund** to become effective the day before his death; and, in the event he has not elected an option, it shall be assumed that he elected Option 1 and assigned as beneficiary that person last designated in writing to the board.

(b) Members ineligible for annuities.--In the event of the death of any member or former member on USERRA leave, other than an annuitant, who is not entitled to a death benefit as provided in subsection (a), his designated beneficiary shall be paid the full amount of his accumulated deductions **payable from the fund**.

* * *

§ 8349. Payment of benefits **from the system**.

(a) Annuities.--Any annuity granted under the provisions of this part **and paid from the fund** shall be paid in equal monthly installments commencing by the required beginning date.

(b) Death benefits.--If the amount of a death benefit payable **from the fund** to a beneficiary **of a member** under section 8347 (relating to death benefits) or under the provisions of Option 1 of section 8345(a)(1) (relating to member's options) is \$10,000 or more, such beneficiary may elect to receive payment according to one of the following options:

(1) A lump sum payment.

(2) An annuity actuarially equivalent to the amount payable.

(3) A lump sum payment and an annuity such that the annuity is actuarially equivalent to the amount payable less the lump sum payment specified by the beneficiary.

* * *

Section 113. Title 24 is amended by adding a chapter to read:

CHAPTER 84

SCHOOL EMPLOYEES' DEFINED CONTRIBUTION PLAN

Sec.

8401. Establishment.

8402. Plan document.

8403. Individual investment accounts.

8404. Participant contributions.

8405. Mandatory pickup participant contributions.

8406. Employer defined contributions.

8407. Eligibility for benefits.

8408. Death benefits.

8409. Vesting.

8410. Termination of distributions.

8411. Powers and duties of board.

8411.1. Relation of administrators of School Employees' Defined Contribution Plan to providers of 403(b) plans.

8412. Responsibility for investment loss.

8413. Investments based on participant's investment allocation choices.

8414. Expenses.

8415. Tax qualification.

§ 8401. Establishment.

(a) School Employees' Defined Contribution Plan.--The School Employees' Defined Contribution Plan is established. The board shall administer and manage the plan, which shall be a defined contribution plan exclusively for the benefit of those school employees who participate in the plan and their beneficiaries within the meaning of and in conformity with IRC § 401(a). The board shall determine the terms and provisions of the plan not inconsistent with this part, the IRC and other applicable law and shall provide for the plan's administration.

(b) School Employees' Defined Contribution Trust.--The School Employees' Defined Contribution Trust is established as part of the plan in accordance with this part. The trust shall be comprised of the individual investment accounts, all assets and moneys in those accounts and any assets and moneys held by the board as part of the plan that are not allocated to the individual investment accounts. The members of the board shall be the trustees of the trust, which shall be administered exclusively for the benefit of those school employees who participate in the plan and their beneficiaries within the meaning of and in conformity with IRC § 401(a). The board shall determine the terms and provisions of the trust not inconsistent with this part, the IRC and other applicable law and shall provide for the investment and administration of the trust.

(c) Assets held in trust.--All assets and income in the plan that have been or shall be withheld or contributed by the participants, the Commonwealth and employers in accordance with this part shall be held in trust in any funding vehicle permitted by the applicable provisions of the IRC for the exclusive benefit of the plan's participants and their beneficiaries until such time as the funds are distributed to the participants or their beneficiaries in accordance with the terms of the plan document. The assets of the plan held in trust for the exclusive benefit of the participants and their beneficiaries may be used for the payment of the fees, costs and expenses related to the administration and investment of the plan and the trust.

(d) Name for transacting business.--By the name of "The School Employees' Defined Contribution Plan," all of the business of the plan shall be transacted, the trust invested, all requisitions for money drawn and payments made and all of its cash and securities and other property shall be held, except that, any other law to the contrary notwithstanding, the board may establish a nominee registration procedure for the purpose of registering securities to facilitate the purchase, sale or other disposition of securities under the provisions of this part.

§ 8402. Plan document.

The board shall set forth the terms and provisions of the plan and trust in a document containing the terms and conditions of the plan and in a trust declaration. The creation of the document containing the terms and conditions of the plan and the trust declaration and the establishment of the terms and provisions of the plan and the trust need not be promulgated by regulation or formal rulemaking and shall not be subject to the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. A reference in this part or other law to the plan shall include the plan document unless the context clearly indicates otherwise.

§ 8403. Individual investment accounts.

The board:

(1) Shall establish in the trust an individual investment account for each participant in the plan. All contributions by a participant or an employer for or on behalf of a participant shall be credited to the participant's individual investment account, together with all interest and investment earnings and losses. Investment and administrative fees, costs and expenses shall be charged to the participants' individual investment accounts.

(2) Shall separately track participant contributions, including investment gains and losses, and employer contributions, including investment gains and losses, but all interest, investment gains and losses and administrative fees, costs and expenses shall be allocated proportionately.

(3) May contract with financial institutions, insurance companies or other types of third-party providers and other vendors to allow participants to deposit participant contributions into the individual investment accounts in a form and manner as provided by the contract.

§ 8404. Participant contributions.

(a) Mandatory contributions.--A participant shall make mandatory pickup participant contributions through payroll deductions to the participant's individual investment account for school service required to be credited in the plan. The employer shall cause those contributions for service required to be credited in the plan to be made and deducted from each payroll or on such schedule as established by the board.

(b) Voluntary contributions.--A participant may make voluntary contributions through payroll deductions, through direct trustee-to-trustee transfers or through transfers of money received in an eligible rollover into the trust to the extent allowed by IRC § 402. Rollovers shall be made in a form and manner as determined by the board, shall be credited to the participant's individual investment account and shall be separately accounted for by the board.

(c) Prohibition on contributions.--No contributions shall be allowed that would cause a violation of the limitations related to contributions applicable to governmental plans contained in IRC § 415 or in other provisions of law. In the event that any disallowed contributions are made, any participant contributions in excess of the limitations and investment earnings on those contributions, minus investment fees and charges, shall be refunded to the participant by the board.

§ 8405. Mandatory pickup participant contributions.

(a) Treatment for purposes of IRC § 414(h).--The contributions to the trust required to be made under section 8404(a) (relating to participant contributions) with respect to school service rendered by an active participant shall be picked up by the employer and shall be treated as the employer's contribution for purposes of IRC § 414(h). After the effective date of this section, an employer employing a participant in the plan shall pick up the required mandatory participant contributions by a reduction in the compensation of the participant.

(b) Treatment for other purposes.--For all other purposes under this part and otherwise, mandatory pickup participant contributions shall be treated as contributions made by a participant in the same manner and to the same extent as if the contributions were made directly by the participant and not picked up.

§ 8406. Employer defined contributions.

(a) Contributions for service.--The employer of a participant shall make employer defined contributions for service of an active participant that shall be credited to the active participant's individual investment account. Employer defined contributions must be recorded and accounted for separately from participant contributions.

(b) Contributions resulting from participants reemployed from USERRA leave.--When a school employee reemployed from USERRA leave makes the mandatory pickup participant contributions permitted to be made for the USERRA leave, the employer by whom the school employee is employed at the time the participant contributions are made shall make whatever employer defined contributions would have been made under this section had the employee making the participant contributions after being reemployed from USERRA leave continued to be employed in the employee's school position instead of performing USERRA leave. The employer defined contributions shall be placed in the participant's individual investment account as otherwise provided by this part.

(c) Limitations on contributions.--No contributions shall be allowed that would cause a violation of the limitations related to contributions applicable to governmental plans contained in IRC § 415 or in other provisions of law. In the event that any disallowed contributions are made, any employer defined contributions in excess of the limitations and investment earnings thereon shall be refunded to the employer by the board.

§ 8407. Eligibility for benefits.

(a) Termination of service.--A participant who terminates school service shall be eligible to withdraw the vested accumulated total defined contributions standing to the participant's credit in the participant's individual investment account or a lesser amount as the participant may request. Payment shall be made in a lump sum unless the board has established other forms of distribution in the plan document. A participant who withdraws the vested accumulated total defined contributions shall no longer be a participant in the plan, notwithstanding that the former school employee may continue to be a member of the system with Class T-G or Class T-H service credit, or may contract to receive an annuity or other form of payment from a provider retained by the board for such purposes.

(b) Required distributions.--All payments under this section shall start and be made in compliance with the minimum distribution requirements and incidental death benefit rules of IRC § 401(a)(9). The board shall take any action and make any distributions it may determine are necessary to comply with those requirements.

(c) Prohibited distributions.--A school employee must be terminated from all positions that result in either membership in the system or participation in the plan to be eligible to receive a distribution.

(d) Loans.--Loans or other distributions, including hardship or unforeseeable emergency distributions, from the plan to school employees who have not terminated school service are not permitted, except as required by law.

(e) Small individual investment accounts.--A participant who terminates school service and whose vested accumulated total defined contributions are below the threshold established by law as of the date of termination of service may be paid the vested accumulated total defined contributions in a lump sum as provided in IRC § 401(a)(31).

§ 8408. Death benefits.

(a) General rule.--In the event of the death of an active participant or inactive participant, the board shall pay to the participant's beneficiary the vested balance in the participant's individual investment account in a lump sum or in such other manner as the board may establish in the plan document.

(b) Death of participant receiving distributions.--In the event of the death of a participant receiving distributions, the board shall pay to the participant's beneficiary the vested balance in the participant's individual investment account in a lump sum or in such other manner as the board may establish in the plan document or, if the board has established alternative methods of distribution in the plan document under which the participant was receiving distributions, to the participant's beneficiary or successor payee as provided in the plan document.

(c) Contracts.--The board may contract with financial institutions, insurance companies or other types of third-party providers to allow participants and their beneficiaries who receive a lump sum distribution to receive payments and death benefits in a form and manner as provided by the contract.
§ 8409. Vesting.

(a) Participant and voluntary contributions.--Subject to the forfeiture and attachment provisions of section 8533 (relating to taxation, attachment and assignment of funds) or otherwise as provided by law, a participant shall be immediately vested with respect to all mandatory pickup participant contributions and voluntary contributions paid by or on behalf of the participant to the trust plus interest and investment gains or losses on the participant contributions but minus investment fees and administrative charges.

(b) Employer defined contributions.--

(1) Subject to the forfeiture and attachment provisions of section 8533 or otherwise as provided by law, a participant shall be vested with respect to employer defined contributions paid to the participant's individual investment account in the trust plus interest and investment gains or losses on the employer defined contributions but minus investment fees and administrative charges according to the following schedule:

(i) until such time as the participant has earned three eligibility points as a participant in the plan, 0%; or

(ii) at and after the attainment of three eligibility points as a participant in the plan, 100%.

(2) For purposes of this subsection, all eligibility points credited to a member of the system in any class of service shall be used for determining vested status in the plan even if the employee was not a participant in the plan at the time the eligibility points were earned.

(3) Nonvested employer defined contributions, including interest and investment gains and losses that are forfeited by a participant, shall be applied to the participant's most recent employer's obligations assessed in future years.

(c) USERRA leave and eligibility points.--A participant in the plan who is reemployed from USERRA leave or who dies while performing USERRA leave shall receive eligibility points under this section for the school service that would have been performed had the member not performed USERRA leave.

§ 8410. Termination of distributions.

(a) Return to school service.--

(1) A participant receiving distributions or an inactive participant who returns to school service shall cease receiving distributions and shall not be eligible to receive distributions until the participant subsequently terminates school service, without regard to whether the participant is a mandatory, optional or prohibited member of the system or participant in the plan.

(2) This subsection shall not apply to a distribution that the participant has received or used to purchase an annuity from a provider contracted by the board.

(b) Return of benefits paid during USERRA leave.--

(1) If a former school employee is reemployed from USERRA leave and received any payments or annuity from the plan during the USERRA leave, the employee shall return to the board the amount so received plus interest as provided in the plan document.

(2) The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or, in the case of an active participant, may be amortized with interest as provided in the plan document through salary deductions to the trust in amounts agreed upon by the active participant and the board, but not longer than a period that starts with the date of reemployment and continuing for up to three times the length of the active participant's immediate past period of USERRA leave. The repayment period shall not exceed five years.

§ 8411. Powers and duties of board.

The board, in addition to its powers and duties set forth in Chapter 85 (relating to administration and miscellaneous provisions), shall have the following powers and duties to establish the plan and trust and to administer the provisions of this part:

(1) The board may commingle or pool assets with the assets of other persons or entities.

(2) The board shall pay all administrative fees, costs and expenses of managing, investing and administering the plan, the trust and the individual investment accounts from the balance of such individual investment accounts, except as otherwise provided in this part or as the General Assembly otherwise provides through appropriations from the General Fund.

(3) The board may establish investment guidelines and limits on the types of investments that participants may make, consistent with the board's fiduciary obligations.

(4) The board shall have the power to change the terms of the plan as may be necessary to maintain the tax-qualified status of the plan.

(5) The board may establish a process for election to participate in the plan by those school employees for whom participation is not mandatory.

(6) The board may perform an annual or more frequent review of any qualified fund manager for the purpose of assuring it continues to meet all standards and criteria established.

(7) The board may allow for eligible rollovers and direct trustee-to-trustee transfers into the trust from qualified plans of other employers, regardless of whether the employers are private employers or public employers.

(8) The board may allow an inactive participant to maintain the participant's individual investment account within the plan.

(9) The board shall administer or ensure the administration of the plan in compliance with the qualification and other rules of the IRC.

(10) The board may establish procedures to provide for the lawful payment of benefits.

(11) The board shall determine what constitutes a termination of school service.

(12) The board may establish procedures for distributions of small accounts as required or permitted by the IRC.

(13) The board may establish procedures in the plan document or to promulgate rules and regulations as it deems necessary for the administration and management of the plan, including, but not limited to, establishing:

(i) Procedures by which eligible participants may change voluntary contribution amounts or their investment choices on a periodic basis or make other elections regarding their participation in the plan.

(ii) Procedures for deducting mandatory pickup participant contributions and voluntary contributions from a participant's compensation.

(iii) Procedures for rollovers and trustee-to-trustee transfers allowed under the IRC and permitted by the board as part of the plan.

(iv) Standards and criteria for providing not less than ten options which are offered by three or more providers of investment options to eligible individuals regarding investments of amounts deferred under the plan. The standards and criteria must provide for a variety of investment options and shall be reviewed in accordance with criteria established by the board.

(v) Standards and criteria for disclosing to the participants the anticipated and actual income attributable to amounts invested, property rights and all fees, costs and expenses to be made against amounts deferred to cover the costs and expenses of administering and managing the plan or trust.

(vi) Procedures, standards and criteria for the making of distributions from the plan upon termination from employment, one of which shall include an option for an annuity with a minimum interest rate of 2.5% to the extent commercially available, or death or in other circumstances consistent with the purpose of the plan.

(14) The board may waive any reporting or information requirement contained in this part if the board determines that the information is not needed for the administration of the plan.

(15) The board may contract any services and duties in lieu of staff except final adjudications and as prohibited by law. Any duties or responsibilities of the board not required by law to be performed by the board may be delegated to a third-party provider subject to appeal to the board.

(16) The board may provide that any duties of the employer or information provided by the participant to the employer be performed or received directly by the board.

(17) The board shall ensure that participants are provided with educational materials about investment options and choices.

(18) The provisions and restrictions of the act of July 2, 2010 (P.L.266, No.44), known as the Protecting Pennsylvania's Investments Act, shall not apply to the participants' individual investment accounts or the moneys

and investments therein, but the board is authorized to offer to the plan participants investment vehicles that would be permitted under the Protecting Pennsylvania's Investments Act.

§ 8411.1. Relation of administrators of School Employees' Defined Contribution Plan to providers of 403(b) plans.

(a) General rule.--A financial institution or pension management organization entering into a written agreement under section 8411 (relating to powers and duties of board) may offer or provide services to any plan established or maintained by a school district under IRC § 403(b) or 457 if the written agreement for the administration of the School Employees' Defined Contribution Plan is not combined with any other written agreement for the administration of a school district's 403(b) plan or 457 plan. Each school district that provides a 403(b) plan shall make available, in the manner provided by subsection (c), to participants, multiple financial institutions or pension management organizations that have not entered into a written agreement to section 8411 and which provide services to the school district's 403(b) plan or 457 plan.

(b) Plan transparency and administration.--A financial institution or pension management organization providing services for any plan established or maintained by a school district under IRC § 403(b) or 457 shall:

(1) enter into an agreement with the school district or the school district's independent compliance administrator that shall require the financial institution or pension management organization to provide in an electronic format all data necessary for the administration of the 403(b) plan or 457 plan as determined by the school district or the school district's compliance administrator; and

(2) provide all data required by the school district or a school district's compliance administrator to facilitate disclosure of all fees, charges, expenses, commissions, compensation and payments to third parties related to investments offered under the 403(b) plan or 457 plan.

(c) Provider selection.--A school district that establishes or maintains a plan under IRC § 403(b) or 457 shall select a minimum of four financial institutions or pension management organizations, in addition to the financial institution or pension management organization that entered into an agreement under section 8411, to provide services to the 403(b) plan or 457 plan. If fewer than four such additional financial institutions or pension management organizations are determined to be available or able to meet the requirements established in this section, then the school district shall select the number of available providers able to meet the school district's requirements. A financial institution or pension management organization shall be designated a 403(b) plan or 457 plan provider if the financial institution or pension management organization enters into an agreement in accordance with subsection (b).

§ 8412. Responsibility for investment loss.

The Commonwealth, the board, an employer or a school entity or other political subdivision shall not be responsible for any investment loss incurred under the plan or for the failure of any investment to earn any specific or expected return or to earn as much as any other investment opportunity or to cost less than any other investment opportunity, whether or not such other opportunity was offered to participants in the plan.

§ 8413. Investments based on participant's investment allocation choices.

(a) Investment by participant.--All contributions, interest and investment earnings shall be invested based on a participant's investment allocation choices, provided that the board may provide for a default investment option. All investment allocation choices shall be credited proportionally between contributions from the participant and employer defined contributions. Each participant shall be credited individually with the amount of contributions, interest and investment earnings.

(b) Investment of contributions made by entities other than Commonwealth.--Investment of contributions by any corporation, institution, insurance company, custodial bank or other entity that the board has approved shall not be unreasonably delayed, and in no case shall the investment of contributions be delayed more than 30 days from the date of payroll deduction or voluntary contributions are made to the date that funds are invested. Any interest earned on the funds pending investment shall be used to pay administrative costs and fees that would otherwise be required to be borne by participants who are then participating in the plan or that are funded by contributions from the employers.

§ 8414. Expenses.

All expenses, fees and costs of administering the plan and the trust and investing the assets of the trust shall be borne by the participants and paid from assessments against the balances of the individual investment accounts as established by the board, except that the expenses, fees and costs of establishing and administering the plan and trust shall be paid by the Commonwealth through annual appropriations.

§ 8415. Tax qualification.

(a) Required distributions.--All payments under this chapter shall start and be made in compliance with the minimum distribution requirements and incidental death benefit rules of IRC § 401(a).

(b) Limitations.--The following shall apply:

(1) (i) Except as provided under subparagraph (ii) and notwithstanding a provision of this part, a contribution or benefit related to the plan may not exceed a limitation under IRC § 415 with respect to a governmental plan that is in effect on the date the contribution or benefit payment takes effect.

(ii) An increase in a limitation under IRC § 415 shall apply to the participants on or after the effective date of this section.

(iii) For the purposes of this paragraph, the term "governmental plan" shall have the same meaning as in IRC § 414(d).

(2) (i) Except as provided under subparagraph (ii), an amendment of this part on or after the effective date of this section that increases contributions or benefits for active participants, inactive participants or participants receiving distributions may not be deemed to provide for a contribution or benefit in excess of a limitation, adjusted on or after the effective date of this section, under IRC § 415 unless specifically provided by legislation.

(ii) Notwithstanding subparagraph (i), an increase in benefits on or after the effective date of this section for a participant in the plan shall be authorized and apply to the fullest extent allowed by law.

Section 114. Sections 8501(a), (c), (d) and (e) and 8502(a), (b), (c), (e), (h), (i), (j), (k), (m), (n) and (o) of Title 24 are amended and the sections are amended by adding subsections to read:

§ 8501. Public School Employees' Retirement Board.

(a) Status and membership.--The board shall be an independent administrative board and shall consist of 15 members: the Secretary of Education, ex officio; the State Treasurer, ex officio; **the Secretary of Banking and Securities, ex officio**; two Senators; two members of the House of Representatives; the executive secretary of the Pennsylvania School Boards Association, ex officio; [two] **one** to be appointed by the Governor[, at least one of whom shall not be a school employee or an officer or employee of the State]; three to be elected by the active professional members of the system **and active professional participants in the plan** from among their number; one to be elected by annuitants **or participants in the plan who have terminated school service and are receiving or are eligible to receive distributions** from among their number; one to be elected by the active nonprofessional members of the system **or active nonprofessional participants in the plan** from among their number; and one to be elected by members of Pennsylvania public school boards from among their number. The appointments made by the Governor shall be confirmed by the Senate and each election shall be conducted in a manner approved by the board. The terms of the appointed and nonlegislative elected members shall be three years. The members from the Senate shall be appointed by the President pro tempore of the Senate and shall consist of one member from the majority and one member from the minority. The members from the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of one member from the majority and one member from the minority. The legislative members shall serve on the board for the duration of their legislative terms and shall continue to serve until 30 days after the convening of the next regular session of the General Assembly after the expiration of their respective legislative terms or until a successor is appointed for the new term, whichever occurs first. The chairman of the board shall be elected by the board members. Each ex officio member of the board and each legislative member of the board may appoint a duly authorized designee to act in his stead. **In the event that a board member, who is designated as an active participant or as the participant in the plan who is receiving or is eligible to receive distributions, receives a total distribution of the board member's interest in the plan, that board member may continue to serve on the board for the remainder of his term.**

* * *

(c) Oath of office.--Each member of the board shall take an oath of office that he will, so far as it devolves upon him, diligently and honestly administer the affairs of said board, **the system and the plan** and that he will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to this part. Such oath shall be subscribed by the member making it and certified by the officer before whom it is taken and shall be immediately filed in the office of the Secretary of the Commonwealth.

(d) Compensation and expenses.--The members of the board who are members of the system **or participants in the plan** shall serve without compensation. Members of the board who are members of the system **or participants in the plan** and who are employed

by a governmental entity shall not suffer loss of salary or wages through serving on the board. The board, on request of the employer of any member of the board who is an active professional or nonprofessional member of the system **or active professional or nonprofessional participant in the plan**, may reimburse such employer for the salary or wages of the member **or participant**, or for the cost of employing a substitute for such member **or participant**, while the member **or participant** is necessarily absent from employment to execute the duties of the board. **The employer of any such member shall provide leave to allow such member to execute the duties of the board, including but not limited to, attendance at the location of all regular and special board and committee meetings.** The members of the board who are not members of either the school system or the State Employees' Retirement System may be paid \$100 per day when attending meetings and all board members shall be reimbursed for any necessary expenses. However, when the duties of the board as mandated are not executed, no compensation or reimbursement for expenses of board members shall be paid or payable during the period in which such duties are not executed.

(e) Corporate power and legal advisor.--For the purposes of this part, the board shall possess the power and privileges of a corporation. [The Attorney General of the Commonwealth shall be the legal advisor of the board.] **The board shall be an independent agency under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.**

(f) Board training.--Each member of the board will be required to obtain eight hours of mandatory training in investment strategies, actuarial cost analysis and retirement portfolio management on an annual basis.

§ 8502. Administrative duties of board.

(a) Employees.--

(1) Effective 30 days after the effective date of this paragraph, the positions of secretary, assistant secretary and investment professional shall be placed under the unclassified service provisions of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, as those positions are vacated. All other positions of the board shall be placed in either the classified or unclassified service according to the definition of the terms under the Civil Service Act.

(2) Notwithstanding any other provision of law, the compensation of investment professionals **and legal counsel** shall be established by the board. The compensation of all other officers and employees of the board who are not covered by a collective bargaining agreement shall be established by the board consistent with the standards of compensation established by the Executive Board of the Commonwealth.

(3) **The board may utilize the staff of employees provided for under this subsection for both the system and the plan, but shall allocate the fees, costs and expenses incurred under this subsection between the system and the plan as appropriate.**

(b) Professional personnel.--

(1) The board shall contract for the services of a chief medical examiner, an actuary, investment advisors, counselors, an investment coordinator, and such other professional personnel as it deems advisable.

(2) **The board may utilize the same individuals and firms contracted under this subsection for both the system and the plan but shall allocate the fees, costs and expenses incurred**

under this subsection between the system and the plan as appropriate.

(c) Expenses.--

(1) The board shall, through the Governor, submit to the General Assembly annually a budget covering the administrative expenses of [this part.] **the system and a separate budget covering the administrative expenses of the plan. The separate budgets shall include those expenses necessary to establish the plan and trust.**

(2) Such expenses **of the system** as approved by the General Assembly in an appropriation bill shall be paid from investment earnings of the fund.

(3) **For fiscal years beginning on or after July 1, 2019, the expenses of the plan as approved by the General Assembly shall be paid from interest, under section 8413(b) (relating to investments based on participant's investment allocation choices) or assessments on the balances of the participants' individual investment accounts or as otherwise provided in this part.**

(4) Concurrently with its administrative budget, the board shall also submit to the General Assembly annually a list of proposed expenditures which the board intends to pay through the use of directed commissions, together with a list of the actual expenditures from the past year actually paid by the board through the use of directed commissions. All such directed commission expenditures shall be made by the board for the exclusive benefit of the system and its members **and for the exclusive benefit of the plan and its participants, respectively.**

* * *

(e) Records.--

(1) The board shall keep a record of all its proceedings which shall be [open to inspection by] **accessible to the public, except as otherwise provided in this part or by other law.**

(2) Any record, material or data received, prepared, used or retained by the board or its employees, investment professionals or agents relating to an investment shall not constitute a public record subject to public [inspection] **access** under the act of [June 21, 1957 (P.L.390, No.212), referred to] **February 14, 2008 (P.L.6, No.3), known** as the Right-to-Know Law, if, in the reasonable judgment of the board, the [inspection] **access** would:

(i) in the case of an alternative investment or alternative investment vehicle involve the release of sensitive investment or financial information relating to the alternative investment or alternative investment vehicle which the fund **or trust** was able to obtain only upon agreeing to maintain its confidentiality;

(ii) cause substantial competitive harm to the person from whom sensitive investment or financial information relating to the investment was received; or

(iii) have a substantial detrimental impact on the value of an investment to be acquired, held or disposed of by the fund **or trust**, or would cause a breach of the standard of care or fiduciary duty set forth in this part.

(3) **The following apply:**

(i) The sensitive investment or financial information excluded from [inspection] **access** under paragraph (2)(i), to the extent not otherwise excluded

from [inspection] **access**, shall constitute a public record subject to public [inspection] **access** under the Right-to-Know Law once the board is no longer required by its agreement to maintain confidentiality.

(ii) The sensitive investment or financial information excluded from [inspection] **access** under paragraph (2)(ii), to the extent not otherwise excluded from [inspection] **access**, shall constitute a public record subject to public [inspection] **access** under the Right-to-Know Law once:

(A) the [inspection] **access** no longer causes substantial competitive harm to the person from whom the information was received; or

(B) the entity in which the investment was made is liquidated;
whichever is later.

(iii) The sensitive investment or financial information excluded from [inspection] **access** under paragraph (2)(iii), to the extent not otherwise excluded from [inspection] **access**, shall constitute a public record subject to public [inspection] **access** under the Right-to-Know Law once:

(A) the [inspection] **access** no longer has a substantial detrimental impact on the value of an investment of the fund **or trust** and would not cause a breach of the standard of care or fiduciary duty set forth in this part; or

(B) the entity in which the investment was made is liquidated;
whichever is later.

(4) Except for the provisions of paragraph (3), nothing in this subsection shall be construed to designate any record, material or data received, prepared, used or retained by the board or its employees, investment professionals or agents relating to an investment as a public record subject to public [inspection] **access** under the Right-to-Know Law.

(5) Notwithstanding the provisions of this subsection, the following information regarding an alternative investment vehicle shall be subject to public [inspection] **access** under the Right-to-Know Law:

(i) The name, address and vintage year of the alternative investment vehicle.

(ii) The identity of the manager of the alternative investment vehicle.

(iii) The dollar amount of the commitment made by the system **or plan** to the alternative investment vehicle.

(iv) The dollar amount of cash contributions made by the system **or plan** to the alternative investment vehicle since inception.

(v) The dollar amount of cash distributions received by the system **or plan** from the alternative investment vehicle since inception.

(vi) The net internal rate of return of the alternative investment vehicle since inception, provided that the system **or plan** shall not be required to disclose the net internal rate of return under circumstances in which, because of the limited number of portfolio assets remaining in the alternative investment vehicle, the disclosure could reveal the values of specifically identifiable remaining portfolio assets to the detriment of the alternative investment.

(vii) The aggregate value of the remaining portfolio assets attributable to the system's **or plan's** investment in the alternative investment vehicle, provided that the system **or plan** shall not be required to disclose the value under circumstances in which, because of the limited number of portfolio assets remaining in the alternative investment vehicle, the disclosure could reveal the values of specifically identifiable remaining portfolio assets to the detriment of the alternative investment.

(viii) The dollar amount of total management fees and costs paid to the alternative investment vehicle by the system **or plan** on an annual fiscal year-end basis.

(6) Any record, material or data received, prepared, used or retained by the board or its employees or agents relating to the contributions, account value or benefits payable to or on account of a participant shall not constitute a public record subject to public access under the Right-to-Know Law, if, in the reasonable judgment of the board, the access would disclose any of the following:

(i) The existence, date, amount and any other information pertaining to the voluntary contributions, including rollover contributions and trustee-to-trustee transfers, of any participant.

(ii) The investment option selections of any participant.

(iii) The balance of a participant's individual investment account, including the amount distributed to the participant, and any investment gains or losses, or rates of return.

(iv) The identity of a participant's designated beneficiary, successor payee or alternate payee.

(v) The benefit payment option of a participant.

(7) The following shall apply:

(i) Nothing in this part shall be construed to mean that the release or publicizing of a record, material or data that would not constitute a public record under this subsection shall be a violation of the board's fiduciary duties.

(ii) This subsection shall apply to a record, material or data under this subsection, notwithstanding whether:

(A) the record, material or data was created, generated or stored before the effective date of this section;

(B) the record, material or data was previously released or made public; or

(C) a request for the record, material or data was made or is pending final response under the former act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, or the Right-to-Know Law.

* * *

(h) Regulations and procedures.--The board shall, with the advice of the Attorney General, **legal counsel** and the actuary, adopt and promulgate rules and regulations for the uniform administration of the system. The actuary shall approve in writing all computational procedures used in the calculation of contributions and benefits **pertaining to the system**, and the board shall by resolution adopt such computational procedures, prior to their application by the board. Such rules, regulations and computational procedures as so adopted from time to time

and as in force and effect at any time, together with such tables as are adopted and published pursuant to subsection (j) as necessary for the calculation of annuities and other benefits, shall be as effective as if fully set forth in this part. Any actuarial assumption specified in or underlying any such rule, regulation or computational procedure and utilized as a basis for determining any benefit shall be applied in a uniform manner.

(i) Data.--The board shall keep in convenient form such data as are stipulated by the actuary in order that an annual actuarial valuation of the various accounts **of the fund** can be completed within six months of the close of each fiscal year. The board shall have final authority over the means by which data is collected, maintained and stored and in so doing shall protect the rights of its membership as to privacy and confidentiality.

(j) Actuarial investigation and valuation.--The board shall have the actuary make an annual valuation of the various accounts **of the fund** within six months of the close of each fiscal year. In the fiscal year 1975 and in every fifth year thereafter, the board shall have the actuary conduct an actuarial investigation and evaluation of the system based on data including the mortality, service, and compensation experience provided by the board annually during the preceding five years concerning the members and beneficiaries **of the system**. The board shall by resolution adopt such tables as are necessary for the actuarial valuation of the fund and calculation of contributions, annuities, and other benefits based on the reports and recommendations of the actuary. Within 30 days of their adoption, the secretary of the board shall cause those tables which relate to the calculation of annuities and other benefits to be published in the Pennsylvania Bulletin in accordance with the provisions of 45 Pa.C.S. § 725(a) (relating to additional contents of Pennsylvania Bulletin) and, unless the board specifies therein a later effective date, such tables shall become effective on such publication. The board shall include a report on the significant facts, recommendations and data developed in each five-year actuarial investigation and evaluation of the system in the annual financial statement published pursuant to the requirements of subsection (n) for the fiscal year in which such investigation and evaluation were concluded.

(k) Certification of employer contributions **to fund**.--The board shall, each year in addition to the itemized budget required under section 8330 (relating to appropriations by the Commonwealth), certify to the employers and the Commonwealth the employer contribution rate expressed as a percentage of members' payroll necessary for the funding of prospective annuities for active members and the annuities of annuitants, and certify the rates and amounts of the normal contributions as determined pursuant to section 8328(b) (relating to actuarial cost method), accrued liability contributions as determined pursuant to section 8328(c), supplemental annuities contribution rate as determined pursuant to section 8328(d), the experience adjustment factor as determined pursuant to section 8328(e), premium assistance contributions as determined pursuant to section 8328(f), the costs added by legislation as determined pursuant to section 8328(i), the actuarial required contribution rate as determined pursuant to section 8328(i), the collared contribution rate as determined pursuant to section 8328(g), the final contribution rate as determined pursuant to section 8328(h) and the shared-risk contribution rate as determined

under section 8321(b) (relating to regular member contributions for current service), which shall be paid to the fund and credited to the appropriate accounts. These certifications shall be regarded as final and not subject to modification by the Secretary of the Budget.

* * *

(m) Member contributions and interest.--The board shall cause each member's contributions, including payroll deductions, pickup contributions, **shared-risk contributions** and all other payments, including, but not limited to, amounts collected by the State Employees' Retirement System for the reinstatement of previous school service or creditable nonschool service and amounts paid to return benefits paid after the date of return to school service or entering State service representing lump sum payments made pursuant to section 8345(a)(4)(iii) (relating to member's options) and member's annuity payments, but not including other benefits returned pursuant to section 8346(a.1) and (a.2) (relating to termination of annuities), to be credited to the account of such member and shall pay all such amounts into the fund. Such contributions shall be credited with statutory interest until date of termination of service, except in the case of a vestee, who shall have such interest credited until the effective date of retirement or until the return of his accumulated deductions, if he so elects; and in the case of a multiple service member who shall have such interest credited until termination of service in both the school and the State systems.

(n) Annual financial [statement] **statements**.--The board shall prepare and have published, on or before January 1 of each year, [a financial statement] **financial statements** as of the fiscal year ending June 30 of the previous year showing the condition of the fund, **the trust** and the various accounts, including, but not limited to, the board's accrual and expenditure of directed commissions, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning annuities and other benefits provided by this part. The board shall submit said financial [statement] **statements** to the Governor and shall make copies available to the employers for the use of the school employees and the public.

(o) Independent [audit] **audits**.--The board shall provide for [an annual audit] **annual audits** of the system **and the plan** by an independent certified public accounting firm[, which audit]. **The audits** shall include the board's accrual and expenditure of directed commissions. **The board may use the same independent certified public accounting firm for the audits of both the system and the plan.**

* * *

(q) Participant and employer contributions to trust.--The board shall, each year in addition to any fees and itemized budget required under section 8330, certify, as a percentage of each participant's compensation, the employer defined contributions, which shall be paid to the trust and credited to each participant's individual investment account. These certifications shall be regarded as final and not subject to modification by the Secretary of the Budget. The board shall cause all mandatory pickup participant contributions made on behalf of a participant and all voluntary contributions made by a participant to be credited to the participant's individual investment account.

(r) Limitation on fees charged to the board.--In striving to achieve actuarial savings of \$1,500,000,000 over 30 years

from the effective date of this subsection, while achieving the assumed annual rate of return at the least cost and maximum return of the fund, the board shall:

(1) Consider the findings and recommendations of the Public Pension Management and Asset Investment Review Commission. The board may, at its sole discretion, adopt guidelines and procedures to implement any recommendations of the Public Pension Management and Asset Investment Review Commission that the board determines appropriate in attaining the highest return on investment at the lowest responsible cost.

(2) Review, identify and implement any investment fee reduction and cost avoidance strategies identified to be prudent by the board, to reduce expenditures for investment costs.

Section 115. Section 8502.2(a) of Title 24 is amended to read:

§ 8502.2. Health insurance.

(a) Authority.--The board may sponsor a participant-funded group health insurance program for annuitants, **participants receiving distributions**, spouses of annuitants and **participants receiving distributions**, survivor annuitants and their dependents. The board may promulgate regulations regarding the prudent and efficient operation of the program, including, but not limited to:

(1) Establishment of an annual budget and disbursements in accordance with the budget.

(2) Determination of the benefits structure.

(3) Determination of enrollment procedures.

(4) Establishment of premium rates sufficient to fully fund the program, including administrative expenses.

(5) Contracting for goods, equipment, services, consultants and other professional personnel as needed to operate the program.

* * *

Section 116. Sections 8503 heading and (b), 8505 heading, (h) and (i), 8506 (a), (d), (e), (f), (i) and (k) and 8507 heading, (a), (c), (e), (f) and (i) of Title 24 are amended and the sections are amended by adding subsections to read:

§ 8503. Duties of board to advise and report to employers [and members], **members and participants**.

* * *

(b) Member status statements.--The board shall furnish annually on or before December 31, a statement to each member showing the accumulated deductions standing to the credit of the member and the number of years and fractional part of a year of service credited in each class of service, **as applicable**, as of June 30 of that year. Each member's statement shall include a request that the member make any necessary corrections or revisions regarding his designated beneficiary, whose name at the request of the member shall remain confidential and not appear on this statement.

(b.1) **Participant status statements**.--The board shall furnish annually to each participant on or before December 31, and more frequently as the board may agree or as required by law, a statement showing the accumulated total defined contributions credited to the participant's individual investment account, the nature and type of investments and the investment allocation of future contributions as of June 30 of the current year and shall request the participant to make any necessary correction or revision regarding his designated beneficiary.

* * *

§ 8505. Duties of board regarding applications and elections of members **and participants.**

* * *

(e.1) **Certification to participants terminating service.--**The board shall certify to the participant in writing within one year of termination of service of the participants of the vested accumulated total defined contributions credited to the participant's individual investment account as of the date stated in the writing, any notices regarding rollover or other matters required by the IRC or other law, the obligation of the participant to commence distributions from the plan by the participant's required beginning date and the ability to receive all or part of the vested balance in the participant's individual investment account in a lump sum or in such other form as the board may authorize or as required by law.

* * *

(f.1) **Notification to inactive participants approaching required beginning date.--**The board shall notify in writing each inactive participant who has terminated school service and who has not commenced distribution by 90 days before the participant's required beginning date that the inactive participant has an obligation to commence distributions by the required beginning date in a form and manner required by IRC § 401(a) (9) and other applicable provisions of the IRC.

* * *

(g.1) **Initial payment to a participant.--**The board shall make the initial payment to a participant who has applied for a distribution within 60 days of the filing of the application and receipt of the required data from the employer of the participant and other necessary data.

(h) **Death benefits.--**Upon receipt of notification of the death of a member or former member on USERRA leave **or an active participant, an inactive participant or a former participant performing USERRA leave,** the board shall notify the designated beneficiary or survivor annuitant of the benefits to which he is entitled and shall make the first payment to the beneficiary under the [plan] **benefits** elected by the beneficiary within 60 days of receipt of certification of death and other necessary data. If no beneficiary designation is in effect at the date of the member's **or participant's** death or no notice has been filed with the board to pay the amount of such benefits to the member's **or participant's** estate, the board is authorized to pay such benefits to the executor, administrator, surviving spouse or next-of-kin of the deceased member **or participant,** and payment pursuant hereto shall fully discharge the fund **or plan** from any further liability to make payment of such benefits to any other person.

(i) **Medical insurance coverage.--**Upon receipt of notification from an insurance carrier offering a health insurance program approved by the board that an annuitant **or participant** who has attained age 65 has elected medical, major medical, and hospitalization insurance coverage or notification that annuitants with less than 24 1/2 eligibility points (other than disability annuitants), spouses of annuitants and survivor annuitants eligible to elect to enroll in the approved health insurance program have elected participation in such health insurance program, the board may deduct from the annuity payments, **from payments to a participant receiving distributions or from a successor payee,** the appropriate annual charges in equal monthly installments. Such deductions shall be transmitted to the insurance carrier.

* * *

§ 8506. Duties of employers.

(a) Status of members **and participants**.--The employer shall, each month, notify the board in a manner prescribed by the board of the salary changes effective during the past month, the date of all removals from the payroll, and the type of leave of any member **or participant** who has been removed from the payroll for any time during that month, and:

(1) if the removal is due to leave without pay, the employer shall furnish the board with the date of beginning leave, the date of return to service, and the reason for leave;

(2) if the removal is due to a transfer to another employer, the former employer shall furnish such employer and the board with a complete school service record, including credited or creditable nonschool service; or

(3) if the removal is due to termination of school service, the employer shall furnish the board with a complete school service record including credited or creditable nonschool service and in the case of death of the member **or participant** the employer shall so notify the board.

* * *

(c.1) **Participant and employer defined contributions**.--The employer shall cause the mandatory pickup participant contributions on behalf of a participant to be made and shall cause to be deducted any voluntary contributions authorized by a participant. The employer shall also cause the employer defined contributions on behalf of a participant to be made. The employer shall notify the board at times and in a manner prescribed by the board of the compensation of any participant to whom the limitation under IRC § 401(a)(17) either applies or is expected to apply and shall cause the participant's contributions to be deducted from payroll to cease at the limitation under IRC § 401(a)(17) on the payroll date if and when such limit shall be reached. The employer shall certify to the board the amounts picked up and deducted and the employer defined contributions being made and shall send the total amount picked up, deducted and contributed together with a duplicate of such voucher to the secretary of the board every pay period or on such schedule as established by the board.

(d) **New employees subject to mandatory membership or participation**.--Upon the assumption of duties of each new school employee whose membership in the system **or plan** is mandatory, the employer shall no later than 30 days thereafter cause an application for membership **or participation**, which application shall include the employee's home address, birthdate certified by the employer, previous school or State service and any other information requested by the board, and a nomination of beneficiary to be made by such employee and filed with the board and shall make pickup contributions **or mandatory pickup participant contributions** from the effective date of school employment.

(e) **New employees subject to optional membership or participation**.--The employer shall inform any eligible school employee whose membership in the system **or participation in the plan** is not mandatory of his opportunity to become a member of the system **or participant in the plan** provided that he elects to purchase credit for all such continuous creditable service. If such employee so elects, the employer shall no later than 30 days thereafter cause an application for membership **or participation** which application shall include the employee's

home address, birthdate certified by the employer, previous school or State service and any other information requested by the board, and a nomination of beneficiary to be made by him and filed with the board and shall cause proper contributions to be made from the date of election of membership **or participation.**

(f) Advising members of duties.--The employer shall advise his employees of their duties as members of the system **and participants of the plan.** Local school districts shall be held harmless from decisions made by the employee in this regard.

* * *

(i) Termination of service **by members.**--The employer shall, in the case of any member terminating school service, advise such member in writing of any benefits **from the system** to which he may be entitled under the provisions of this part and shall have the member prepare, on or before the date of termination of school service, one of the following three forms, a copy of which shall be given to the member and the original of which shall be filed with the board:

(1) An application for the return of accumulated deductions.

(2) An election to vest his retirement rights, **if eligible,** and, if he is a joint coverage member and so desires, an election to become a full coverage member and an agreement to pay within 30 days of the date of termination of service the lump sum required.

(3) An application for an immediate annuity, **if eligible,** and, if he is a joint coverage member and so desires, an election to become a full coverage member and an agreement to pay within 30 days of date of termination of service the lump sum required.

* * *

(k) School employees performing USERRA or military-related leave of absence.--The employer shall report to the board all of the following:

(1) Any school employee who:

(i) ceases to be an active member **or active participant** to perform USERRA service; or

(ii) is granted a leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) or a military leave of absence under 51 Pa.C.S. § 7302 (relating to granting military leaves of absence).

(2) The date on which the USERRA service, leave of absence or military leave of absence began.

(3) The date on which the school employee is reemployed from USERRA leave or returns after the leave of absence or military leave of absence, if applicable.

(4) Any other information the board may require.

(1) Differential wage payments and military leave of absence payments.--Notwithstanding the exclusion of differential wage payments as defined in IRC § 414(u)(12) from compensation under this part, the employer of any school employee on USERRA leave shall report differential wage payments made to the employee to the board, and the employer of any school employee on leave of absence under 51 Pa.C.S. § 4102 shall report any payment made to the employee in the form and manner established by the board.

§ 8507. Rights and duties of school employees [and members], **members and participants.**

(a) Information on new employees.--Upon his assumption of duties, each new school employee shall furnish his employer

with a complete record of his previous school or State service, or creditable nonschool service, proof of his date of birth, his home address, his current status in the system **and the plan** and in the State Employees' Retirement System **and the State Employees' Defined Contribution Plan** and such other information as the board may require. Willful failure to provide the information required by this subsection to the extent available or the provision of erroneous information upon entrance into the system **or plan** shall result in the forfeiture of the right of the member **or participant** to subsequently assert any right to benefits based on erroneous information or on any of the required information which he failed to provide. In any case in which the board finds that a member **or participant** is receiving an annuity based on false information, the additional amounts received predicated on such false information together with statutory interest doubled and compounded shall be deducted from the present value of any remaining benefits to which the member **or participant** is legally entitled and such remaining benefits shall be correspondingly decreased.

* * *

(c) Multiple service membership.--Any active member who was formerly an active member in the State Employees' Retirement System may elect to become a multiple service member. Such election shall occur no later than 365 days after becoming an active member in this system. A school employee who is eligible to elect to become a multiple service member and who begins USERRA leave during the election period without having elected multiple service membership [may make the election within 365 days after being reemployed from] **shall have the election period extended by the number of days on USERRA leave.**

* * *

(d.2) Contributions for USERRA leave.--Any active participant or inactive participant or former participant who was reemployed from USERRA leave and who desires to make mandatory pickup participant contributions and voluntary contributions for his USERRA leave shall so notify the board within the time period required under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) of his desire to make such contributions. Upon the participant making the permitted mandatory pickup participant contributions within the allowed time period, the employer shall make the corresponding employer defined contributions at the same time.

(d.3) Voluntary contributions by a participant.--Any participant who desires to make voluntary contributions to be credited to his individual investment account shall notify the board and, upon compliance with the requirements, procedures and limitations established by the board in the plan document, may do so subject to the limitations under IRC §§ 401(a) and 415 and other applicable law.

(e) Beneficiary for death benefits **from system**.--Every member shall nominate a beneficiary by written designation filed with the board to receive the death benefit or the benefit payable **from the system** under the provisions of Option 1. Such nomination may be changed at any time by the member by written designation filed with the board. A member may also nominate a contingent beneficiary or beneficiaries to receive the death benefit or the benefit payable under the provisions of Option 1.

(e.1) Beneficiary for death benefits from plan.--Every participant shall nominate a beneficiary by written designation filed with the board as provided in section 8506 (relating to

duties of employers) to receive the death benefit payable under section 8408 (relating to death benefits). A participant may also nominate a contingent beneficiary or beneficiaries to receive the death benefit provided under section 8408. Such nominations may be changed at any time by the participant by written designation filed with the board.

(e.2) **Beneficiary designation.**--A school employee may designate or nominate different persons to be beneficiaries, survivor annuitants and successor payees for his benefits from the system and the plan.

(f) **Termination of service by members.**--Each member who terminates school service and who is not then a disability annuitant shall execute on or before the date of termination of service a written application, duly attested by the member or his legally constituted representative, electing to do one or more of the following:

(1) Withdraw his accumulated deductions.

(2) Vest his retirement rights, **if eligible**, and if he is a joint coverage member, and so desires, elect to become a full coverage member and agree to pay within 30 days of the date of termination of service the lump sum required.

(3) Receive an immediate annuity, if eligible, and may, if he is a joint coverage member, elect to become a full coverage member and agree to pay within 30 days of date of termination of service the lump sum required.

* * *

(g.1) **Deferral of retirement rights.**--If a participant terminates school service and does not commence receiving a distribution, he shall nominate a beneficiary by written designation filed with the board, and he may anytime thereafter, but no later than his required beginning date, withdraw the vested accumulated total defined contributions standing to his credit or apply for another form of distribution required by law or authorized by the board.

* * *

(i) **Failure to apply for annuity.**--If a member is eligible to receive an annuity **from the system** and does not file a proper application within 90 days of termination of service, he shall be deemed to have elected to vest, and his annuity will become effective as of the date an application is filed with the board or the date designated on the application whichever is later, provided that in no event shall a member begin receiving benefits on a date later than the required beginning date.

* * *

Section 117. Sections 8521(b), 8522, 8524, 8525 and 8531 of Title 24 are amended to read:

§ 8521. Management of fund and accounts.

* * *

(b) **Crediting of interest.**--The board annually shall allow statutory interest, **excluding the individual investment accounts**, to the credit of the members' savings account on the mean amount of the accumulated deductions of all members for whom interest is payable for the preceding year and valuation interest on the mean amount of the annuity reserve account for the preceding year to the credit of that account. The board annually shall allow valuation interest calculated on the mean amount for the preceding year of the balance in the State accumulation account excluding any earnings of the fund credited to the account during that year. In the event the total earnings for the year do not exceed 5 1/2% of the mean amount for the preceding year of the total assets of the fund less earnings

credited to the fund during that year plus the administrative expenses of the board, the difference required to be appropriated from the General Fund shall be credited to the State accumulation account.

* * *

§ 8522. Public School Employees' Retirement Fund.

(a) **General rule.**--The fund shall consist of all moneys in the several separate funds in the State Treasury set apart to be used under the direction of the board for the benefit of members of the system; and the Treasury Department shall credit to the fund all moneys received from the Department of Revenue arising from the contributions **relating to or on behalf of the members of the system** required under the provisions of Chapter 83 (relating to membership, contributions and benefits) and all earnings from investments or moneys of said fund. There shall be established and maintained by the board the several ledger accounts specified in sections 8523 (relating to members' savings account), 8524 (relating to State accumulation account), 8525 (relating to annuity reserve account) and 8526 (relating to health insurance account).

(b) **Individual investment accounts and trust.**--The individual investment accounts that are part of the trust are not part of the fund. **Mandatory pickup participant contributions, voluntary contributions and employer defined contributions made under this part and any income earned by the investment of such contributions shall not be paid or credited to the fund but instead shall be paid to the trust and credited to the individual investment accounts.**

§ 8524. State accumulation account.

The State accumulation account shall be the ledger account to which shall be credited all contributions of the Commonwealth and other employers as well as the earnings of the fund, except the premium assistance contributions and earnings thereon in the health insurance account. Valuation interest shall be allowed on the total amount of such account less any earnings of the fund credited during the year. The reserves necessary for the payment of annuities and death benefits **resulting from membership in the system** as approved by the board and as provided in Chapter 83 (relating to membership, contributions and benefits) shall be transferred from the State accumulation account to the annuity reserve account. At the end of each year the required interest shall be transferred from the State accumulation account to the credit of the members' savings account and the annuity reserve account. The administrative expenses of the board shall be charged to the State accumulation account. **Employer defined contributions, mandatory pickup contributions and a participant's voluntary contributions, together with any income or interest earned thereon, may be temporarily placed into the State accumulation account pending allocation or distribution to the participant's individual investment account.**

§ 8525. Annuity reserve account.

(a) Credits and charges to account.--The annuity reserve account shall be the ledger account to which shall be credited the reserves held for the payment of annuities and death benefits **resulting from membership in the system** on account of all annuitants and the contributions from the Commonwealth and other employers as determined in accordance with section 8328 (relating to actuarial cost method) for the payment of the supplemental annuities provided in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional

supplemental annuities), 8348.3 (relating to supplemental annuities commencing 1994), 8348.4 (relating to special supplemental postretirement adjustment), 8348.5 (relating to supplemental annuities commencing 1998), 8348.6 (relating to supplemental annuities commencing 2002) and 8348.7 (relating to supplemental annuities commencing 2003). The annuity reserve account shall be credited with valuation interest. After the transfers provided in sections 8523 (relating to members' savings account) and 8524 (relating to State accumulation account), all annuity and death benefit payments shall be charged to the annuity reserve account and paid from the fund.

(b) Transfers from account.--Should an annuitant be subsequently restored to active service **either as a member of the system or participant in the plan**, the present value of his member's annuity at the time of reentry into school service shall be transferred from the annuity reserve account and placed to his individual credit in the members' savings account. In addition, the actuarial reserve for his annuity less the amount transferred to the members' savings account shall be transferred from the annuity reserve account to the State accumulation account.

§ 8531. State guarantee **regarding the system.**

Statutory interest charges payable, the maintenance of reserves in the fund, and the payment of all annuities and other benefits granted by the board **from the system** under the provisions of this part **relating to the establishment and administration of the system** are hereby made obligations of the Commonwealth. All income, interest, and dividends derived from deposits and investments **of the system** authorized by this part shall be used for the payment of the said obligations of the Commonwealth **and shall not be used for any obligations of the plan or trust.**

Section 118. Section 8533(a), (b) and (d) of Title 24 are amended and the section is amended by adding a subsection to read:

§ 8533. Taxation, attachment and assignment of funds.

(a) General rule.--Except as provided in subsections (b), (c) and (d), the right of a person to a member's annuity, a State annuity, or retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this part, and the moneys in the fund **and the trust** are hereby exempt from any State or municipal tax, [and exempt from] levy and sale, garnishment, attachment, **the provisions of Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code**, or any other process whatsoever, and shall be unassignable.

(a.1) **Individual investment accounts and distributions.--No participant or beneficiary, successor payee or alternate payee of a participant shall have the ability to commute, sell, assign, alienate, anticipate, mortgage, pledge, hypothecate, commutate or otherwise transfer or convey any benefit or interest in an individual investment account or rights to receive or direct distributions under this part or under agreements entered into under this part except as otherwise provided in this part and in the case of either a member or a participant.**

(b) Forfeiture.--

(1) Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act. Forfeitures under this subsection or under any other

provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.

(2) In accordance with section 16(b) of Article V of the Constitution of Pennsylvania and notwithstanding paragraph (1), the Public Employee Pension Forfeiture Act or 42 Pa.C.S. § 3352 (relating to pension rights), the accumulated mandatory participant contributions and accumulated voluntary contributions standing to the credit of a participant shall not be forfeited but shall be available for payment of fines and restitution as provided by law. Amounts in the trust that have been ordered to be distributed to an alternate payee as the result of an equitable distribution of marital property as part of an approved domestic relations order entered before the date of the order or action in a court or other tribunal resulting in a forfeiture of a participant's interest in the trust shall not be subject to the Public Employee Pension Forfeiture Act or 42 Pa.C.S. § 3352. Any accumulated employer defined contributions forfeited as a result of this subsection or other law shall be retained by the board and used for the payment of expenses of the plan.

* * *

(d) Direct rollover.--Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this subsection, a "distributee" includes a member [and], a participant, a member's surviving spouse [and], a participant's surviving spouse, a member's former spouse who is an alternate payee under an approved domestic relations order[.], a participant's former spouse who is an alternate payee under an approved domestic relations order and anyone else authorized under the IRC and the plan terms approved by the board to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this subsection, the term "eligible rollover distribution" has the meaning given such term by IRC § 402(f)(2)(A) and "eligible retirement plan" has the meaning given such term by IRC § 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in IRC § 408(a) and (b).

Section 119. Sections 8533.1, 8533.2, 8533.3 and 8533.4(a) of Title 24 are amended to read:

§ 8533.1. Approval of domestic relations orders.

(a) Certification regarding members.--A domestic relations order pertaining to a member of the system shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if such order meets all of the following:

(1) Requires the system to provide any type or form of benefit or any option applicable to members already provided under this part.

(2) Requires the system to provide no more than the total amount of benefits than the member would otherwise receive (determined on the basis of actuarial value) unless increased benefits are paid to the member or alternate payee

based upon cost-of-living increases or increases based on other than actuarial value.

(3) Specifies the amount or percentage of the member's benefits to be paid by the system to each such alternate payee or the manner in which the amount or percentage is to be determined.

(4) Specifies the retirement option to be selected by the member upon retirement or states that the member may select any retirement option offered by this part upon retirement.

(5) Specifies the name and last known mailing address, if any, of the member and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the system.

(6) Does not grant an alternate payee any of the rights, options or privileges of a member under this part.

(7) Requires the member to execute an authorization allowing each alternate payee to monitor the member's compliance with the terms of the domestic relations order through access to information concerning the member maintained by the system. **An authorization granted under this section shall be construed as an authorization for the alternate payee to receive information concerning the administration, calculation and payment of the alternate payee's share of the benefits payable under this part and not as an authorization to exercise the rights afforded to members or obtain information that is not related to the administration, calculation and payment of alternate payee's share of the benefits payable under this part.**

(a.1) Certification regarding participants.--A domestic relations order pertaining to a participant shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if that order meets all of the following:

(1) Does not require the plan to provide any type or form of benefit or any option applicable to members of the system or participants in the plan.

(2) Does not require the segregation of the alternate payee's share of the participant's individual investment account into a subaccount or newly established individual account titled in the name of the alternate payee.

(3) Does not require the plan to recover or distribute any funds that were distributed to the participant or at the participant's direction prior to the approval of the domestic relations order by the secretary of the board or his designated representative.

(4) Requires the plan to pay to the alternate payee no more than the lesser of the vested amount of the participant's individual investment account specified by the domestic relations order or the vested amount of the participant's individual investment account as of the date of the transfer of the alternate payee's share to the alternate payee.

(5) States that the plan shall not be required to recoup or make good for losses in value to the participant's individual investment account incurred between the date of the valuation of the account used for equitable distribution purposes and the date of distribution to the alternate payee.

(6) Specifies the amount or percentage of the participant's individual investment account to be paid to

the alternate payee and the date upon which such valuation is based.

(7) Specifies the name and last known mailing address, if any, of the participant and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the plan.

(8) Does not grant an alternate payee the rights, privileges or options available to a participant.

(9) Requires the participant to execute an authorization allowing each alternate payee to monitor the participant's compliance with the terms of the domestic relations order through access to information concerning the participant maintained by the plan. Any authorization granted under this section shall be construed as an authorization for the alternate payee to receive information concerning the participant that relates to the administration, calculation and payment of the alternate payee's share of the participant's account and not as an authorization to exercise the rights afforded to participants or obtain information that is not related to the administration, calculation and payment of the alternate payee's share of the participant's individual investment account.

(10) Requires the immediate distribution of the alternate payee's share of the participant's individual investment account, which may be made by direct payment, eligible rollover or trustee-to-trustee transfer to another eligible plan or qualified account owned by the alternate payee.

(11) In the case of a participant who is currently receiving distributions from the plan as of the date the domestic relations order is approved by the secretary of the board or his designated representative, may not order the board to pay the alternate payee more than the vested balance available in the participant's individual investment account as of the date the order is approved or require that distributions continue to the alternate payee after the death of the participant and final settlement of the participant's individual investment account.

(b) Determination by secretary.--Within a reasonable period of time after receipt of a domestic relations order, the secretary of the board, or his designated representative, shall determine whether [this] **the** order is an approved domestic relations order and notify the member **or participant** and each alternate payee of this determination. Notwithstanding any other provision of law, the exclusive remedy of any member, **participant** or alternate payee aggrieved by a decision of the secretary of the board, or his designated representative, shall be the right to an adjudication by the board under 2 Pa.C.S. Ch. 5 (relating to practice and procedure) with appeal therefrom to the Commonwealth Court under 2 Pa.C.S. Ch. 7 (relating to judicial review) and 42 Pa.C.S. § 763(a)(1) (relating to direct appeals from government agencies).

(c) Other orders.--The requirements for approval identified in [subsection (a)] **subsections (a) and (a.1)** shall not apply to any domestic relations order which is an order for support as that term is defined in 23 Pa.C.S. § 4302 (relating to definitions) or an order for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages). These orders shall be approved to the extent that they do not attach moneys in excess of the limits on attachments

as established by the laws of this Commonwealth and the United States[.], **require distributions of benefits in a manner that would violate the laws of the United States, any other state or this Commonwealth or require the distribution of funds for support or enforcement of arrearages against any participant who is not receiving distributions from the plan at the time the order is entered. These orders may be approved notwithstanding any other provision of this part or the plan that would otherwise require a distribution of accumulated employer defined contributions in the form of an annuity or to require the purchase of an annuity.**

(d) Obligation discharged.--Only the requirements of this part and any regulations promulgated hereunder shall be used to govern the approval or disapproval of a domestic relations order. Therefore, if the secretary of the board, or his designated representative, acts in accordance with the provisions of this part and any promulgated regulations in approving or disapproving a domestic relations order, then the obligations of the system **or plan** with respect to such approval or disapproval shall be discharged.

§ 8533.2. Irrevocable beneficiary.

Notwithstanding any other provision of this part, a domestic relations order may provide for an irrevocable beneficiary. A domestic relations order requiring the nomination of an irrevocable beneficiary shall be deemed to be one that requires a member **or participant** to nominate an alternate payee as a beneficiary and that prohibits the removal or change of that beneficiary without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, after the member **or participant** makes such nomination, in which case the irrevocable beneficiary so ordered by the court cannot be changed by the member **or participant** without approval by the court.

§ 8533.3. Irrevocable survivor annuitant.

Notwithstanding any other provisions of this part, a domestic relations order may provide for an irrevocable survivor annuitant **pertaining to a member**. A domestic relations order requiring the designation of an irrevocable survivor annuitant **of a member of the fund** shall be deemed to be one that requires a member to designate an alternate payee as a survivor annuitant and that prohibits the removal or change of that survivor annuitant **for benefits payable from the fund** without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, in which case the irrevocable survivor annuitant so ordered by the court cannot be changed by the member without approval by the court. A person ineligible to be designated as a survivor annuitant may not be designated an irrevocable survivor annuitant.

§ 8533.4. Amendment of approved domestic relations orders.

(a) Deceased alternate payee.--In the event that the alternate payee predeceases the member **or participant** and there are benefits payable to the alternate payee, the divorce court may amend the approved domestic relations order to substitute a person for the deceased alternate payee to receive any benefits payable to the deceased alternate payee.

* * *

Section 120. Title 24 is amended by adding a section to read:

§ 8533.5. Irrevocable successor payee.

(a) Condition.--Notwithstanding any other provisions of this part, a domestic relations order pertaining to a participant may provide for an irrevocable successor payee only if the participant is receiving a payment under a payment option provided by the board that allows for a successor payee.

(b) Determination.--A domestic relations order requiring the designation of an irrevocable successor payee shall be deemed to be one that requires a participant who is receiving payments from an annuity or other distribution option to designate an alternate payee as a successor payee and that prohibits the removal or change of that successor payee without approval of a court of competent jurisdiction, except by operation of law.

(c) Certification.--A domestic relations order under subsection (b) may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, in which case the irrevocable successor payee so ordered by the court cannot be changed by the participant without approval by the court.

(d) Ineligibility.--A person ineligible to be designated as a successor payee may not be designated as an irrevocable successor payee. A court may not name an irrevocable successor payee if the alternate payee is eligible to receive a lump sum distribution of the alternate payee's portion of the marital portion of the pension benefit.

Section 121. Sections 8534 and 8535 of Title 24 are amended to read:

§ 8534. Fraud and adjustment of errors.

(a) Penalty for fraud.--Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this system **or plan** in any attempt to defraud the system **or plan** as a result of such act shall be guilty of a misdemeanor of the second degree.

(b) Adjustment of errors.--Should any change or mistake in records result in any member, **participant**, beneficiary, [or] survivor annuitant **or successor payee** receiving from the system **or plan** more or less than he would have been entitled to receive had the records been correct, then regardless of the intentional or unintentional nature of the error and upon the discovery of such error, the board shall correct the error and **if the error affects contributions to or payments from the system, then** so far as practicable shall adjust the payments which may be made for and to such person in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid. **If the error affects contributions to or payments from the plan, the board shall take such action as shall be provided for in the plan document.**

§ 8535. Payments to school entities by Commonwealth.

For each school year beginning with the 1995-1996 school year **and ending with the 2018-2019 school year**, each school entity shall be paid by the Commonwealth for contributions based upon school service of active members of the system after June 30, 1995, as follows:

(1) The Commonwealth shall pay each school entity for contributions made to the Public School Employees' Retirement Fund based upon school service of all active members, including members on activated military service leave, whose effective dates of employment with their school entities are after June 30, 1994, and who also had not previously been

employed by any school entity within this Commonwealth an amount equal to the amount certified by the Public School Employees' Retirement Board as necessary to provide, together with the members' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328 (relating to actuarial cost method), multiplied by the market value/income aid ratio of the school entity. For no school year shall any school entity receive less than the amount that would result if the market value/income aid ratio as defined in section 2501(14.1) of the Public School Code [of 1949] was 0.50.

(2) The Commonwealth shall pay each school entity for contributions made to the Public School Employees' Retirement Fund based upon school service of all active members, including members on activated military service leave, who are not described in paragraph (1), one-half of the amount certified by the Public School Employees' Retirement Board as necessary to provide, together with the members' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328.

(3) School entities shall have up to five days after receipt of the Commonwealth's portion of the employer's liability to [make] **forward the** payment to the Public School Employees' Retirement Fund. School entities are expected to make the full payment to the Public School Employees' Retirement Fund in accordance with section 8327 (relating to payments by employers) in the event the receipt of the Commonwealth's portion of the employer's liability is delayed because of delinquent salary reporting or other conduct by the school entities.

Section 122. Title 24 is amended by adding sections to read:
§ 8535.1. Payments to school entities by Commonwealth commencing with the 2019-2020 school year.

For each school year, beginning with the 2019-2020 school year, each school entity shall be paid by the Commonwealth for contributions based upon school service of active members of the system and active participants of the plan after June 30, 2018, as follows:

(1) **The Commonwealth shall pay each school entity for contributions made to the fund or the trust based upon school service of all active members or active participants, including members or participants on activated or USERRA military service leave, whose effective dates of employment with their school entities are after June 30, 1994, and who also had not previously been employed by any school entity within this Commonwealth, an amount equal to the amount certified by the board as necessary to provide, together with the members' and participants' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328 (relating to actuarial cost method), multiplied by the market value/income aid ratio of the school entity. For no school year shall any school entity receive less than the amount that would result if the market value/income aid ratio as defined in section 2501(14.1) of the Public School Code was 0.50.**

(2) **The Commonwealth shall pay each school entity for contributions made to the fund or the trust based upon school service of all active members or active participants, including members or participants on activated military**

service leave, and active participants of the plan who are not described in paragraph (1) one-half of the amount certified by the board as necessary to provide, together with the members' and participants' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328.

(3) School entities shall have up to five days after receipt of the Commonwealth's portion of the employer's liability to forward the payment to the fund or the trust. School entities are expected to make the full payment to the fund or the trust in accordance with section 8327 (relating to payments by employers) in the event the receipt of the Commonwealth's portion of the employer's liability is delayed because of delinquent salary reporting or other conduct by the school entities.

(4) Employers whose payments to the Public School Employees' Retirement Fund are delinquent shall be charged interest by the Public School Employees' Retirement Fund at the annual interest rate adopted by the board under section 8328 in effect in the fiscal year in which the payments are required to be paid.

§ 8537. Internal Revenue Code limitations.

Notwithstanding any provisions of this part to the contrary, no contribution or benefit related to the School Employees' Defined Contribution Plan may be made or payable to the extent that the contribution or benefit exceeds a limitation under IRC § 415 in effect with respect to a "governmental plan" as defined in IRC § 414(d) on the date the contribution or benefit payment becomes effective. An increase in a limitation under IRC § 415 shall be applicable to all current and future participants.

§ 8538. Public Pension Management and Asset Investment Review Commission.

(a) Establishment.--A Public Pension Management and Asset Investment Review Commission shall be established, which shall be composed of five appointees, one appointed by each of the following:

- (1) The Governor.
- (2) The President pro tempore of the Senate.
- (3) The Minority Leader of the Senate.
- (4) The Speaker of the House of Representatives.
- (5) The Minority Leader of the House of Representatives.

The appointees shall be investment professionals and retirement advisors and shall be appointed within 90 days of the effective date of this section.

(b) Duties.--The duties of the Public Pension Management and Asset Investment Review Commission are as follows:

- (1) Study the performance of current investment strategies and procedures of the Public School Employees' Retirement System, comparing realized rates of return to established benchmarks and considering associated fees paid for active and passive management.
- (2) Study the costs and benefits of both active and passive investment strategies in relation to future investment activities of the Public School Employees' Retirement System.
- (3) Study alternative future investment strategies with available assets of the Public School Employees' Retirement System that will maximize future rates of return net of fees.

(3.1) The commission shall evaluate and make recommendations on:

(i) Improving investment fee transparency on alternative investments as specified in the Standardized Reporting Guidelines of the Institutional Limited Partners Association.

(ii) Implementing the recommendations of the Society of Actuaries Blue Ribbon Panel on stress testing, to test the ability of the plan to withstand a period of investment returns above or below the level of assumed return.

(4) Publish extensive and detailed findings online, including findings about:

(i) Assets.

(ii) Returns.

(iii) Financial managers.

(iv) Consultants.

(v) Requests for proposals.

(vi) Investment performance measured against benchmarks.

(5) Recommend the lowest amount of investment fees to be paid by the board for the board to achieve the board's anticipated annual rate of return and to develop recommendations to reduce expenditures to generate actuarial savings of \$1,500,000,000 over 30 years from the effective date of this section.

(6) Report its findings and recommendations to the Governor and the General Assembly within six months of its first organizational meeting.

(c) Quorum.--A majority of appointed members shall constitute a quorum for the purpose of conducting business. The members shall select one of their number to be chairperson and another to be vice chairperson.

(d) Transparency and ethics.--The Public Pension Management and Asset Investment Review Commission shall be subject to the following laws:

(1) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(2) The former act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act.

(3) The act of October 4, 1978 (P.L.883, No.170), known as the Public Official and Employee Ethics Law.

(4) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(e) Information gathering.--The Public Pension Management and Asset Investment Review Commission may conduct hearings and otherwise gather pertinent information and analysis that it considers appropriate and necessary to fulfill its duties.

(f) Logistical and other support.--The Public Pension Management and Asset Investment Review Commission shall receive logistical and other support from the Joint State Government Commission and may employ additional temporary staff as needed.

(g) Reimbursement.--The members of the Public Pension Management and Asset Investment Review Commission shall be reimbursed for reasonable expenses.

(h) Expiration.--The Public Pension Management and Asset Investment Review Commission shall expire 60 days after delivery of its report in accordance with subsection (b) (5). Any unspent appropriation shall lapse back to the General Fund.

Section 123. The definition of "eligible person" in section 8702(a) of Title 24 is amended to read:
§ 8702. Definitions.

(a) General rule.--Subject to additional definitions contained in subsequent provisions of this part which are

applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Eligible person." An individual who is:

- (1) an annuitant or survivor annuitant or the spouse or dependent of an annuitant or survivor annuitant[.]; or
- (2) **a participant receiving distributions or a successor payee, or the spouse or dependent of a participant receiving distributions or a successor payee.**

* * *

ARTICLE II

Section 201. Section 7306(a) introductory paragraph of Title 51 is amended and the section is amended by adding a subsection to read:

§ 7306. Retirement rights.

(a) Options available to employees.--Any employee who is a member of a retirement system other than an active member or inactive member on leave without pay of the State Employees' Retirement System [or], **an active participant or inactive participant on leave without pay of the State Employees' Defined Contribution Plan**, an active or inactive member of the Public School Employees' Retirement System **or an active or inactive participant of the School Employees' Defined Contribution Plan** at the time he is granted a military leave of absence shall be entitled to exercise any one of the following options in regard thereto:

* * *

(f) **Participant of a defined contribution plan.--**

(1) (Reserved).

(2) **An employee who is an active participant or inactive participant on leave without pay of the State Employees' Defined Contribution Plan at the time the employee is granted a military leave of absence shall be entitled to make contributions to the State Employees' Defined Contribution Trust for the leave as provided by 71 Pa.C.S. Pt. XXV.**

ARTICLE III

Section 301. (Reserved).

Section 302. The definitions of "alternate payee," "average noncovered salary," "beneficiary," "class of service multiplier," "compensation," "creditable nonstate service," "credited service," "date of termination of service," "distribution," "domestic relations order," "eligibility points," "final average salary," "inactive member," "intervening military service," "irrevocable beneficiary," "member's annuity," "reemployed from USERRA leave," "regular member contributions," "required beginning date," "retirement counselor," "salary deductions," "shared-risk member contributions," "special vestee," "standard single life annuity," "State employee," "superannuation age," "valuation interest" and "vestee" in section 5102 of Title 71 are amended and the section is amended by adding definitions to read:
§ 5102. Definitions.

The following words and phrases as used in this part, unless a different meaning is plainly required by the context, shall have the following meanings:

* * *

"Accumulated employer defined contributions." The total of the employer defined contributions paid into the trust on account of a participant's State service together with any investment earnings and losses and adjustment for fees, costs

and expenses credited or charged thereon and reduced by any distributions.

"Accumulated mandatory participant contributions." The total of the mandatory pickup participant contributions paid into the trust on account of a participant's State service together with any investment earnings and losses and adjustments for fees, costs and expenses credited or charged thereon and reduced by any distributions.

"Accumulated total defined contributions." The total of the accumulated mandatory participant contributions, accumulated employer defined contributions and accumulated voluntary contributions standing to the credit of a participant in an individual investment account in the trust.

"Accumulated voluntary contributions." The total of voluntary contributions paid into the trust by a participant and any amounts rolled over by a participant or transferred by a direct trustee-to-trustee transfer into the trust together with any investment earnings and losses and adjustment for fees, costs and expenses credited or charged thereon and reduced by any distributions.

* * *

"Active participant." A State employee for whom mandatory pickup participant contributions are being made to the trust or for whom contributions otherwise required for State service required to be credited in the plan are not being made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415).

* * *

"Alternate payee." Any spouse, former spouse, child or dependent of a member **or participant** who is recognized by a domestic relations order as having a right to receive all or a portion of the moneys payable to that member **or participant** under this part.

* * *

"Average noncovered salary." The average of the amounts of compensation received **as an active member** each calendar year since January 1, 1956, exclusive of the amount which was or could have been covered by the Federal Social Security Act[, 42 U.S.C. § 301 et seq.] (**42 U.S.C. § 301 et seq.**), during that portion of the member's service since January 1, 1956, for which he has received social security integration credit.

* * *

"Beneficiary." [The] **In the case of the system, the person or persons last designated in writing to the board by a member to receive his accumulated deductions or a lump sum benefit upon the death of such member. In the case of the plan, the person or persons last designated in writing to the board by the participant to receive the participant's vested accumulated total defined contributions or a lump sum benefit upon the death of the participant.**

* * *

"Class A-5 exempt employee." Any of the following:

- (1) A sworn police officer.
- (2) An enforcement officer.
- (3) A wildlife conservation officer or other commissioned law enforcement personnel employed by the Pennsylvania Game Commission who has and exercises the same law enforcement powers as a wildlife conservation officer. The term shall not include a deputy wildlife conservation officer.

- (4) A Delaware River Port Authority policeman.
- (5) A park ranger.
- (6) A Capitol Police officer.
- (7) A campus police officer employed by a State-owned educational institution, community college or The Pennsylvania State University.
- (8) An installation police officer at Fort Indiantown Gap or other designated Commonwealth military installation or facility commissioned under 51 Pa.C.S. § 711 (relating to installation of police officers for Fort Indiantown Gap and other designated Commonwealth military installations and facilities).
- (9) A correction officer.

"Class of service multiplier."

Class of Service	Multiplier	
A	1	
AA	for all purposes except calculating regular member contributions on compensation paid prior to January 1, 2002	
AA	for purposes of calculating regular member contributions on compensation paid prior to January 1, 2002	1.25
A-3	for all purposes except the calculation of regular member contributions and contributions for creditable nonstate service	1
A-3	for purposes of calculating regular member contributions and contributions for creditable nonstate service	1
A-4	for all purposes except the calculation of regular member contributions	1.25
A-4	for purposes of calculating regular member contributions	1.25
A-5	for all purposes except the calculation of regular member contributions	1.86
		.625

A-5	for purposes of calculating regular member contributions	1	
A-6	for all purposes except the calculation of regular member contributions	.5	
A-6	for purposes of calculating regular member contributions	.8	
B		.625	
C		1	
D		1.25	
D-1	prior to January 1, 1973	1.875	
D-1	on and subsequent to January 1, 1973	1.731	
D-2	prior to January 1, 1973	2.5	
D-2	on and subsequent to January 1, 1973	1.731	
D-3	prior to January 1, 1973	3.75	
D-3	on and subsequent to January 1, 1973	1.731	except prior to December 1, 1974 as applied to any additional legislative compensation as an officer of the General Assembly
D-4	for all purposes except calculating regular member contributions on compensation paid prior to July 1, 2001	3.75	
D-4	for purposes of calculating regular member contributions on compensation paid prior to July 1, 2001	1.5	
E, E-1	prior to January 1, 1973	1	
		2	for each of the first ten years of judicial service, and
		1.5	for each subsequent year

			of judicial service
E, E-1	on and subsequent to January 1, 1973	1.50	for each of the first ten years of judicial service and
		1.125	for each subsequent year of judicial service
E-2	prior to September 1, 1973	1.5	
E-2	on and subsequent to September 1, 1973	1.125	
G		0.417	
H		0.500	
I		0.625	
J		0.714	
K		0.834	
L		1.000	
M		1.100	
N		1.250	
T-C (Public School Employees' Retirement Code)		1	
T-E (Public School Employees' Retirement Code)		1	
T-F (Public School Employees' Retirement Code)		1	
T-G (Public School Employees' Retirement Code)		1	
T-H (Public School Employees' Retirement Code)		1	

* * *

"Compensation." Pickup contributions **and mandatory pickup participant contributions** plus remuneration actually received as a State employee excluding refunds for expenses, contingency and accountable expense allowances; excluding any severance payments or payments for unused vacation or sick leave; and excluding payments for military leave and any other payments made by an employer while on USERRA leave, leave of absence granted under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees), military leave of absence granted under 51 Pa.C.S. § 7302 (relating to granting military leaves of absence) or other types of military leave, including other types of leave payments, stipends, differential wage payments as defined in IRC § 414(u)(12) and any other payments: Provided, however, **That for purposes of determining member and employer contributions to the system and for calculating annuities and benefits from the system resulting from service performed as a Class A-5 exempt employee who first became a member on or after January 1, 2019, compensation shall not include remuneration received in any pay period for voluntary**

overtime service or duty that exceeds 10% of a Class A-5 exempt employee's base salary or wages in that pay period, notwithstanding the provisions of a binding arbitration award issued before July 1, 1989, under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, and implemented by the board:

Provided further, That compensation received prior to January 1, 1973, shall be subject to the limitations for retirement purposes in effect December 31, 1972, if any: **Provided further,** That the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)) taken into account for the purpose of member contributions, including any additional member contributions in addition to regular or joint coverage member contributions and Social Security integration contributions, regardless of class of service, shall apply to each member who first became a member of the State Employees' Retirement System on or after January 1, 1996, and who by reason of such fact is a noneligible member subject to the application of the provisions of section 5506.1(a) (relating to annual compensation limit under IRC § 401(a)(17)) **and shall apply to each participant pertaining to his participation in the plan.**

* * *

"Creditable nonstate service." Service **for which an active member may obtain credit in the system,** other than:

- (1) service as a State employee;
- (2) service converted to State service pursuant to section 5303.1 (relating to election to convert county service to State service); or
- (3) school service converted to State service pursuant to section 5303.2 (relating to election to convert school service to State service) [for which an active member may obtain credit].

"Credited service." State or creditable nonstate service for which the required contributions have been made **to the fund** or for which the contributions otherwise required for such service were not made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), except as otherwise provided in this part, or for which salary deductions or lump sum payments **to the system** have been agreed upon in writing.

"Date of termination of service." The **latest of the following dates:**

- (1) **the last day of service for which pickup contributions are made for an active member or for which the contributions otherwise required for such service are not made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415);**
- (2) **in the case of an inactive member on leave without pay or an inactive participant on leave without pay,** the date of his resignation or the date his employment is formally discontinued by his employer[.]; **or**
- (3) **the last day of service for which mandatory pickup participant contributions are made for an active participant.**

* * *

"Distribution." Payment of all or any portion of a person's interest in **either** the State Employees' Retirement Fund **or the State Employees' Defined Contribution Trust, or both**, which is payable under this part.

"Domestic relations order." Any judgment, decree or order, including approval of a property settlement agreement, entered on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a member **or participant**, including the right to receive all or a portion of the moneys payable to that member **or participant** under this part in furtherance of the equitable distribution of marital assets. The term includes orders of support as that term is defined by 23 Pa.C.S. § 4302 (relating to definitions) and orders for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

* * *

"Eligibility points." Points which are accrued by an active member, **active participant** or a multiple service member who is an active member in the Public School Employees' Retirement System for credited service or a member who has been reemployed from USERRA leave or a member who dies while performing USERRA leave and are used in the determination of eligibility for benefits.

"Employer defined contributions." Contributions equal to a percentage of an active participant's compensation that are made by the Commonwealth or other employer to the trust to be credited in an active participant's individual investment account as follows:

- (1) 2.25% of compensation for service credited as a Class A-5 member;
- (2) 2% of compensation for service credited as a Class A-6 member; and
- (3) 3.5% of compensation for service performed solely as a participant.

* * *

"Final average salary." [The] **As follows:**

(1) **For members with an effective date of retirement before January 1, 2019, and for purposes of calculating standard single life annuities and benefits resulting from credited service other than Class A-5 service and Class A-6 service regardless of the effective date of retirement, the highest average compensation received as a member during any three nonoverlapping periods of four consecutive calendar quarters during which the member was a State employee, with the compensation for part-time service being annualized on the basis of the fractional portion of the year for which credit is received; except if the employee was not a member for three nonoverlapping periods of four consecutive calendar quarters, the total compensation received as a member, annualized in the case of part-time service, divided by the number of nonoverlapping periods of four consecutive calendar quarters of membership[;].**

(2) **For purposes of calculating standard single life annuities and benefits from the system attributable to service as a member of Class A-5 or Class A-6, the highest average compensation received as a member during any five calendar years during which the member was a State employee, with the compensation for part-time service or for any partial year of credit annualized on the basis of the fractional portion of the year for which credit is received;**

except if the employee was not a member during five calendar years, the average of the number of calendar years during which the employee was an active member.

(3) For all members and for the calculation of all standard single life annuities without regard to class of membership and credited service, in the case of a member with multiple service, the final average salary shall be determined on the basis of the compensation received by him as a [State employee or as a school employee] **member of the system or as a member of the Public School Employees' Retirement System**, or both[;], and, in the case of a member with [Class A-3 or Class A-4 service and] service in **more than one [or more other classes] class** of service, the final average salary **for purposes of calculating annuities and benefits from all classes of service** shall be determined on the basis of the compensation received by him in all classes of State service **credited in the system**; and, in the case of a member who first became a member on or after January 1, 1996, the final average salary shall be determined as hereinabove provided but subject to the application of the provisions of section 5506.1(a) (relating to annual compensation limit under IRC § 401(a)(17)). Final average salary shall be determined by including in compensation payments deemed to have been made to a member reemployed from USERRA leave to the extent member contributions have been made as provided in section 5302(f)(2) (relating to credited State service) and payments made to a member on leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) as provided in section 5302(f)(6).

* * *

"Inactive member." A member for whom no pickup contributions are being made **to the fund**, except in the case of an active member for whom such contributions otherwise required for current State service are not being made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), but who has accumulated deductions standing to his credit in the fund and who is not eligible to become or has not elected to become a vestee or has not filed an application for an annuity.

"Inactive member on leave without pay." The term does not include a State employee who is performing service solely as a participant in the plan unless the participant concurrently is employed as a Class A-5 exempt employee and on leave without pay.

"Inactive participant." A participant for whom no mandatory pickup participant contributions are being made to the trust, except in the case of an active participant for whom such contributions otherwise required for current State service are not being made solely by reason of any provision of this part relating to limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), but who has vested accumulated total defined contributions standing to his credit in the trust and who has not filed an application for a distribution.

"Inactive participant on leave without pay." The term does not include a Class A-5 exempt employee who is an active member on leave without pay unless the Class A-5 exempt employee

concurrently is employed in an office or position in which the Class A-5 exempt employee is a participant in the plan and on leave without pay.

"Individual investment account." The account in the trust to which are credited the amounts of the contributions made by a participant and the participant's employer in accordance with the provisions of this part, together with all interest and investment earnings after deduction for fees, costs, expenses and investment losses and charges for distributions.

"Intervening military service." Active military service of a member who was a State employee **and active member of the system** immediately preceding his induction into the armed services or forces of the United States in order to meet a military obligation excluding any voluntary extension of such service and who becomes a State employee within 90 days of the expiration of such service.

* * *

"Irrevocable beneficiary." The person or persons permanently designated by a member **or participant** in writing to the State Employees' Retirement Board pursuant to an approved domestic relations order to receive all or a portion of the accumulated deductions, **vested accumulated total defined contributions** or lump sum benefit payable upon the death of such member **or participant**.

"Irrevocable successor payee." The person permanently designated by a participant receiving distributions in writing to the board pursuant to an approved domestic relations order to receive one or more distributions from the plan upon the death of the participant.

* * *

"Mandatory pickup participant contributions." Contributions equal to a percentage of compensation that are made by the Commonwealth or other employer for an active participant for current State service that are picked up by the employer and credited in the plan as follows:

(1) for a participant who did not make the election under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant):

(i) 3.25% of compensation for service credited as a Class A-5 member;

(ii) 3.5% of compensation for service credited as a Class A-6 member;

(iii) 7.5% of compensation for service performed solely as a participant; or

(2) for a participant who makes the election under section 5306.5, the percentage of compensation otherwise provided under section 5306.5(e).

* * *

"Member's annuity." The single life annuity which is actuarially equivalent, at the effective date of retirement **and taking into account any delay in the receipt of the portion of the annuity based on Class A-5 service or Class A-6 service, if the effective date of retirement is under the age at which the member can receive a withdrawal annuity based on Class A-5 service or Class A-6 service,** to the sum of the regular accumulated deductions, shared-risk accumulated deductions, the additional accumulated deductions and the social security integration accumulated deductions standing to the member's credit in the members' savings account.

* * *

"Participant." An active participant, inactive participant or participant receiving distributions.

"Participant receiving distributions." A participant in the plan who has commenced receiving distributions from his individual investment account but who has not received a total distribution of his vested interest in the individual investment account.

* * *

"Plan." The State Employees' Defined Contribution Plan as established under the provisions of this part and the board.

"Plan document." The documents created by the board under section 5802 (relating to plan document) that contain the terms and provisions of the plan and trust as established by the board regarding the establishment, administration and investment of the plan and trust.

* * *

"Reemployed from USERRA leave." Resumption of active membership **or active participation** as a State employee after a period of USERRA leave, provided, however, that the resumption of active membership **or active participation** was within the time period and under conditions and circumstances such that the State employee was entitled to reemployment rights under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services).

* * *

"Regular member contributions." The product of the basic contribution rate, the class of service multiplier [if greater than one] and the compensation of the member[.], **subject to any adjustment under section 5501.1(c) (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions)**.

"Required beginning date." The latest date by which distributions of a member's interest **or a participant's interest in his individual investment account** must commence under section 401(a) (9) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a) (9)).

"Retirement counselor." The State Employees' Retirement [System] **Board** employee whose duty it shall be to advise each employee of his rights and duties as a member of the system **or as a participant of the plan**.

"Salary deductions." The amounts certified by the board, deducted from the compensation of an active member **or active participant**, or the school service compensation of a multiple service member who is an active member of the Public School Employees' Retirement System, and paid into the fund **or trust**.

"School Employees' Defined Contribution Plan." The defined contribution plan for school employees established under 24 Pa.C.S. Pt. IV (relating to retirement for school employees).

* * *

"Shared-risk member contributions." The product of the **applicable** shared-risk contribution rate and the compensation of a member [for service credited as Class A-3 or Class A-4] **who is required to make shared-risk member contributions**.

* * *

"Special vestee." An employee of The Pennsylvania State University who is a member of the State Employees' Retirement System with five or more but less than ten eligibility points and who has a date of termination of service from The Pennsylvania State University of June 30, 1997, because of the transfer of his job position or duties to a controlled organization of the Penn State Geisinger Health System or

because of the elimination of his job position or duties due to the transfer of other job positions or duties to a controlled organization of the Penn State Geisinger Health System, provided that:

(1) subsequent to termination of State service as an employee of The Pennsylvania State University, the member has not returned to State service in any other capacity or position as a State employee;

(2) The Pennsylvania State University certifies to the board that the member is eligible to be a special vestee;

(3) the member files an application to vest the member's retirement rights under section 5907(f) (relating to rights and duties of State employees [and], members **and participants**) on or before September 30, 1997; and

(4) the member elects to leave the member's total accumulated deductions in the fund and to defer receipt of an annuity until attainment of superannuation age or the member's required beginning date.

"Standard single life annuity." An annuity equal to 2% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member **in each class of service.**

"State employee." Any person holding a State office or position under the Commonwealth, employed by the State Government of the Commonwealth, in any capacity whatsoever, except an independent contractor or any person compensated on a fee basis or any person paid directly by an entity other than a State Employees' Retirement System employer, and shall include members of the General Assembly, and any officer or employee of the following:

(1) (i) The Department of Education.

(ii) State-owned educational institutions.

(iii) Community colleges.

(iv) The Pennsylvania State University, except an employee in the College of Agriculture who is paid wholly from Federal funds or an employee who is participating in the Federal Civil Service Retirement System. The university shall be totally responsible for all employer contributions under section 5507 (relating to contributions **to the system** by the Commonwealth and other employers) **and all employer defined contributions to the trust under section 5806 (relating to employer defined contributions).**

(2) The Pennsylvania Turnpike Commission, the Delaware River Port Authority, the Port Authority Transit Corporation, the Philadelphia Regional Port Authority, the Delaware River Joint Toll Bridge Commission, the State Public School Building Authority, The General State Authority, the State Highway and Bridge Authority, the Delaware Valley Regional Planning Commission, the Interstate Commission of the Delaware River Basin, and the Susquehanna River Basin Commission any time subsequent to its creation, provided the commission or authority agrees to contribute and does contribute to the fund **or trust**, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities **or other benefits** of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes, and provided in the case of employees of the Interstate Commission of the Delaware River Basin, that the employee shall have been a member of the system for at least ten years prior to January 1, 1963.

(3) Any separate independent public corporation created by statute, not including any municipal or quasi-municipal corporation, so long as he remains an officer or employee of such public corporation, and provided that such officer or employee of such public corporation was an employee of the Commonwealth immediately prior to his employment by such corporation, and further provided such public corporation shall agree to contribute and contributes to the fund **or trust**, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities **or other benefits** of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes.

* * *

"Successor payee." The person or persons last designated in writing to the board by a participant receiving distributions to receive one or more distributions upon the death of the participant.

"Superannuation age." For classes of service in the system other than Class A-3 [and], Class A-4, **Class A-5 and Class A-6**, any age upon accrual of 35 eligibility points or age 60, except for a member of the General Assembly **who has no service as a member of the General Assembly in Class A-3, Class A-4, Class A-5 or Class A-6**, an enforcement officer, a correction officer, a psychiatric security aide, a Delaware River Port Authority policeman or an officer of the Pennsylvania State Police, age 50, and, except for a member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, age 55 upon accrual of 20 eligibility points. For Class A-3 and Class A-4 service, any age upon attainment of a superannuation score of 92, provided the member has accrued 35 eligibility points, or age 65, or for park rangers or capitol police officers, age 55 with 20 years of service as a park ranger or capitol police officer, except for a member of the General Assembly **whose service as a member of the General Assembly is performed as a Class A-3 or Class A-4 member**, an enforcement officer, a correction officer, a psychiatric security aide, a Delaware River Port Authority policeman or an officer of the Pennsylvania State Police, age 55. **For Class A-5 and Class A-6 service, any age upon attainment of a superannuation score of 97, provided the member has accrued 35 eligibility points, or age 67.** A vestee with Class A-3 or Class A-4 service credit attains superannuation age **for the Class A-3 or Class A-4 service** on the birthday the vestee attains the age resulting in a superannuation score of 92, **and a vestee with Class A-5 or Class A-6 service credit attains superannuation age for the Class A-5 or Class A-6 service on the birthday the vestee attains the age resulting in a superannuation score of 97**, provided that the vestee has at least 35 eligibility points, or attains another applicable superannuation age, whichever occurs first.

* * *

"Sworn police officer." A State police officer who is employed and serving as an officer of the Pennsylvania State Police.

* * *

"Trust." The State Employees' Defined Contribution Trust established under Chapter 58 (relating to State Employees' Defined Contribution Plan).

* * *

"Valuation interest." Interest at 5 1/2% per annum compounded annually and applied to all accounts **of the fund** other than the members' savings account.

"Vestee." A member with:

(1) five or more eligibility points in a class of service other than Class A-3 [or], Class A-4, **Class A-5 or Class A-6** or, **if a multiple service member**, Class T-E [or], Class T-F, **Class T-G or Class T-H** in the Public School Employees' Retirement System[, a member with];

(2) Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with five or more eligibility points[, or a member with]; **or**

(3) Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service with ten or more eligibility points

and who has terminated State service and has elected to leave his total accumulated deductions in the fund and to defer receipt of an annuity.

"Voluntary contributions." Contributions made by a participant to the trust and credited to his individual investment account in excess of his mandatory pickup participant contributions, either by salary deductions paid through the Commonwealth or other employer, or through an eligible rollover or through a direct trustee-to-trustee transfer.

Section 303. Section 5103 of Title 71 is amended to read: § 5103. Notice to members **and participants**.

Notice by publication, including, without being limited to, newsletters, newspapers, forms, first class mail, letters, manuals and, to the extent authorized by a policy adopted by the board, electronically, including, without being limited to, e-mail or [World Wide Web sites] **Internet websites**, distributed or made available to members **and participants** in a manner reasonably calculated to give actual notice of [those sections of the State Employees' Retirement Code] **the provisions of this part** that require notice to members **or participants** shall be deemed sufficient notice for all purposes.

Section 304. Title 71 is amended by adding a section to read:

§ 5104. **Reference to State Employees' Retirement System.**

(a) **Construction.**--As of the effective date of this section, unless the context clearly indicates otherwise, any reference to the State Employees' Retirement System in a statutory provision other than this part and 24 Pa.C.S. Pt. IV (relating to retirement for school employees) shall include a reference to the State Employees' Defined Contribution Plan, and any reference to the State Employees' Retirement Fund shall include a reference to the State Employees' Defined Contribution Trust.

(b) **Agreement.**--The agreement of an employer listed in the definition of "State employee" or any other law to make contributions to the fund or to enroll its employees as members in the system shall be deemed to be an agreement to make contributions to the trust or to enroll its employees in the plan. An employer may not agree or elect to make contributions to the trust or to enroll its employees in the plan without also agreeing or electing to make contributions to the fund or to enroll its employees as members in the system.

Section 305. Section 5301 heading, (a), (b), (c) and (d) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5301. Mandatory and optional membership **in the system and participation in the plan.**

(a) Mandatory membership.--Membership in the system shall be mandatory as of the effective date of employment for all State employees except the following:

- (1) Governor.
- (2) Lieutenant Governor.
- (3) Members of the General Assembly.
- (4) Heads or deputy heads of administrative departments.
- (5) Members of any independent administrative board or commission.
- (6) Members of any departmental board or commission.
- (7) Members of any advisory board or commission.
- (8) Secretary to the Governor.
- (9) Budget Secretary.
- (10) Legislative employees.
- (11) School employees who have elected membership in the Public School Employees' Retirement System.

(12) School employees who have elected membership in an independent retirement program approved by the employer, provided that in no case, except as hereinafter provided, shall the employer contribute on account of such elected membership at a rate greater than the employer normal contribution rate as determined in section 5508(b) (relating to actuarial cost method). For the fiscal year 1986-1987 an employer may contribute on account of such elected membership at a rate which is the greater of 7% or the employer normal contribution rate as determined in section 5508(b) and for the fiscal year 1992-1993 and all **fiscal** years after that at a rate of 9.29%.

(13) Persons who have elected to retain membership in the retirement system of the political subdivision by which they were employed prior to becoming eligible for membership in the State Employees' Retirement System.

(14) Persons who are not members of the system and are employed on a per diem or hourly basis for less than 100 days or 750 hours in a [12-month period] **calendar year**.

(15) Employees of the Philadelphia Regional Port Authority who have elected to retain membership in the pension plan or retirement system in which they were enrolled as employees of the predecessor Philadelphia Port Corporation prior to the creation of the Philadelphia Regional Port Authority.

(16) Employees of the Juvenile Court Judges' Commission who, before the effective date of this paragraph, were transferred from the State System of Higher Education to the Juvenile Court Judges' Commission as a result of an interagency transfer of staff approved by the Office of Administration and who, while employees of the State System of Higher Education, had elected membership in an independent retirement program approved by the employer.

(17) State employees, other than any Class A-5 exempt employees performing service as Class A-5 exempt employees, whose first period of State service starts on or after January 1, 2019, provided that a State employee listed in this paragraph who is not listed in paragraphs (1) through (16) shall be mandatory members unless the employee elected to be solely a participant in the plan under section 5306.4 (relating to election to become a Class A-6 member or solely a participant in the plan).

(a.1) Mandatory participation in the plan.--A State employee who is a member of the system as a member of Class A-5 or Class A-6 shall be a mandatory participant in the plan for that same service as of the effective date of Class A-5 or Class A-6

membership in the system except for service as a Class A-5 exempt employee. A State employee who elected to be solely a participant in the plan shall be a mandatory participant in the plan for all service except for service as a Class A-5 exempt employee.

(b) **Optional membership in the system.**--The State employees listed in subsection (a)(1) through (11) shall have the right to elect membership in the system; once such election is exercised, membership shall continue until the termination of State service. State employees listed in subsection (a)(17) who are listed in subsection (a)(1) through (11) shall have the right to elect membership in Class A-5 or Class A-6 provided they have not previously elected to be solely participants in the plan.

(b.1) **Optional participation in the plan.**--The State employees who are optional members of the system as members of Class A-5 or Class A-6 also are optional participants in the plan. The State employees who elect membership in the system as members of Class A-5 or Class A-6, including the employees who elect to become members of Class A-5 or Class A-6 under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) also automatically elect participation in the plan as of the date they elect membership in the system, except for service as a Class A-5 exempt employee. A State employee can elect participation in the plan without also electing membership in the system under section 5306.4.

(c) **Prohibited membership in the system.**--The State employees listed in subsection (a)(12), (13), (14) and (15) shall not have the right to elect membership in the system.

(c.1) **Prohibited participation in the plan.**--The State employees listed in subsection (a)(11), (12), (13), (14) and (15) or who first become a member of the system before January 1, 2019, or who could have elected membership in the system but did not do so in the required time period shall not be eligible to be active participants in the plan unless an election is made under section 5306.5. Class A-5 exempt employees shall not be eligible to participate in the plan for service performed as a Class A-5 exempt employee. State employees who are not mandatory participants in the plan under subsection (a.1) or eligible for optional participation in the plan under subsection (b.1) shall not be eligible to participate in the plan unless an election is made under section 5306.5.

(d) **Return to service.**--

(1) An annuitant who returns to service as a State employee before January 1, 2019, or returns to State service as a Class A-5 exempt employee after December 31, 2018, shall resume active membership in the system as of the effective date of employment, except as otherwise provided in section 5706(a) (relating to termination of annuities), regardless of the optional membership category of the position.

(2) An annuitant or a participant receiving distributions who returns to service as a State employee on or after January 1, 2019, shall resume active membership in the system and, if an active member of Class A-5 or Class A-6, shall be an active participant in the plan as of the effective date of employment, except as otherwise provided in section 5706(a), regardless of the optional membership or participation category of the position: Provided, however, That a participant or former participant who previously elected to be solely a participant under section 5306.4 or 5306.5 shall be a participant in the plan and not an active

member of the system, except for service as a Class A-5 exempt employee.

* * *

Section 306. Sections 5302(a), (b), (e) and (f), 5303(b)(1) and (2), (d)(1) and (e)(1) and (4), 5303.2(a) and 5304(a) and (b) of Title 71 are amended to read:

§ 5302. Credited State service.

(a) Computation of credited service.--In computing credited State service of a member for the determination of benefits, a full-time salaried State employee, including any member of the General Assembly, shall receive credit for service in each period for which contributions as required are made **to the fund**, or for which contributions otherwise required for such service were not made **to the fund** solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under IRC § 401(a)(17) or 415, except as otherwise provided in this part, but in no case shall he receive more than one year's credit for any 12 consecutive months or 26 consecutive biweekly pay periods. A per diem or hourly State employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months or 26 consecutive biweekly pay periods in which he is employed and for which contributions are made **to the fund** or would have been made **to the fund** but for such waiver under section 5502.1 or limitations under the IRC for at least 220 days or 1,650 hours of employment. If the member was employed and contributions were made **to the fund** for less than 220 days or 1,650 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of days or hours of service actually rendered **and for which contributions are or would have been made to the fund except for the waiver under section 5502.1 or limitations under the IRC** to 220 days or 1,650 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the number of hours or days of service actually rendered in relation to 1,650 hours or 220 days, as the case may be. In no case shall a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

(b) Creditable leaves of absence.--

(1) A member on leave without pay who is studying under a Federal grant approved by the head of his department or who is engaged up to a maximum of two years of temporary service with the United States Government, another state or a local government under the Intergovernmental Personnel Act of 1970 (5 U.S.C. §§ 1304, 3371-3376; 42 U.S.C. §§ 4701-4772) shall be eligible for credit for such service: Provided, That contributions are made in accordance with sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk member contributions [for Class A-3 and Class A-4 service] **and shared-gain adjustments to regular member contributions**), 5505.1 (relating to additional member contributions) and 5507 (relating to contributions **to the system** by the Commonwealth and other employers), the member returns from leave without pay to active State service **as a member of the system** for a period of at least one year, and he is not entitled to retirement benefits for such service under a retirement system administered by any other governmental agency.

(2) An active member **or active participant** on paid leave granted by an employer for purposes of serving as an elected full-time officer for a Statewide employee organization which is a collective bargaining representative under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, or the act of July 23, 1970 (P.L.563, No.195), known as the Public Employee Relations Act, and up to 14 full-time business agents appointed by an employee organization that represents correction officers employed at State correctional institutions: Provided, That for elected full-time officers such leave shall not be for more than three consecutive terms of the same office and for up to 14 full-time business agents appointed by an employee organization that represents correction officers employed at State correctional institutions no more than three consecutive terms of the same office; that the employer shall fully compensate the member **or participant**, including, but not limited to, salary, wages, pension and retirement contributions and benefits, other benefits and seniority, as if he were in full-time active service; and that the Statewide employee organization shall fully reimburse the employer for all expenses and costs of such paid leave, including, but not limited to, contributions and payment in accordance with sections 5501, 5501.1, 5505.1 [and], 5507, **5804 (relating to participant contributions), 5805 (relating to mandatory pickup participant contributions) and 5806 (relating to employer defined contributions)**, if the employee organization either directly pays, or reimburses the Commonwealth or other employer for, contributions made in accordance with [section 5507] **sections 5507, 5804, 5805 and 5806.**

* * *

(e) Cancellation of credited service.--

(1) All credited service **in the system** shall be cancelled if a member withdraws his total accumulated deductions, except that a member with Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit and one or more other classes of service credit shall not have his service credit as a member of any classes of service other than as a member of Class A-3 [or], Class A-4, **Class A-5 or Class A-6** cancelled when the member receives a lump sum payment of accumulated deductions resulting from Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service pursuant to section 5705.1 (relating to payment of accumulated deductions resulting from [Class A-3 and Class A-4] **more than one class of service**).

(2) **A partial or total distribution of accumulated total defined contributions to a participant who also is a member shall not cancel service credited in the system.**

(f) Credit for military service.--**A State employee who has performed USERRA leave may receive credit in the system or participate in the plan as follows:**

(1) For purposes of determining whether a member is eligible to receive credited service **in the system** for a period of active military service, other than active duty service to meet periodic training requirements, rendered after August 5, 1991, and that began before the effective date of this paragraph, the provisions of 51 Pa.C.S. Ch. 73 (relating to military leave of absence) shall apply to all individuals who were active members of the system when the period of military service began, even if not defined as an

employee pursuant to 51 Pa.C.S. § 7301 (relating to definitions).

(1.1) State employees may not receive service credit in the system or exercise the options under 51 Pa.C.S. § 7306 (relating to retirement rights) for military leaves that begin on or after the effective date of this subsection, except as otherwise provided by this subsection.

(1.2) State employees may not participate in the plan or exercise the options under 51 Pa.C.S. § 7306 for military leaves that begin on or after the effective date of this paragraph, except as otherwise provided by this subsection.

(2) A State employee who has performed USERRA leave may receive credit **in the system** as provided by this paragraph. The following shall apply:

(i) A State employee who is reemployed from USERRA leave **as an active member of the system** shall be treated as not having incurred a break in State service by reason of the USERRA leave and shall be granted eligibility points as if the State employee had not been on the USERRA leave. If a State employee who is reemployed from USERRA leave **as an active member of the system** subsequently makes regular member contributions, additional member contributions, Social Security integration member contributions, shared-risk member contributions and any other member contributions in the amounts and in the time periods required by 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) as if the State employee had continued in State office or employment and performed State service and was compensated during the period of USERRA leave, then the State employee shall be granted State service credit for the period of USERRA leave. The State employee shall have the State employee's benefits, rights and obligations determined under this part as if the State employee was an active member who performed creditable State service during the USERRA leave in the job position that the State employee would have held had the State employee not been on USERRA leave and received the compensation on which the member contributions to receive State service credit for the USERRA leave were determined.

(ii) For purposes of determining whether a State employee has made the required employee contributions for State service credit for USERRA leave, if an employee who is reemployed from USERRA leave **as an active member of the system** terminates State service or dies in State service before the expiration of the allowed payment period, then State service credit for the USERRA leave will be granted as if the required member contributions were paid the day before termination or death. The amount of the required member contributions will be treated as an incomplete payment subject to the provisions of section 5506 (relating to incomplete payments). Upon a subsequent return to State service or to school service as a multiple service member, the required member contributions treated as incomplete payments shall be treated as member contributions that were either withdrawn in a lump sum at termination or paid as a lump sum pursuant to section 5705(a)(4) **or (a.1)** (relating to member's options), as the case may be.

(iii) A State employee who is reemployed from USERRA leave **as an active member of the system** who does not make the required member contributions or makes only part of the required member contributions within the allowed payment period shall not be granted credited service for the period of USERRA leave for which the required member contributions were not timely made, shall not be eligible to subsequently make contributions and shall not be granted either State service credit or nonstate service credit for the period of USERRA leave for which the required member contributions were not timely made.

(2.1) (i) A participant who is reemployed from USERRA leave shall be treated as not having incurred a break in State service by reason of the USERRA leave and shall be granted eligibility points as if the participant had not been on USERRA leave. If a participant who is reemployed from USERRA leave subsequently makes mandatory pickup participant contributions in the amounts and in the time periods required by 38 U.S.C. Ch. 43 and IRC § 414(u) as if the participant had continued in his State office or employment and performed State service and been compensated during the period of USERRA leave, the participant's employer shall make the corresponding employer defined contributions. The employee shall have his contributions, benefits, rights and obligations determined under this part as if he were an active participant who performed State service during the USERRA leave in the job position that he would have held had he not been on USERRA leave and received the compensation on which the mandatory pickup participant contributions to receive State service credit for the USERRA leave were determined.

(ii) A participant who is reemployed from USERRA leave who does not make the mandatory pickup participant contributions or makes only part of the mandatory pickup participant contributions within the allowed payment period shall not be eligible to make mandatory pickup participant contributions or voluntary contributions at a later date for the period of USERRA leave for which the mandatory pickup participant contributions were not timely made.

(3) A State employee who **is a member of the system** and performs USERRA leave from which the employee could have been reemployed from USERRA leave had the State employee returned to State service in the time frames required by 38 U.S.C. Ch. 43 for reemployment rights, but did not do so, shall be able to receive creditable nonstate service as nonintervening military service for the period of USERRA leave should the employee later return to State service **as an active member of the system** and is otherwise eligible to purchase the service as nonintervening military service.

(3.1) A State employee who is a participant in the plan and performs USERRA leave from which the employee could have been reemployed from USERRA leave had the employee returned to State service in the time frames required by 38 U.S.C. Ch. 43 for reemployment rights, but did not do so, shall not be eligible to make mandatory pickup participant contributions or voluntary contributions for the period of USERRA leave should the employee later return to State service and be a participant in the plan.

(4) [A State employee] **An active member or inactive member on leave without pay** who on or after the effective date of this subsection is granted a leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) or a military leave under 51 Pa.C.S. Ch. 73, that is not USERRA leave shall be able to receive creditable nonstate service as nonintervening military service should the employee return to State service **as an active member of the system** and is otherwise eligible to purchase the service as nonintervening military service.

(4.1) An active participant or inactive participant on leave without pay who on or after the effective date of this paragraph is granted a leave of absence under 51 Pa.C.S. § 4102 or a military leave under 51 Pa.C.S. Ch. 73 that is not USERRA leave shall not be able to make mandatory pickup participant contributions or voluntary contributions during or for the leave of absence or military leave and shall not have employer defined contributions made during such leave, without regard to whether or not the State employee received salary, wages, stipends, differential wage payments or other payments from his employer during the leave, notwithstanding any provision to the contrary under 51 Pa.C.S. § 4102 or 51 Pa.C.S. Ch. 73.

(5) If a member dies while performing USERRA leave, then the beneficiaries or survivor annuitants, as the case may be, of the deceased member are entitled to any additional benefits, including eligibility points, other than benefit accruals relating to the period of qualified military service, provided under this part had the member resumed and then terminated employment on account of death.

(5.1) If a participant dies while performing USERRA leave, the beneficiaries or successor payees of the deceased participant are entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided under this part had the participant resumed and then terminated employment on account of death.

(6) A State employee who is on a leave of absence from his duties as a State employee for which 51 Pa.C.S. § 4102 provides that he is not to suffer a loss of pay, time or efficiency rating shall not be an active member, receive service credit or make member contributions for the leave of absence, except as provided for in this part. Notwithstanding this paragraph, any pay the member receives pursuant to 51 Pa.C.S. § 4102 shall be included in the determination of final average salary and other calculations **in the system** utilizing compensation as if the payments were compensation under this part.

§ 5303. Retention and reinstatement of service credits.

* * *

(b) Eligibility points for prospective credited service.--

(1) Every active member of the system or a multiple service member who is a school employee and a member of the Public School Employees' Retirement System on or after the effective date of this part shall receive eligibility points in accordance with section 5307 for current State service, previous State service, or creditable nonstate service upon compliance with sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk **member** contributions [for Class A-3 and Class A-4 service] **and shared-gain adjustments to regular member contributions**), 5504 (relating to member contributions for

the purchase of credit for previous State service or to become a full coverage member), 5505 (relating to contributions for the purchase of credit for creditable nonstate service), 5505.1 (relating to additional member contributions) or 5506 (relating to incomplete payments). Subject to the limitations in sections 5306.1 (relating to election to become a Class AA member) and 5306.2 (relating to elections by members of the General Assembly), the class or classes of service in which the member may be credited for previous State service prior to the effective date of this part shall be the class or classes in which he was or could have at any time elected to be credited for such service, except that a State employee who first becomes a member of the system on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly and:

(i) is credited with Class A-3 service for such membership **and is not a member of Class A-5 or Class A-6**, shall be credited only with Class A-3 service for previous State service performed before January 1, 2011, that was not previously credited in the system; [or]

(ii) is credited with Class A-4 service for such membership **and is not a member of Class A-5 or Class A-6**, shall be credited only with Class A-4 service for previous State service performed before January 1, 2011, that was not previously credited in the system[.];

(iii) **is credited with Class A-5 service for such membership shall be credited only with Class A-5 service for previous State service performed before January 1, 2019, other than service as a Class A-5 exempt employee, that was not previously credited in the system; or**

(iv) **is credited with Class A-6 service for such membership shall be credited only with Class A-6 service for previous State service performed before January 1, 2019, other than service as a Class A-5 exempt employee, that was not previously credited in the system.**

The class of service in which a member shall be credited for service subsequent to the effective date of this part shall be determined in accordance with section 5306 (relating to classes of service).

* * *

(2) A special vestee or person otherwise eligible to be a special vestee who returns to State service, **other than solely as a participant in the plan**, or withdraws his accumulated deductions pursuant to section 5311 (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions) shall receive or retain eligibility points in accordance with paragraph (1) but upon subsequent termination of State service shall only be eligible to be an annuitant vestee or inactive member without regard to previous status as a special vestee and without regard to the provisions of this part providing for special vestees.

* * *

(d) Transfer of certain pension service credit.--

(1) Any person who was an employee of any county in this Commonwealth on the personal staff of an appellate court judge prior to September 9, 1985, and who had that employment transferred to the Commonwealth pursuant to 42 Pa.C.S. § 3703 (relating to local chamber facilities) shall be a member of the system for all service rendered as an employee of the Commonwealth on the personal staff of an appellate court

judge subsequent to the date of the transfer unless specifically prohibited pursuant to section 5301(c) (relating to mandatory and optional membership **in the system and participation in the plan**). The employee shall be entitled to have any prior service credit in that county or other municipal pension plan or retirement system transferred to the system and deemed to be State service for all purposes under this part. However, for those employees who were in continuous county employment which commenced prior to July 22, 1983, section 5505.1 shall not apply. The transfer of prior service credit to the system shall occur upon the transfer, by the member, county or other municipal pension plan or retirement system, to the system of the amount of accumulated member contributions, pick-up contributions and credited interest standing in the employee's county or municipal pension plan or retirement system account as of the date that these funds are transferred to the system. In the event that these funds have been refunded to the member, the transfer of service credit shall occur when the member transfers an amount equal to either the refund which the member received from the county or municipal pension plan or retirement system or the amount due under section 5504, if less. In the case of a transfer by the member, the transfer shall occur by December 31, 1987, in order for the member to receive credit for the prior service. In the case of a transfer by the county or other municipal pension plan or retirement system, the transfer shall also occur by December 31, 1987. If the amount transferred to the system by the member of a county or municipal pension plan or retirement system is greater than the amount that would have accumulated in the member's account if the employee had been a member of the system, all excess funds shall be returned to the employee within 90 days of the date on which such funds are credited to the member's account in the system. Within 60 days of receipt of written notice that an employee has elected to transfer credits under the provisions of this subsection, the county or other municipal pension plans or retirement systems shall be required to transfer to the system an amount, excluding contributions due under section 5504(a), equal to the liability of the prior service in accordance with county or other municipal pension plan or retirement system benefit provisions, multiplied by the ratio of system actuarial value of assets for active members to the system actuarial accrued liability for active members. The Public Employee Retirement Study Commission shall determine the appropriate amount of employer contributions to be transferred to the system by the county or other municipal pension plans or retirement systems.

* * *

(e) Transfer and purchase of certain pension service credit; Philadelphia Regional Port Authority.--

(1) Any employee of the Philadelphia Regional Port Authority who becomes a State employee, as defined in section 5102 (relating to definitions), **and an active member of the system** shall be eligible to obtain retirement credit for prior uncredited service with the Philadelphia Port Corporation, a Pennsylvania not-for-profit corporation ("predecessor corporation"), provided that the Commonwealth does not incur any liability for the funding of the annuities attributable to the prior, uncredited "predecessor corporation" service, the cost of which shall be determined according to paragraph (2).

* * *

(4) Any person who became employed by the Philadelphia Regional Port Authority between July 10, 1989, and passage of this act and who becomes a State employee, as defined in section 5102, **and an active member of the system** shall be eligible to obtain retirement credit for service from the date of employment with the Philadelphia Regional Port Authority, provided that the contributions are made in accordance with sections 5501, 5504, 5505.1 and 5506.

* * *

§ 5303.2. Election to convert school service to State service.

(a) Eligibility.--An active member or inactive member on leave without pay who was an employee transferred from the Department of Education to the Department of Corrections pursuant to section 908-B of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, and who on the effective date of that transfer did not participate in an independent retirement program approved by the Department of Education under 24 Pa.C.S. § 8301(a)(1) (relating to mandatory and optional membership **in the system and participation in the plan**) or section 5301(a)(12) (relating to mandatory and optional membership **in the system and participation in the plan**), notwithstanding any other provision of law or any collective bargaining agreement, arbitration award, contract or term or conditions of any retirement system or pension plan, may make a one-time election to convert all service credited in the Public School Employees' Retirement System as of June 30, 1999, and transfer to the system all accumulated member contributions and statutory interest credited in the members' savings account in the Public School Employees' Retirement System as of June 30, 1999, plus statutory interest on that amount credited by the Public School Employees' Retirement System from July 1, 1999, to the date of transfer to the system.

* * *

§ 5304. Creditable nonstate service.

(a) Eligibility.--

(1) An active member who first becomes an active member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, or a multiple service member who first becomes an active member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, and who is a school employee and an active member of the Public School Employees' Retirement System shall be eligible for Class A service credit for creditable nonstate service as set forth in subsections (b) and (c) except that intervening military service shall be credited in the class of service for which the member was eligible at the time of entering into military service and for which he makes the required contributions **to the fund** and except that a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall not be eligible to purchase service credit for creditable nonstate service set forth in subsection (c)(5).

(2) An active member who first becomes an active member on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly **and is an active member of a class of service other than Class A-5 or Class A-6**, or a multiple service member who first becomes an active member on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly **in a class of service other than Class A-5 or Class A-6**, and [who] is a school employee and an active member of the Public School Employees'

Retirement System shall be eligible for Class A-3 service credit for creditable nonstate service as set forth in subsections (b) and (c) except that intervening military service shall be credited in the class of service for which the member was eligible at the time of entering into military service and for which he makes the required contributions **to the fund** and except that a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall not be eligible to purchase service credit for creditable nonstate service set forth in subsection (c) (5).

(3) **An active member of Class A-5 or Class A-6 or a multiple service member who has service credited only as Class A-5 or Class A-6 and is a school employee and an active member of the Public School Employees' Retirement System shall be eligible for Class A-5 service credit if a Class A-5 member and Class A-6 service credit if a Class A-6 member for creditable nonstate service as set forth in subsections (b) and (c) for which the member makes the required contributions to the fund.**

* * *

(b) Limitations on eligibility.--An active member or a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall be eligible **as provided under subsection (a)** to receive credit for nonstate service provided that he does not have credit for such service in the system or in the [school system] **Public School Employees' Retirement System** and is not entitled to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service in the system or under a retirement system administered and wholly or partially paid for by any other governmental agency or by any private employer, or a retirement program approved by the employer in accordance with section 5301(a)(12) (relating to mandatory and optional membership **in the system and participation in the plan**), and further provided, that such service is certified by the previous employer and contributions are agreed upon and made in accordance with section 5505 (relating to contributions for the purchase of credit for creditable nonstate service).

* * *

Section 306.1. Section 5305(b) of Title 71 is amended and the section is amended by adding a subsection to read:
§ 5305. Social security integration credits.

* * *

(b) Accrual of subsequent credits.--Any **active** member who has social security integration accumulated deductions to his credit or is receiving a benefit on account of social security integration credits may accrue one social security integration credit for each year of service as a State employee on or subsequent to March 1, 1974, and a fractional credit for a corresponding fractional year of service provided that contributions are made **to the fund**, or would have been made **to the fund** but for section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or the limitations under IRC § 401(a)(17) or 415, except as otherwise provided in this part, in accordance with section 5502 (relating to Social Security integration member contributions), and he:

(1) continues subsequent to March 1, 1974, as an active member in either the [State or school] system **or, if a**

multiple service member, as an active member in the Public School Employees' Retirement System;

(2) terminates such continuous service in the [State or school] system **or the Public School Employees' Retirement System** and returns to active membership in the [State] system within six months; or

(3) terminates his status as a vestee or an annuitant and returns to State service **as an active member of the system.**

* * *

(e) Class A-5 and Class A-6 service ineligible for credit.--No Social Security integration credits shall accrue for any service performed or credited as Class A-5 or Class A-6 service.

Section 306.2. Section 5305.1 of Title 71 is amended to read:

§ 5305.1. Eligibility for actuarial increase factor.

A person who is:

(1) an active member;
(2) an inactive member on leave without pay; [or]
(3) a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System; **or**

(4) an active participant or an inactive participant on leave without pay;

who terminates State service or school service, as the case may be, after attaining age 70 and who applies for a superannuation annuity with an effective date of retirement the day after the date of termination of State service or school service shall have that person's maximum single life annuity calculated pursuant to section 5702(a.1) (relating to maximum single life annuity).

Section 307. Section 5306(a), (a.1), (a.2), (a.3) and (b) (2) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5306. Classes of service.

(a) Class A and Class A-3 membership.--

(1) A State employee who is a member of Class A on the effective date of this part or who first becomes a member of the system subsequent to the effective date of this part and before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, shall be classified as a Class A member and receive credit for Class A service upon payment of regular and additional member contributions for Class A service, provided that the State employee does not become a member of Class AA pursuant to subsection (a.1) or a member of Class D-4 pursuant to subsection (a.2)[.] **or a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant).**

(2) A State employee who first becomes a member of the system on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly **and before January 1, 2019**, shall be classified as a Class A-3 member and receive credit for Class A-3 service upon payment of regular member contributions and shared-risk member contributions for Class A-3 service provided that the State employee does not become a member of Class A-4 pursuant to subsection (a.3) **or a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5**, except

that a member of the judiciary shall be classified as a member of such other class of service for which the member of the judiciary is eligible, shall elect and make regular member contributions[.] **unless the member of the judiciary becomes a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5.**

(3) A State employee who first becomes a member of the system on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly, and a Class A-5 exempt employee on or after January 1, 2019, shall receive credit for all service as a Class A-5 exempt employee as a member of Class A-3 upon payment of the required member contributions and shall not be eligible to be a member of Class A-5 or Class A-6 or a participant in the plan for such service. Notwithstanding the provisions of a binding arbitration award issued before July 1, 1989, under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, and implemented by the board, all other State service shall be credited in the system or in the plan as otherwise provided under this part. Class A-3 service provided for under this paragraph shall be subject to an election to be credited as Class A-4 provided that the State employee has not previously had the opportunity to elect Class A-3 service and failed to do so.

(a.1) Class AA membership.--

(1) A person who becomes a State employee and an active member of the system after June 30, 2001, and who first became an active member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, and who is not a State police officer and not employed in a position for which a class of service other than Class A is credited or could be elected shall be classified as a Class AA member and receive credit for Class AA State service upon payment of regular member contributions for Class AA service, **provided that the State employee does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5,** and, subject to the limitations contained in paragraph (7), if previously a member of Class A or previously employed in a position for which Class A service could have been earned, shall have all Class A State service (other than State service performed as a State police officer or for which a class of service other than Class A was earned or could have been elected) classified as Class AA service.

(2) A person who is a State employee on June 30, 2001, and July 1, 2001, but is not an active member of the system because membership in the system is optional or prohibited pursuant to section 5301 (relating to mandatory and optional membership **in the system and participation in the plan**) and who first becomes an active member after June 30, 2001, and before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, and who is not a State police officer and not employed in a position for which a class of service other than Class A is credited or could be elected shall be classified as a Class AA member and receive credit for Class AA State service upon payment of regular member contributions for Class AA service, **provided that the State employee does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5,** and, subject to the limitations contained in paragraph (7), if previously a member of Class A or previously employed in

a position for which Class A service could have been earned, shall have all Class A State service (other than State service performed as a State Police officer or for which a class of service other than Class A was earned or could have been elected) classified as Class AA service.

(3) Provided that an election to become a Class AA member is made pursuant to section 5306.1 (relating to election to become a Class AA member), a State employee, other than a State employee who is a State police officer on or after July 1, 1989, who on June 30, 2001, and July 1, 2001, is:

(i) a member of Class A, other than a member of Class A who could have elected membership in a Class C, Class D-3, Class E-1 or Class E-2; or

(ii) an inactive member on a leave without pay from a position in which the State employee would be a Class A active member if the employee was not on leave without pay, other than a position in which the State employee could elect membership in Class C, Class D-3, Class E-1 or Class E-2;

shall be classified as a Class AA member and receive credit for Class AA State service performed after June 30, 2001, upon payment of regular member contributions for Class AA service, **provided that the State employee does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5**, and, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position for which the member could have elected membership in Class C, Class D-3, Class E-1 or Class E-2, performed before July 1, 2001.

(4) Provided that an election to become a Class AA member is made pursuant to section 5306.1, a former State employee, other than a former State employee who was a State police officer on or after July 1, 1989, who on June 30, 2001, and July 1, 2001, is a multiple service member and a school employee and a member of the Public School Employees' Retirement System, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position in which the former State employee could have elected a class of service other than Class A, performed before July 1, 2001.

(5) A former State employee who first becomes a member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, other than a former State employee who was a State police officer on or after July 1, 1989, who is a school employee and who on or after July 1, 2001, becomes a multiple service member, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service other than State service performed as a State employee in a position in which the former State employee could have elected a class of service other than Class A.

(6) A State employee who after June 30, 2001, becomes a State police officer or [who is employed in a position in which the member could elect membership in a class of service other than Class AA or Class D-4] **a member of the judiciary** shall retain any Class AA service credited prior to becoming a State police officer or being so employed but shall be

ineligible to receive Class AA credit thereafter and instead shall receive Class A credit for service as a member of the judiciary **if the State employee first becomes a member of the system before January 1, 2019, and the member of the judiciary does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5** or if he first became a member before January 1, 2011, or December 1, 2010, as a member of the General Assembly, or Class A-3 credit for service other than as a member of the judiciary and he first became a member on or after January 1, 2011, or December 1, 2010, as a member of the General Assembly, **if the nonjudicial service is service as a Class A-5 exempt employee, or Class A-5 service credit, Class A-6 service credit or solely as a participant in the plan if the nonjudicial service is as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant of the plan under section 5306.5, or the State employee first became a member on or after January 1, 2019, and the service is not as a Class A-5 exempt employee, unless a class of membership other than Class A is elected.**

(7) (i) State service performed as Class A service before July 1, 2001, and State service for which Class A service could have been credited but was not credited because membership in the system was optional or prohibited pursuant to section 5301 shall be credited as Class AA service only upon the completion of all acts necessary for the State service to be credited as Class A service had this subsection not been enacted and upon payment of required Class AA member contributions as provided in section 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member).

(ii) A person who is not a State employee or a school employee on June 30, 2001, and July 1, 2001, and who has previous State service (except a disability annuitant who returns to State service after June 30, 2001, upon termination of the disability annuity) shall not receive Class AA service credit for State service performed before July 1, 2001, until such person becomes an active member, or an active member of the Public School Employees' Retirement System and a multiple service member, and earns three eligibility points by performing credited State service or credited school service after June 30, 2001.

(a.2) Class of membership for members of the General Assembly.--

(1) A person who:

(i) becomes a member of the General Assembly and an active member of the system after June 30, 2001, and before December 1, 2010; or

(ii) is a member of the General Assembly on July 1, 2001, but is not an active member of the system because membership in the system is optional pursuant to section 5301 and who becomes an active member after June 30, 2001, and before December 1, 2010;

and who was not a State police officer on or after July 1, 1989, shall be classified as a Class D-4 member and receive credit as a Class D-4 member for all State service **as a member of the system** as a member of the General Assembly **that is not performed as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in**

the plan under section 5306.5 upon payment of regular member contributions for Class D-4 service and, subject to the limitations contained in subsection (a.1)(7), if previously a member of Class A or employed in a position for which Class A service could have been earned, shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or for which a class of service other than Class A or Class D-4 was or could have been elected or credited.

(2) Provided an election to become a Class D-4 member is made pursuant to section 5306.2 (relating to elections by members of the General Assembly), a State employee who was not a State police officer on or after July 1, 1989, who on July 1, 2001, is a member of the General Assembly and an active member of the system and not a member of Class D-3 shall be classified as a Class D-4 member and receive credit as a Class D-4 member for all State service **as a member of the system** performed as a member of the General Assembly **that is not performed as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5** and not credited as another class other than Class A upon payment of regular member contributions for Class D-4 service and, subject to the limitations contained in paragraph (a.1)(7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position in which the member could have elected a class of service other than Class A, performed before July 1, 2001.

(3) A member of the General Assembly who after June 30, 2001, becomes a State police officer shall retain any Class AA service or Class D-4 service credited prior to becoming a State police officer or being so employed but shall be ineligible to receive Class AA or Class D-4 credit thereafter and instead shall receive Class A credit or Class A-3 credit if he first becomes a member of the system on or after January 1, 2011[.], **and before January 1, 2019, or as a Class A-5 exempt employee, and Class A-5 or Class A-6 credit if he first becomes a member of the system on or after January 1, 2019, and is not a Class A-5 exempt employee.**

(4) Notwithstanding the provisions of this subsection, no service as a member of the General Assembly performed before December 1, 2010, that is not credited as Class D-4 service on November 30, 2010, shall be credited as Class D-4 service, unless such service was previously credited in the system as Class D-4 service and the member withdrew his total accumulated deductions as provided in section 5311 (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions). No service as a member of the General Assembly performed on or after December 1, 2010, shall be credited as Class D-4 service unless the member previously was credited with Class D-4 service credits.

(a.3) Class A-4 membership.--Provided that an election to become a Class A-4 member is made pursuant to section 5306.3 (relating to election to become a Class A-4 member), a State employee who **first becomes a member before January 1, 2019, or is a Class A-5 exempt employee** who otherwise would be a member of Class A-3 shall be classified as a Class A-4 member and receive Class A-4 credit for all creditable State service performed after the effective date of membership in the system, except as a member of the judiciary[,], **or as a member who elected to become a member of Class A-5 or Class A-6 or solely**

a participant in the plan if the employee first becomes a member before January 1, 2019, and for all creditable State service performed as a Class A-5 exempt employee if the employee first becomes a member on or after January 1, 2019, upon payment of regular member contributions and shared-risk member contributions for Class A-4 service.

(a.4) Class A-5 membership.--A State employee who first becomes a member of the system on or after January 1, 2019, other than as a Class A-5 exempt employee, and who does not make an election to be a member of Class A-6 or an election to be solely a participant in the plan under section 5306.4 (relating to election to become a Class A-6 member or solely a participant in the plan), shall be classified as a Class A-5 member and receive credit for Class A-5 service for service other than as a Class A-5 exempt employee upon payment of regular member contributions and shared-risk member contributions for Class A-5 service. A Class A-5 exempt employee who first becomes a member of the system on or after January 1, 2019, shall be classified in the applicable class other than Class A-5 for service performed as a Class A-5 exempt employee and classified as a Class A-5 member for any service performed in a position or office other than as a Class A-5 exempt employee, notwithstanding the provisions of a binding arbitration award issued before July 1, 1989, under the Policemen and Firemen Collective Bargaining Act, and implemented by the board. A State employee who elects Class A-5 membership under section 5306.5 shall be classified as a Class A-5 member and receive credit for Class A-5 service upon payment of regular member contributions and shared-risk member contributions for Class A-5 without regard to any other class of service the State employee might have been at any time before the election under section 5306.5.

(a.5) Class A-6 membership.--Provided that an election to become a Class A-6 member is made pursuant to section 5306.4, a State employee who otherwise would be a member of Class A-5 shall be classified as a Class A-6 member and receive Class A-6 credit for all creditable State service performed after the effective date of membership in the system, except as a Class A-5 exempt employee, upon payment of regular member contributions and shared-risk member contributions for Class A-6 service. A State employee who elects Class A-6 membership under section 5306.5 shall be classified as a Class A-6 member and receive credit for Class A-6 service upon payment of regular member contributions and shared-risk member contributions for Class A-6 without regard to any other class of service the State employee might have been at any time before the election under section 5306.5.

(b) Other class membership.--

* * *

(2) Notwithstanding any other provision of this section, a State employee [who] **whose first period of State service began before January 1, 2019,** is appointed [bail commissioner] **an arraignment court magistrate** of the Philadelphia Municipal Court under 42 Pa.C.S. § 1123(a)(5) (relating to jurisdiction and venue) **and is eligible to be a member of the system as an arraignment court magistrate** may, within 30 days of the effective date of this sentence or within 30 days of his initial appointment as [a bail commissioner] **an arraignment court magistrate,** whichever is later, elect Class E-2 service credit for service performed as [a bail commissioner] **an arraignment court magistrate until the termination of State service.** [This] **The class of**

service multiplier for E-2 service as [a bail commissioner]
an arraignment court magistrate shall be 1.5.

* * *

(e) **Ineligibility for classes of service.--An individual who is or was a State employee on or before January 1, 2019, but is not and was not a member of the system on or before January 1, 2019, or who first becomes a State employee on or after January 1, 2019, shall be ineligible for active membership in the system other than as a member of Class A-5 or Class A-6, or the several classes of State service for service performed as a Class A-5 exempt employee as otherwise provided for under this section. Any such State employee, if eligible, may be a participant in the plan as a result of such State service.**

Section 308. Sections 5306.1(c) and (d), 5306.2(b) and (c) and 5306.3(b), (c) and (d) of Title 71 are amended to read:
§ 5306.1. Election to become a Class AA member.

* * *

(c) **Effect of election.--An election to become a Class AA member shall become effective the later of July 1, 2001, or the date when the election is filed with the board and shall remain in effect until the termination of employment[.] or an election is made to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant). Upon termination and subsequent reemployment, the member's class of service shall be credited in the class of service otherwise provided for in this part, and the State employee's eligibility for participation in the plan shall be as provided in this part.**

(d) **Effect of failure to make election.--[Failure] Subject to the provisions of this part relating to election of Class A-5 or Class A-6 or to be solely a participant in the plan, failure to elect to become a Class AA member within the election period set forth in subsection (b) shall result in all of the member's Class A State service, other than service performed as a State police officer or in a position in which the member could elect a class of membership other than Class A, being credited as Class A service and not subject to further election or crediting as Class AA service upon termination and subsequent employment.**

§ 5306.2. Elections by members of the General Assembly.

* * *

(b) **Effect of election.--Membership as a Class D-4 member shall become effective on July 1, 2001, and shall remain in effect until the termination of service as a member of the General Assembly[.] or an election is made to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant). Upon termination and a subsequent reemployment, the member's class of service shall be credited in the class of service otherwise provided for in this part, and the State employee's eligibility for participation in the plan shall be as provided in this part.**

(c) **Effect of failure to make election.--A member of the General Assembly who is a member of Class A as a result of failure to elect to become a member of another class or who is a member of another class other than Class D-4 as a result of electing membership in such class for legislative service shall not be eligible to receive or elect a different class of service for such legislative service either during the period of**

legislative service or upon termination and subsequent employment[.] **unless the State employee elects to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5.**

§ 5306.3. Election to become a Class A-4 member.

* * *

(b) Time for making election.--The election to become a Class A-4 member must be made by the member filing written notice with the board in a form and manner determined by the board no later than 45 days after notice from the board of the member's eligibility to elect Class A-4 membership. A State employee who is eligible to elect to become a Class A-4 member who begins USERRA leave during the election period without having elected Class A-4 membership [may make the election within 45 days after being reemployed from] **shall have the election period extended by the number of days on USERRA leave.**

(c) Effect of election.--An election to become a Class A-4 member shall be irrevocable and shall become effective on the effective date of membership in the system and shall remain in effect for all future [creditable] State service **creditable to the system**, other than service performed as a member of the judiciary[.], **but shall not apply to service performed as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) to service not performed as a Class A-5 exempt employee if the State employee first becomes a member of the system on or after January 1, 2019.** Payment of regular member contributions and shared-risk member contributions for Class A-4 State service performed prior to the election of Class A-4 membership shall be made in a form, manner and time determined by the board. Upon termination of **State service** and subsequent reemployment, a member who elected Class A-4 membership shall be credited as a Class A-4 member for creditable State service performed after reemployment, except as a member of the judiciary, **or unless the reemployment is as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5, provided that if the State employee first becomes a member of the system on or after January 1, 2019, the reemployment is as a Class A-5 exempt employee,** regardless of termination of employment, termination of membership by withdrawal of accumulated deductions or status as an annuitant, vestee or inactive member after the termination of service.

(d) Effect of failure to make election.--Failure to elect to become a Class A-4 member within the election period set forth in subsection (b) shall result in all of the member's State service, other than service performed as a member of the judiciary, **or if the State employee first becomes a member of the system on or after January 1, 2019, all service as a Class A-5 exempt employee,** being credited as Class A-3 service and not subject to further election or crediting as Class A-4 service, **unless the State employee elects to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5.** Upon termination and subsequent employment, a member who failed to elect to become a Class A-4 member shall not be eligible to make another election to become a Class A-4 member for either past or future State service.

Section 309. Title 71 is amended by adding sections to read:
§ 5306.4. **Election to become a Class A-6 member or solely a participant in the plan.**

(a) General rule.--A State employee who was not eligible to make an election under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) and who otherwise is eligible for Class A-5 membership who has not previously elected or declined to elect Class A-6 membership or to be solely a participant in the plan may elect to become either a member of Class A-6 or solely a participant in the plan.

(b) Time for making election.--The election to become a Class A-6 member or solely a participant in the plan must be made by the member filing written notice with the board in a form and manner determined by the board no later than 45 days after notice from the board of the member's eligibility to elect Class A-6 membership or to be solely a participant in the plan. This notice shall be given upon a State employee first beginning State service in a position eligible to be a member of the system that is not as a Class A-5 exempt employee. A State employee who is eligible to elect to become a Class A-6 member or solely a participant in the plan who begins USERRA leave during the election period without having elected Class A-6 membership or to be solely a participant in the plan will have the election period extended by the number of days on USERRA leave.

(c) Effect of election to be a Class A-6 member.--An election to become a Class A-6 member shall be irrevocable and shall become effective on the effective date of membership in the system and shall remain in effect for all future creditable State service, other than service performed as a Class A-5 exempt employee. Payment of regular member contributions for Class A-6 State service performed prior to the election of Class A-6 membership shall be made in a form, manner and time determined by the board. Upon termination and subsequent reemployment, a member who elected Class A-6 membership shall be credited as a Class A-6 member for creditable State service performed after reemployment, except as a Class A-5 exempt employee, regardless of termination of employment, termination of membership by withdrawal of accumulated deductions or status as an annuitant, vestee or inactive member after the termination of service.

(d) Effect of election to be solely a participant in the plan.--An election to become solely a participant in the plan shall be irrevocable and shall become effective on the date that membership in the system would have been effective had the election not been made and shall remain in effect for all future State service, other than service performed as a Class A-5 exempt employee. Payment of mandatory participant pickup contributions for service solely as a participant in the plan performed prior to the election shall be made in a form, manner and time determined by the board. Upon termination and subsequent reemployment, a State employee who elected to be solely a participant in the plan shall resume active participation for State service performed after reemployment, except as a Class A-5 exempt employee, regardless of termination of employment, termination of participation by a partial or total distribution of vested total defined contributions or status as an annuitant, vestee or inactive member of the system as a Class A-5 exempt employee after the termination of service.

(e) Effect of failure to make election.--Failure to elect to become a Class A-6 member or solely a participant in the plan within the election period set forth in subsection (b) shall result in all of the member's State service not performed as a Class A-5 exempt employee being credited as Class A-5

service and not subject to further election or crediting as Class A-6 service or solely as a participant in the plan. Upon termination and subsequent employment, a member who failed to elect to become a Class A-6 member or solely a participant in the plan shall not be eligible to make another election to become a Class A-6 member or solely a participant in the plan for either past or future State service.

§ 5306.5. Election by active members to become a Class A-5 member, Class A-6 member or plan participant.

(a) General rule.--A State employee, except for a Class A-5 exempt employee, who is an active member or inactive member on leave without pay on December 31, 2018, and January 1, 2019, may elect to become a member of Class A-5, a member of Class A-6 or solely a participant in the plan. A State employee who was previously a member of the system before January 1, 2019, and who returns to State service on or after January 1, 2019, or who is a Class A-5 exempt employee on December 31, 2018, and January 1, 2019, is not eligible to elect Class A-5 membership, Class A-6 membership or participation in the plan.

(b) Time for making election.--The election to become a Class A-5 member, Class A-6 member or solely a participant in the plan must be made by the employee filing written notice with the board before the termination of State service or by March 31, 2019, whichever occurs first, but may not be made before January 1, 2019. A State employee who is eligible to elect to become a Class A-5 member, Class A-6 member or solely a participant in the plan who begins USERRA leave during the election period without having elected Class A-5 membership, Class A-6 membership or participation in the plan will have the election period extended by the number of days the employee is on USERRA leave.

(c) Effect of election.--An election to become a Class A-5 member, a Class A-6 member or solely a participant in the plan shall be irrevocable as of the earlier of the date of termination of State service or the day after the election period expires. The election shall apply to all service performed on or after July 1, 2019, and shall remain in effect for all future creditable State service, other than service performed as a Class A-5 exempt employee. A member who elects Class A-5 membership shall be subject to all provisions of this part applicable to Class A-5 membership and participation in the plan as a Class A-5 member for all service other than service as a Class A-5 exempt employee performed on and after July 1, 2019. A member who elects Class A-6 membership shall be subject to all provisions of this part applicable to Class A-6 membership and participation in the plan as a Class A-6 member for all service other than service as a Class A-5 exempt employee performed on and after July 1, 2019. A member who elects to be solely a participant in the plan shall be subject to all provisions of this part applicable to participation in the plan for all service other than service as a Class A-5 exempt employee performed on and after July 1, 2019. Upon termination and subsequent reemployment, a member who elected Class A-5 membership, Class A-6 membership or to be solely a participant in the plan shall be credited as a Class A-5 member, a Class A-6 member or solely as a participant in the plan, as the case may be, for creditable State service performed after reemployment, except as a Class A-5 exempt employee, regardless of termination of employment, termination of membership by withdrawal of accumulated deductions, termination of participation by a distribution of vested total defined contributions or status as an annuitant, vestee, inactive member

or participant receiving distributions after the termination of service.

(d) Effect of failure to make election.--If the employee fails to file timely an election to become a Class A-5 member, a Class A-6 member or solely a participant in the plan, the employee shall continue to be enrolled in the applicable class of service and shall never be able to elect Class A-5 membership, Class A-6 membership or participation in the plan, regardless of whether the employee terminates service or has a break in service.

(e) Mandatory pickup participant contributions.--An individual who has made the election under subsection (a) shall make the following mandatory pickup participant contributions for service:

(1) If the participant elected to be a member of Class A-5, then:

(i) If the participant would have been a member of Class A if the election had not been made, no mandatory pickup participant contributions shall be made.

(ii) If the participant would have been a member of Class AA if the election had not been made, at a rate of 1.25% of compensation.

(iii) If the participant would have been a member of Class A-3 if the election had not been made, at a rate of 1.25% of compensation.

(iv) If the participant would have been a member of Class A-4 if the election had not been made, at a rate of 4.3% of compensation.

(v) If the participant would have been a member of Class D-4 if the election had not been made, at a rate of 2.5% of compensation.

(vi) If the participant would have been a member of Class E-1 if the election had not been made, at a rate of 5% of compensation for service for which the regular member contributions would have been 10% of compensation or at a rate of 2.5% for service for which the regular member contributions would have been 7.5% of compensation.

(vii) If the participant would have been a member of Class E-2 if the election had not been made, at a rate of 2.5% of compensation.

(2) If the participant elected to be a member of Class A-6, then:

(i) If the participant would have been a member of Class A if the election had not been made, at a rate of 1% of compensation.

(ii) If the participant would have been a member of Class AA if the election had not been made, at a rate of 2.25% of compensation.

(iii) If the participant would have been a member of Class A-3 if the election had not been made, at a rate of 2.25% of compensation.

(iv) If the participant would have been a member of Class A-4 if the election had not been made, at a rate of 5.3% of compensation.

(v) If the participant would have been a member of Class D-4 if the election had not been made, at a rate of 3.5% of compensation.

(vi) If the participant would have been a member of Class E-1 if the election had not been made, at a rate of 6% of compensation for service for which the regular member contributions would have been 10% of

compensation or at a rate of 3.5% for service for which the regular member contributions would have been 7.5% of compensation.

(vii) If the participant would have been a member of Class E-2 if the election had not been made, at a rate of 3.5% of compensation.

(3) If the participant elected to be solely a participant in the plan, then:

(i) If the participant would have been a member of Class A if the election had not been made, at a rate of 5% of compensation.

(ii) If the participant would have been a member of Class AA if the election had not been made, at a rate of 6.25% of compensation.

(iii) If the participant would have been a member of Class A-3 if the election had not been made, at a rate of 6.25% of compensation.

(iv) If the participant would have been a member of Class A-4 if the election had not been made, at a rate of 9.3% of compensation.

(v) If the participant would have been a member of Class D-4 if the election had not been made, at a rate of 7.5% of compensation.

(vi) If the participant would have been a member of Class E-1 if the election had not been made, at a rate of 10% of compensation for service for which the regular member contributions would have been 10% of compensation or at a rate of 7.5% for service for which the regular member contributions would have been 7.5% of compensation.

(vii) If the participant would have been a member of Class E-2 if the election had not been made, at a rate of 7.5% of compensation.

(viii) If the participant would have been making shared-risk member contributions if the election had not been made, then the mandatory pickup participant contributions shall be a percentage of compensation greater than the amounts listed in this subsection equal to the shared-risk member contribution rate that would have been applicable. This percentage rate shall be subject to any subsequent changes in the shared-risk member contributions.

(ix) If the participant would have had regular member contributions adjusted by the shared-gain adjustment if the election had not been made, then the mandatory pickup participant contributions shall be reduced by the same percentage of compensation regular member contributions would have been reduced by the shared-gain adjustment. This percentage rate shall be subject to any subsequent changes in the shared-gain adjustment to regular member contributions.

(4) If the participant would have been making Social Security Integration contributions if the election had not been made, then the mandatory pickup participant contributions on compensation for which Social Security Integration contributions would have been made shall be 5% of compensation greater than the amounts listed in this subsection.

Section 310. Sections 5307, 5308, 5308.1 introductory paragraph and (1), 5309, 5310, 5311(a), 5501.1, 5502, 5503.1(a) and 5504 of Title 71 are amended to read:

§ 5307. Eligibility points.

(a) General rule.--An active member of the system shall accrue one eligibility point for each year of credited service as a member of the [State or] **system and if a multiple service member as a member of** the Public School Employees' Retirement System. A member shall accrue an additional two-thirds of an eligibility point for each year of Class D-3 credited service. In the case of a fractional part of a year of credited service, a member shall accrue the corresponding fractional portion of eligibility points to which the class of service entitles him. **A State employee who is performing State service solely as a participant in the plan shall accrue eligibility points at the same rate and manner as if the State employee was performing State service credited as a member of Class A-5. No eligibility points shall accrue in the system or the plan for service as a school employee credited as Class DC service in the Public School Employees' Retirement System.**

(a.1) USERRA leave.--A member of the system **or participant in the plan** who is reemployed from USERRA leave or who dies while performing USERRA leave shall be granted the eligibility points that he would have accrued had he continued in his State office or employment instead of performing USERRA leave. In the event that a State employee who is reemployed from USERRA leave makes the member contributions **or mandatory pickup participant contributions** to be granted State service credit for the USERRA leave, no additional eligibility points will be granted.

(b) Transitional rule.--

(1) In determining whether a member who is not a State employee or school employee on June 30, 2001, and July 1, 2001, and who has previous State service (except a disability annuitant who returns to State service after June 30, 2001, upon termination of the disability annuity) has the five eligibility points required by sections 5102 (relating to definitions), 5308(b) (relating to eligibility for annuities), 5309 (relating to eligibility for vesting), 5704(b) (relating to disability annuities) and 5705(a) (relating to member's options), only eligibility points earned by performing credited State service, USERRA leave or credited school service **as an active member of the Public School Employees' Retirement System** after June 30, 2001, shall be counted until such member earns one eligibility point by performing credited State service or, **if a multiple service member**, credited school service **as an active member of the Public School Employees' Retirement System** after June 30, 2001, at which time all eligibility points as determined pursuant to subsection (a) shall be counted.

(2) Any member to whom paragraph (1) applies shall be considered to have satisfied any requirement for five eligibility points contained in this part if the member:

(i) has ten or more eligibility points as determined pursuant to subsection (a); or

(ii) has Class G, Class H, Class I, Class J, Class L, Class M or Class N service and has eight or more eligibility points as determined pursuant to subsection (a).

(c) Application of eligibility points.--Eligibility points accrued for service as either a member of the system or a participant in the plan may be used to determine the eligibility for benefits from either the system or the plan unless the provision is restricted to eligibility points accrued from specific types of State service. Eligibility points accrued from service as an active member of the Public School Employees'

Retirement System shall apply only if a State employee has elected multiple service. Eligibility points accrued by a State employee for service solely as a participant in the plan for which he received a total distribution of accumulated total defined contributions shall not apply when determining eligibility for benefits from the system or the plan resulting from any State service subsequently credited in the system or performed after the total distribution.

§ 5308. Eligibility for annuities.

(a) Superannuation annuity.--Attainment of superannuation age by an active member [or], an inactive member on leave without pay **or a participant with service credited as a member of the system** with three or more eligibility points other than eligibility points resulting from nonstate service or nonschool service shall entitle him to receive a superannuation annuity upon termination of State service and compliance with section 5907(f) (relating to rights and duties of State employees [and members], **members and participants**).

(b) Withdrawal annuity.--

(1) Any vestee or any active member [or], inactive member on leave without pay **or participant with service credited as a member of the system** who terminates State service having five or more eligibility points and who does not have Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit or, **if a multiple service member**, Class T-E [or], Class T-F, **Class T-G or Class T-H** service credit in the Public School Employees' Retirement System, or who has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service and terminates State service having five or more eligibility points, upon compliance with section 5907(f), (g) or (h) shall be entitled to receive an annuity.

(2) Any vestee, active member [or], inactive member on leave without pay **or participant with service credited as a member of the system** who has Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit or, **if a multiple service member**, Class T-E [or], Class T-F, **Class T-G or Class T-H** service credit in the Public School Employees' Retirement System who terminates State service having ten or more eligibility points, upon compliance with section 5907(f), (g) or (h), shall be entitled to receive an annuity.

(3) Any vestee, active member or inactive member on leave without pay **or participant with service credited as a member of the system** who has either Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit or, **if a multiple service member**, Class T-E [or], Class T-F, **Class T-G or Class T-H** service credit in the Public School Employees' Retirement System and also has service credited in the system in one or more other classes of service who has five or more, but fewer than ten, eligibility points, upon compliance with section 5907(f), (g) or (h), shall be eligible to receive an annuity calculated on his service credited in classes of service other than Class A-3 [or], Class A-4, **Class A-5 or Class A-6**, provided that the member has five or more eligibility points resulting from service in classes other than Class A-3 [or], Class A-4, **Class A-5 or Class A-6** or Class T-E [or], Class T-F, **Class T-G or Class T-H** service in the Public School Employees' Retirement System.

(c) Disability annuity.--An active member or inactive member on leave without pay who has five or more eligibility points other than eligibility points resulting from membership in the Public School Employees' Retirement System or any active member

or inactive member on leave without pay who is an officer of the Pennsylvania State Police or an enforcement officer shall, upon compliance with section 5907(k), be entitled to a disability annuity if he becomes mentally or physically incapable of continuing to perform the duties for which he is employed and qualifies in accordance with the provisions of section 5905(c)(1) (relating to duties of the board regarding applications and elections of members **and participants**).

(d) Required beginning date.--Members eligible for an annuity must commence receiving the annuity by the member's required beginning date.

§ 5308.1. Eligibility for special early retirement.

Notwithstanding any provisions of this title to the contrary, the following special early retirement provisions shall be applicable to specified eligible members [as follows]:

(1) During the period of July 1, 1985, to September 30, 1991, an active member who has attained the age of at least 53 years and has accrued at least 30 eligibility points shall be entitled, upon termination of State service and compliance with section 5907(f) (relating to rights and duties of State employees [and], members **and participants**), to receive a maximum single life annuity calculated under section 5702 (relating to maximum single life annuity) without a reduction by virtue of an effective date of retirement which is under the superannuation age.

* * *

§ 5309. Eligibility for vesting.

Any member who:

(1) Does not have Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit or, **if a multiple service member**, Class T-E [or], Class T-F, **Class T-G or Class T-H** service credit in the Public School Employees' Retirement System and terminates State service, **or if a multiple service member and an active member of the Public School Employees' Retirement System terminates school service**, with five or more eligibility points, or any member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with five or more eligibility points, shall be eligible until his required beginning date to vest his retirement benefits.

(2) Has **only** Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit [or] **and, if a multiple service member, only** Class T-E [or], Class T-F, **Class T-G or Class T-H** service credit in the Public School Employees' Retirement System and terminates State service, **or if a multiple service member and an active member of the Public School Employees' Retirement System terminates school service**, with ten or more eligibility points shall be eligible until his required beginning date to vest his retirement benefits.

(3) Has either Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit [or] **and, if a multiple service member**, Class T-E [or], Class T-F, **Class T-G or Class T-H** service credit in the Public School Employees' Retirement System, also has service credited in the system in one or more other classes of service and has five or more, but fewer than ten, eligibility points **and terminates State service**, **or if a multiple service member and an active member of the Public School Employees' Retirement System terminates school service**, shall be eligible until his required beginning date to vest his retirement benefits calculated on his service credited in classes of service other than Class A-3 [or],

Class A-4, **Class A-5 or Class A-6** and to be credited with statutory interest on total accumulated deductions, regardless of whether or not any part of his accumulated deductions are a result of Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit.

§ 5310. Eligibility for death benefits.

In the event of the death of a member who is eligible for an annuity in accordance with section 5308(a) or (b) (relating to eligibility for annuities), his beneficiary shall be entitled to a death benefit. **For purposes of this section, a member with ten or more eligibility points shall be considered eligible for an annuity based on Class A-5 service or Class A-6 service even if under superannuation age.**

§ 5311. Eligibility for refunds.

(a) Total accumulated deductions.--Any active member, regardless of eligibility for benefits, may elect to receive his total accumulated deductions by his required beginning date upon termination of service in lieu of any benefit **from the system** to which he is entitled.

* * *

§ 5501.1. Shared-risk member contributions [for Class A-3 and Class A-4 service] **and shared-gain adjustments to regular member contributions.**

(a) General.--Shared-risk member contributions shall be made to the fund on behalf of each member of Class A-3 [or], Class A-4, **Class A-5 or Class A-6** for current service credited [as Class A-3 or Class A-4] **in each such class of service** as provided under this section, except for any period of current service in which the making of the contributions has ceased solely by reason of any provision of this part relating to the limitations under IRC § 401(a)(17) or 415. Shared-risk member contributions shall be credited to the members' savings account. **A shared-gain adjustment to regular member contributions for Class A-3, Class A-4, Class A-5 and Class A-6 shall be made as provided under this section.**

(a.1) Exception for certain members who elected under section 5306.5.--Notwithstanding subsection (a), shared-risk member contributions and shared-gain adjustments to regular member contributions for Class A-5 and Class A-6 service shall not be made for any member who elected Class A-5 or Class A-6 membership under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) who were members of a class of service other than Class A-3 or Class A-4 before making the election.

(b) Determination of shared-risk contribution rate[.--] for Class A-3 and Class A-4 service.--**The shared-risk contribution for Class A-3 and Class A-4 service shall be determined as follows:**

(1) For the period from the effective date of this section until June 30, 2014, the shared-risk contribution rate **for Class A-3 and Class A-4** shall be zero.

(2) For the period from July 1, 2014, to June 30, 2017, if the annual interest rate adopted by the board for use during the period from January 1, 2011, to December 31, 2013, for the calculation of the normal contribution rate is more than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, the shared-risk contribution rate shall be .5%. In all other situations, the shared-risk contribution rate shall be zero.

(3) For each subsequent three-year period, **if the shared-gain adjustment to regular member contributions is zero**, the shared-risk contribution rate shall be increased by .5% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period. The shared-risk contribution rate shall be decreased by .5% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or less than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the shared-risk contribution rate shall not be less than zero and shall not be more than the experience adjustment factor resulting from investment gains or losses **during the determination period** in effect on the first day when the new rate would be applied, expressed as a percentage of member compensation, and shall not be more than 2%. For the determination of the shared-risk contribution rate to be effective July 1, 2017, the determination period shall be January 1, 2011, through December 31, 2016. For the determination of the shared-risk contribution rate to be effective July 1, 2020, the determination period shall be January 1, 2011, through December 31, 2019.

(5) The shared-risk contribution rate and the factors entering into its calculation shall be certified by the actuary as part of the annual valuations and the actuarial investigation and evaluation of the system conducted every five years under section 5902(j) (relating to administrative duties of the board).

(6) In the event that the annual interest rate adopted by the board for the calculation is changed during the period used to determine the shared-risk contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate.

(7) For any fiscal year in which the actual contributions by the Commonwealth or an employer are lower than [those required to be made under section 5507(d) (relating to contributions by the Commonwealth and other employers)] **the actuarially required contributions**, the prospective shared-risk contribution rate for those employees whose employers are not making the **actuarially required contributions** [required by section 5507(d)] shall be zero and shall not subsequently be increased, except as otherwise provided in this section. **For purposes of this paragraph, the actuarially required contribution shall be no less than the normal cost plus the cost to fully amortize the unfunded actuarial accrued liability calculated using actuarial methods and assumptions that are consistent with generally accepted actuarial standards and generally accepted accounting principles, including professional actuarial standards of practice.**

(8) If the actuary certifies that the accrued liability contributions calculated in accordance with the actuarial cost method provided in section 5508(b) (relating to actuarial cost method), as adjusted by the experience adjustment factor, are zero or less, then the shared-risk contribution rate for the next fiscal year shall be zero and

shall not subsequently be increased, except as otherwise provided in this section.

(9) The shared-risk contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under this subsection and not subsection (e).

(c) Determination of shared-gain adjustment to regular member contributions for Class A-3 and Class A-4 service.--The regular member contributions for Class A-3 and Class A-4 service shall be determined as follows:

(1) For the period from the effective date of this section until June 30, 2017, the regular member contributions for Class A-3 and Class A-4 service shall be determined as otherwise provided in this part.

(2) For the period from July 1, 2017, to June 30, 2020, if the shared-risk contribution rate for Class A-3 and Class A-4 service is zero and the annual interest rate adopted by the board for use during the period from January 1, 2011, to December 31, 2016, for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, then the regular member contribution rate of each member for Class A-3 and Class A-4 service shall be reduced by .5%. In all other situations, the regular member contributions shall be determined as otherwise provided in this part.

(3) For each subsequent three-year period, if the shared-risk contribution rate for Class A-3 and Class A-4 is zero, the regular member contribution rate shall be decreased by .5% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the investments of the fund based on market value over the period. The regular member contribution rate shall be increased by .5% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or greater than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the regular member contribution rate may not be greater than the product of the basic contribution rate and the class of service multiplier; and the amount of the adjustment to a lower regular member contribution rate may not be greater than the reduction in the actuarially required contribution rate by the experience adjustment factor resulting from investment gains or losses during the determination period in effect on the first day when the new rate would be applied, expressed as a percentage of member compensation. In no event may the adjustment to the regular member contribution rate be more than 2%. For the determination of the regular member contribution rate to be effective July 1, 2020, the determination period shall be January 1, 2011, through December 31, 2019.

(5) The shared-gain adjustment to the regular member contribution rate and the factors entering into its calculation shall be certified by the actuary as part of the annual valuations and the actuarial investigation and

evaluation of the system conducted every five years under section 5902(j).

(6) If the annual interest rate adopted by the board for the calculation is changed during the period used to determine the shared-gain adjustment to the regular member contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate.

(7) The shared-gain adjustment to the regular member contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under this subsection and not subsection (f).

(d) Calculation of regular member contribution rate.--For purposes of this section, the regular member contribution rate for each member is the product of the basic contribution rate and the class of service multiplier used to determine the regular member contributions for each member.

(e) Determination of shared-risk contribution rate for Class A-5 and Class A-6 service.--The shared-risk contribution for Class A-5 or Class A-6 service shall be determined as follows:

(1) For the period from the effective date of this section until June 30, 2023, the shared-risk contribution rate shall be zero.

(2) For the period from July 1, 2023, to June 30, 2026, if the annual interest rate adopted by the board for use during the period from January 1, 2020, to December 31, 2022, for the calculation of the normal contribution rate is more than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, the shared-risk contribution rate shall be 0.75%. In all other situations, the shared-risk contribution rate shall be zero.

(3) For each subsequent three-year period, if the shared-gain adjustment to regular member contributions is zero, the shared-risk contribution rate shall be increased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period. The shared-risk contribution rate shall be decreased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or less than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the shared-risk contribution rate may not be less than zero and may not be more than the experience adjustment factor resulting from investment gains or losses during the determination period in effect on the first day when the new rate would be applied, expressed as a percentage of member compensation, and shall not be more than 3%. For the determination of the shared-risk contribution rate to be effective July 1, 2026, the determination period shall be January 1, 2020, through December 31, 2025. For the determination of the shared-risk contribution rate to be effective July 1, 2029, the determination period shall be January 1, 2020, through December 31, 2028.

(5) The shared-risk contribution rate and the factors entering into its calculation shall be certified by the actuary as part of the annual valuations and the actuarial investigation and evaluation of the system conducted every five years under section 5902(j).

(6) In the event that the annual interest rate adopted by the board for the calculation is changed during the period used to determine the shared-risk contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate.

(7) For any fiscal year in which the actual contributions by the Commonwealth or an employer are lower than the actuarially required contributions, the prospective shared-risk contribution rate for those employees whose employers are not making the actuarially required contributions shall be zero and shall not subsequently be increased, except as otherwise provided in this section. For purposes of this paragraph, the actuarially required contribution shall be no less than the normal cost plus the cost to fully amortize the unfunded actuarial accrued liability calculated using actuarial methods and assumptions that are consistent with generally accepted actuarial standards and generally accepted accounting principles, including professional actuarial standards of practice.

(8) If the actuary certifies that the accrued liability contributions calculated in accordance with the actuarial cost method provided in section 5508(b), as adjusted by the experience adjustment factor, are zero or less, then the shared-risk contribution rate for the next fiscal year shall be zero and shall not subsequently be increased, except as otherwise provided in this section.

(9) The shared-risk contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under subsection (b) and not this subsection.

(f) Determination of shared-gain adjustment to regular member contributions for Class A-5 or Class A-6 service.--The regular member contributions for Class A-5 or Class A-6 service shall be determined as follows:

(1) For the period from the effective date of this section until June 30, 2023, the regular member contributions shall be determined as otherwise provided in this part.

(2) For the period from July 1, 2023, to June 30, 2026, if the annual interest rate adopted by the board for use during the period from January 1, 2020, to December 31, 2022, for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, then the regular member contribution rate of each member for Class A-5 and Class A-6 service shall be reduced by .75%. In all other situations, the regular member contributions shall be determined as otherwise provided in this part.

(3) For each subsequent three-year period, if the shared-risk contribution rate for Class A-5 and Class A-6 service is zero, the regular member contribution rate shall be decreased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the

investments of the fund based on market value over the period. The regular member contribution rate shall be increased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or greater than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the regular member contribution rate may not be greater than the product of the basic contribution rate and the class of service multiplier; and the amount of the adjustment to a lower regular member contribution rate may not be greater than the reduction in the actuarially required contribution rate by the experience adjustment factor resulting from investment gains or losses during the determination period in effect on the first day when the new rate would be applied, expressed as a percentage of member compensation. In no event may the adjustment to the regular member contribution rate be more than 3%. For the determination of the regular member contribution rate to be effective July 1, 2026, the determination period shall be January 1, 2020, through December 31, 2025. For the determination of the regular member contribution rate to be effective July 1, 2029, the determination period shall be January 1, 2020, through December 31, 2028.

(5) The shared-gain adjustment to the regular member contribution rate and the factors entering into its calculation must be certified by the actuary as part of the annual valuations and the actuarial investigation and evaluation of the system conducted every five years under section 5902(j).

(6) If the annual interest rate adopted by the board for the calculation is changed during the period used to determine the shared-gain adjustment to the regular member contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate.

(7) The shared-gain adjustment to the regular member contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under subsection (c) and not this subsection.

§ 5502. Social Security integration member contributions.

Except for any period of current service in which the making of regular member contributions has ceased solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to limitations under IRC § 401(a)(17) or 415, contributions shall be made on behalf of [a] **an active** member of any class who prior to March 1, 1974, has elected Social Security integration coverage. The amount of such contributions shall be 6 1/4% of that portion of his compensation **as an active member** in excess of the maximum wages taxable under the provisions of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), in addition to the regular member contributions which, after such election, shall be determined on the basis of the basic contribution rate of 5% and the additional member contribution of 1 1/4%: Provided, That a member may elect to discontinue Social Security integration coverage and shall thereafter be

ineligible to accrue any further Social Security integration credits or any additional benefits on account of Social Security integration membership.

§ 5503.1. Pickup contributions.

(a) Treatment for purposes of IRC § 414(h).--All contributions **to the fund** required to be made under sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk member contributions [for Class A-3 and Class A-4 service] **and shared-gain adjustments to regular member contributions**), 5502 (relating to Social Security integration member contributions), 5503 (relating to joint coverage member contributions) and [section] 5505.1 (relating to additional member contributions), with respect to current State service rendered by an active member on or after January 1, 1982, shall be picked up by the Commonwealth or other employer and shall be treated as the employer's contribution for purposes of IRC § 414(h).

* * *

§ 5504. Member contributions for the purchase of credit for previous State service or to become a full coverage member.

(a) Amount of contributions for service in other than Class G through N.--

(1) The contributions to be paid by an active member or eligible school employee for credit **in the system for the portion of** total previous State service other than service in Class G, Class H, Class I, Class J, Class K, Class L, Class M and Class N **that a member is eligible to have credited** or to become a full coverage member shall be sufficient to provide an amount equal to the regular **accumulated deductions, shared-risk accumulated deductions** and additional accumulated deductions which would have been standing to the credit of the member for such service had regular **accumulated deductions, shared-risk accumulated deductions** and additional member contributions been made with full coverage in the class of service and at the rate of contribution applicable during such period of previous service and had his regular and additional accumulated deductions been credited with statutory interest during all periods of subsequent State and school service up to the date of purchase.

(2) Notwithstanding paragraph (1), members [with Class A-3 State service] **who are performing State service credited in Class A-3, Class A-4, Class A-5 or Class A-6** shall make contributions and receive credit as if the [previous] **previously uncredited** State service was [Class A-3 service, and members with Class A-4 State service shall make contributions and receive credit as if the previous State service was Class A-4 service,] **performed in the class in which they are an active member at the time the service is credited**, even if it would have been credited as a different class of service had the State employee been a member of the system at the time the service was performed unless it was mandatory that the State employee be an active member of the system and the previous State service is being credited as the result of a mandatory active membership requirement. **Notwithstanding section 5303(b) (relating to retention and reinstatement of service credits), a State employee who is an active member of the system as a result of concurrently performing service in more than one position or office at the time previously uncredited State service is credited**

shall elect which position or office is used for the determination of required contributions and crediting and classification of the previously uncredited service.

(a.1) Converted county service.--No contributions shall be required to restore credit for previously credited State service in Class G, Class H, Class I, Class J, Class K, Class L, Class M and Class N. Such service shall be restored upon the commencement of payment of the contributions required to restore credit **in the system** for all other previous State service.

(b) Certification and method of payment.--

(1) The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member or eligible school employee who is an active member of the Public School Employees' Retirement System may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit the salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(2) No payments for service or coverage shall be allowed for which the required contributions would cause a violation of the limitation related to contributions applicable to governmental plans contained in IRC § 415. In the event that any service credit or coverage based on such disallowed contributions is granted after the effective date of this paragraph, then such service credit shall be canceled and benefits calculated without regard to such service or contributions and any member contributions in excess of the limitations and statutory interest credited on those contributions shall be refunded to the member by the board. Section 311. Section 5505(b), (c), (d) and (i)(2) and (4) of Title 71 are amended and the section is amended by adding a subsection to read:

§ 5505. Contributions for the purchase of credit for creditable nonstate service.

* * *

(b) Nonintervening military service.--

(1) The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying the member's basic contribution rate, the additional contribution rate plus the Commonwealth normal contribution rate for active members at the time of entry, subsequent to such military service, of the member into State service to his average annual rate of compensation **as a member of the system** over the first three years of such subsequent State service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with statutory interest during all periods of subsequent State and school service to date of purchase. Upon application for credit for such service, payment shall be made in a lump sum within 30 days or in the case of an

active member or eligible school employee who is an active member of the Public School Employees' Retirement System it may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid. Application may be filed for all such military service credit upon completion of three years of subsequent State service **as a member of the system** and shall be credited as Class A service **except as provided in section 5304(a) (relating to creditable nonstate service)**.

(1.1) In the case of an active member who is purchasing the military service as Class A-3 service, for purposes of paragraph (1), the Commonwealth normal contribution rate for active members at the time of entry, subsequent to the military service, shall be determined using only the average new Class A-3 member.

(1.2) In the case of an active member who is purchasing the military service as Class A-5 service, for purposes of paragraph (1), the Commonwealth normal contribution rate for active members at the time of entry, subsequent to the military service, shall be determined using only the average new Class A-5 member, and the member's basic contribution rate shall be multiplied by the class of service multiplier used to calculate regular member contributions for Class A-5 service.

(1.3) In the case of an active member who is purchasing the military service as Class A-6 service, for purposes of paragraph (1), the Commonwealth normal contribution rate for active members at the time of entry, subsequent to the military service, shall be determined using only the average new Class A-6 member, and the member's basic contribution rate shall be multiplied by the class of service multiplier used to calculate regular member contributions for Class A-6 service.

(2) Applicants may purchase credit as follows:

(i) one purchase of the total amount of creditable nonintervening military service; or

(ii) one purchase per 12-month period of a portion of creditable nonintervening military service.

The amount of each purchase shall be not less than one year of creditable nonintervening military service.

(c) Intervening military service.--Contributions on account of credit for intervening military service shall be determined by the member's regular contribution rate, shared-risk contribution rate, Social Security integration contribution rate, the additional contribution rate which shall be applied only to those members who began service on or after the effective date of this amendatory act and compensation **as a member of the system** at the time of entry of the member into active military service, together with statutory interest during all periods of subsequent State and school service to date of purchase. Upon application for such credit the amount due shall

be certified in the case of each member by the board in accordance with methods approved by the actuary, and contributions may be made by:

- (1) regular monthly payments during active military service; or
- (2) a lump sum payment within 30 days of certification; or
- (3) salary deductions **to the system** in amounts agreed upon by the member or eligible school employee who is an active member of the Public School Employees' Retirement System and the board.

The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(d) Nonmilitary and nonmagisterial service.--Contributions on account of credit for creditable nonstate service other than military and magisterial service by State employees who first become members of the system before January 1, 2011, or before December 1, 2010, as a member of the General Assembly shall be determined by applying the member's basic contribution rate, the additional contribution rate plus the Commonwealth normal contribution rate for active members at the time of entry subsequent to such creditable nonstate service of the member into State service to his compensation **as a member of the system** at the time of entry into State service and multiplying the result by the number of years and fractional part of a year of creditable nonstate service being purchased together with statutory interest during all periods of subsequent State and school service to the date of purchase. Upon application for credit for such service payment shall be made in a lump sum within 30 days or in the case of an active member or eligible school employee who is an active member of the Public School Employees' Retirement System it may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deduction shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

* * *

(i) Purchases of nonstate service credit by State employees who first became members of the system on or after December 1, 2010.--

* * *

(2) The full actuarial cost of the increased benefit attributable to the purchased nonstate service credit shall be the difference between:

(i) the present value of a standard single life annuity, beginning at the earliest possible superannuation age assuming Class A-3 service credit for the nonstate service to be purchased[; and] **by an active member of Class A-3 or Class A-4 and assuming Class A-5 service credit for the nonstate service to be purchased by an active member of Class A-5 and assuming Class A-6 service credit for the nonstate service to be purchased by an active member of Class A-6; and**

(ii) the present value of a standard single life annuity, beginning at the earliest possible superannuation age, excluding the nonstate service credit to be purchased.

* * *

(4) The payment for credit purchased under this subsection shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member or eligible school employee who is an active member of the Public School Employees' Retirement System may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit the salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

* * *

(k) Inapplicability of election and adjustments.--If a member is purchasing creditable nonstate service, the regular member contribution rate used to determine the contributions necessary to purchase such credit shall be determined without regard to any adjustments applicable under section 5501.1(c) (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions).

Section 312. Section 5506.1(a) of Title 71 is amended to read:

§ 5506.1. Annual compensation limit under IRC § 401(a)(17).

(a) General rule.--In addition to other applicable limitations set forth in this part, and notwithstanding any provision of this part to the contrary, the annual compensation of each noneligible member **and each participant, both before and after any annualization**, taken into account for benefit purposes under this part shall not exceed the limitation under IRC § 401(a)(17). On and after January 1, 1996, any reference in this part to the limitation under IRC § 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103-66, 107 Stat. 312) annual compensation limit set forth in this subsection. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the commissioner for increases in the cost of living in accordance with IRC § 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any determination period which is a period, not exceeding 12 months, over which compensation is determined, beginning in such calendar year. If a determination period

consists of fewer than 12 months, the OBRA '93 compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12.

* * *

Section 313. Section 5507 heading, (a), (b) and (d) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5507. Contributions **to the system** by the Commonwealth and other employers.

(a) Contributions on behalf of active members.--The Commonwealth and other employers whose employees are members of the system **or participants in the plan** shall make contributions to the fund on behalf of all active members in such amounts as shall be certified by the board as necessary to provide, together with the members' total accumulated deductions, annuity reserves on account of prospective annuities other than those provided in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994), 5708.4 (relating to special supplemental postretirement adjustment), 5708.5 (relating to supplemental annuities commencing 1998), 5708.6 (relating to supplemental annuities commencing 2002), 5708.7 (relating to supplemental annuities commencing 2003) and 5708.8 (relating to special supplemental postretirement adjustment of 2002), in accordance with the actuarial cost method provided in section 5508(a), (b), (c), (d) and (f) (relating to actuarial cost method).

(b) Contributions on behalf of annuitants.--The Commonwealth and other employers whose employees are members of the system **or participants in the plan** shall make contributions on behalf of annuitants in such amounts as shall be certified by the board as necessary to fund the liabilities for supplemental annuities in accordance with the actuarial cost method provided in section 5508(e) [(relating to actuarial cost method)].

(b.1) Payment of employer contributions to the system.--

(1) Payment of employer normal contributions shall be as a percentage of compensation of active members.

(2) Payment of accrued liability contributions as modified by the experience adjustment factor and supplemental annuity contributions shall be as a percentage of compensation of active members and active participants.

* * *

(d) Payment of final contribution rate.--Notwithstanding the calculation of the actuarially required contribution rate and the provisions of subsections (a) and (b), the Commonwealth and other employers whose employees are members of the system **or participants in the plan** shall make contributions to the fund on behalf of all active members and annuitants in such amounts as shall be certified by the board in accordance with section 5508(i).

* * *

(g) Payment of additional accrued liability contributions.--In addition to all other contributions required under this section and sections 5508 and 5941, the Commonwealth and other employers whose employees are members of the system or participants in the plan shall make contributions as certified by the board as a percentage of the compensation of each active member and each active participant as provided in this subsection, unless the actuary certifies that the accrued

liability contribution rate determined under section 5508(c) is zero or less for that fiscal year. Additional accrued liability contributions received by the board as a result of this subsection shall be recognized as part of the experience adjustment factor under section 5508(f).

Fiscal year beginning date	Additional accrued liability contribution rate
July 1, 2018	0.00%
July 1, 2019	0.71%
July 1, 2020	0.66%
July 1, 2021	0.62%
July 1, 2022	0.00%
July 1, 2023	0.00%
July 1, 2024	0.00%
July 1, 2025	0.00%
July 1, 2026	0.00%
July 1, 2027	0.00%
July 1, 2028	0.00%
July 1, 2029	0.00%
July 1, 2030	0.00%
July 1, 2031	0.00%
July 1, 2032	0.10%
July 1, 2033	0.22%
July 1, 2034	0.33%
July 1, 2035	0.43%
July 1, 2036	0.53%
July 1, 2037	0.62%
July 1, 2038	0.71%
July 1, 2039	0.79%
July 1, 2040	0.86%
July 1, 2041	0.93%

Section 314. Section 5508(a), (b), (c)(1), (e)(2), (f) and (h) of Title 71 are amended and subsection (c) is amended by adding a paragraph to read:

§ 5508. Actuarial cost method.

(a) Employer contribution rate on behalf of active members.--[The] **For each fiscal year, the** amount of the Commonwealth and other employer contributions on behalf of all active members shall be computed by the actuary as a percentage of the total compensation of all active members during the period for which the amount is determined and shall be so certified by the board. The actuarially required contribution rate on behalf of all active members shall consist of the employer normal contribution rate, as defined in subsection (b), and the accrued liability contribution rate as defined in subsection (c). The actuarially required contribution rate on behalf of all active members shall be modified by the experience adjustment factor as calculated in subsection (f).

(b) Employer normal contribution rate.--The employer normal contribution rate shall be determined after each actuarial valuation on the basis of an annual interest rate and such mortality and other tables as shall be adopted by the board in accordance with generally accepted actuarial principles. The employer normal contribution rate shall be determined as [a level percentage of the compensation of the average new active member, which percentage, if contributed on the basis of his prospective compensation through his entire period of active State service, would be sufficient to fund the liability for any prospective benefit payable to him in excess of that portion funded by his prospective member contributions, excluding shared-risk member contributions.] **follows:**

(1) From the effective date of this paragraph through fiscal year 2021-2022, as a level percentage of the compensation of the average new active member, which percentage, if contributed on the basis of his prospective compensation through his entire period of active State service, would be sufficient to fund the liability for any prospective benefit payable to him in excess of that portion funded by his prospective member contributions, excluding shared-risk member contributions and shared-gain adjustments to regular member contributions. In no case shall the employer normal contribution rate in the aggregate or for each class of service separately be less than zero.

(2) For fiscal year 2022-2023 and each fiscal year thereafter, as a level percentage of the compensation of all active members, which percentage, if contributed from the start of their employment on the basis of their prospective compensation through their entire period of active State service, would be sufficient to fund the liability for any prospective benefit payable to them in excess of that portion funded by their prospective member contributions, excluding shared-risk member contributions and shared-gain adjustments to regular member contributions. In no case shall the employer normal contribution rate in the aggregate or for each class of service separately be less than zero.

(c) Accrued liability contribution rate.--

(1) For the fiscal years beginning July 1, 2002, and July 1, 2003, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund over a period of ten years from July 1, 2002, the present value of the liabilities for all prospective benefits, except for the supplemental benefits as provided in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994), 5708.4 (relating to special supplemental postretirement adjustment), 5708.5 (relating to supplemental annuities commencing 1998), 5708.6 (relating to supplemental annuities commencing 2002), 5708.7 (relating to supplemental annuities commencing 2003) and 5708.8 (relating to special supplemental postretirement adjustment of 2002), in excess of the total assets in the fund (calculated recognizing all investment gains and losses over a five-year period), excluding the balance in the supplemental annuity account, and the present value of employer normal contributions and of member contributions payable with respect to all active members on December 31, 2001, and excluding contributions to be transferred by county retirement systems or pension plans pursuant to section 5507(c) (relating to contributions to **the system** by the Commonwealth and other employers). The amount of each annual accrued liability contribution shall be equal to the amount of such contribution for the fiscal year beginning July 1, 2002, except that, if the accrued liability is increased by legislation enacted subsequent to June 30, 2002, but before July 1, 2003, such additional liability shall be funded over a period of ten years from the first day of July, coincident with or next following the effective date of the increase. The amount of each annual accrued liability contribution for such additional legislative liabilities shall be equal to the amount of such contribution for the first annual payment.

* * *

(4) For fiscal years beginning on or after July 1, 2018, the accrued liability contribution rate shall be computed as provided for under this section, except that the rate shall be computed as a rate of total compensation of all active members and active participants for the applicable period. If the accrued liability is changed by legislation enacted subsequent to December 31, 2016, such change in liability shall be funded in equal dollar installments as a percentage of compensation of all active members and active participants over a period of ten years from the first day of July following the valuation date coincident with or next following the date such legislation is enacted. In addition to any employer defined contributions made to the trust, the Commonwealth and other employers of participants shall make the accrued liability contributions to the fund certified by the board.

* * *

(e) Supplemental annuity contribution rate.--

* * *

(2) For fiscal years beginning on or after July 1, 2010, contributions from the Commonwealth and other employers whose employees are members of the system required to provide for the payment of supplemental annuities as provided in sections 5708, 5708.1, 5708.2, 5708.3, 5708.4, 5708.5, 5708.6, 5708.7 and 5708.8 shall be paid as part of the accrued liability contribution rate as provided for in subsection (c)(3), and there shall not be a separate supplemental annuity contribution rate attributable to those supplemental annuities. In the event that supplemental annuities are increased by legislation enacted subsequent to December 31, 2009, the additional liability for the increase in benefits shall be funded in equal dollar installments **as a percentage of compensation of all active members and active participants** over a period of ten years from the first day of July following the valuation date coincident with or next following the date such legislation is enacted.

(f) Experience adjustment factor.--

(1) For each **fiscal** year after the establishment of the accrued liability contribution rate and the supplemental annuity contribution rate for the fiscal year beginning July 1, 2010, any increase or decrease in the unfunded accrued liability and any increase or decrease in the liabilities and funding for supplemental annuities, due to actual experience differing from assumed experience (recognizing all realized and unrealized investment gains and losses over a five-year period), changes in contributions caused by the final contribution rate being different from the actuarially required contribution rate, State employees making shared-risk member contributions **or having shared-gain adjustments to their regular member contributions, payment of additional accrued liability contributions under section 5507(g)**, changes in actuarial assumptions or changes in the terms and conditions of the benefits provided by the system by judicial, administrative or other processes other than legislation, including, but not limited to, reinterpretation of the provisions of this part, shall be amortized in equal dollar annual contributions **as a percentage of compensation of all active members and active participants** over a period of 30 years beginning with the July 1 succeeding the actuarial valuation determining said increases or decreases.

(2) The actuarially required contribution rate shall be the sum of the normal contribution rate, the accrued liability contribution rate and the supplemental annuity contribution rate, modified by the experience adjustment factor as calculated in paragraph (1).

* * *

(h) Temporary application of collared contribution rate.--The collared contribution rate for each **fiscal** year shall be determined by comparing the actuarially required contribution rate calculated without regard for costs added by legislation to the prior year's final contribution rate. If, for any of the fiscal years beginning July 1, 2011, July 1, 2012, and on or after July 1, 2013, the actuarially required contribution rate calculated without regard for costs added by legislation is more than 3%, 3.5% and 4.5%, respectively, of the total compensation of all active members greater than the prior year's final contribution rate, then the collared contribution rate shall be applied and be equal to the prior year's final contribution rate increased by the respective percentage above of total compensation of all active members. Otherwise, and for all subsequent fiscal years, the collared contribution rate shall not [be applicable] **apply**. In no case shall the collared contribution rate be less than 4% of total compensation of all active members.

* * *

Section 315. Section 5509 of Title 71 is amended to read: § 5509. Appropriations and assessments by the Commonwealth.

(a) Annual submission of budget.--The board shall prepare and submit annually an itemized budget consisting of the amounts necessary to be appropriated by the Commonwealth out of the General Fund and special operating funds and the amounts to be assessed the other employers required to meet the **separate obligations to the fund and the trust** accruing during the fiscal period beginning the first day of July of the following year.

(b) Appropriation and payment.--The General Assembly shall make an appropriation sufficient to provide for the **separate obligations of the Commonwealth to the fund and the trust**. Such amount shall be paid by the State Treasurer through the Department of Revenue into the fund **or trust** in accordance with requisitions presented by the board. The contributions **to the system** by the Commonwealth on behalf of active members who are officers of the Pennsylvania State Police shall be charged to the General Fund and to the Motor License Fund in the same ratios as used to apportion the appropriations for salaries of members of the Pennsylvania State Police. The contributions **to the system** by the Commonwealth on behalf of active members who are enforcement officers and investigators of the Pennsylvania Liquor Control Board shall be charged to the General Fund and to the State Stores Fund.

(c) Contributions from funds other than General Fund.--The amounts assessed other employers who are required to make the necessary **separate contributions to the fund and the trust** out of funds other than the General Fund shall be paid by such employers into the fund **or trust** in accordance with requisitions presented by the board. The General Fund of the Commonwealth shall not be held liable to appropriate the moneys required to build up the reserves **in the fund** necessary for the payment of benefits **from the system** to employees **or to make the employer defined contributions for employees** of such other employers. In case any such other employer shall fail to provide **to the fund** the moneys necessary for such purpose, then the service

of such members **of the system** for such period for which money is not so provided shall be credited and pickup contributions with respect to such members shall continue to be credited to the members' savings account. The annuity to which such member is entitled shall be determined as actuarially equivalent to the present value of the maximum single life annuity of each such member reduced by the amount of employer contributions **to the system** payable on account and attributable to his compensation during such service, except that no reduction shall be made as a result of the failure of an employer to make contributions required for a period of USERRA leave.

Section 316. (Reserved).

Section 317. Sections 5701 and 5701.1 of Title 71 are amended to read:

§ 5701. Return of total accumulated deductions.

Any member upon termination of service may, in lieu of all benefits payable **from the system** under this chapter to which he may be entitled, elect to receive his total accumulated deductions by his required beginning date.

§ 5701.1. Transfer of accumulated deductions.

When an employee of the Juvenile Court Judges' Commission elects membership in an independent retirement program pursuant to section 5301(f) (relating to mandatory and optional membership **in the system and participation in the plan**), the board shall transfer directly to the trustee or administrator of the independent retirement program all accumulated deductions resulting from service credited while an employee of the Juvenile Court Judges' Commission.

Section 318. Sections 5702(a)(1), (4) and (6) and (c), 5704(a), (c), (e) and (f) and 5705(a) of Title 71 are amended and the sections are amended by adding subsections to read:

§ 5702. Maximum single life annuity.

(a) General rule.--Any full coverage member who is eligible to receive an annuity pursuant to the provisions of section 5308(a) or (b) (relating to eligibility for annuities) who terminates State service, or if a multiple service member who is a school employee who is an active member of the Public School Employees' Retirement System who terminates school service, before attaining age 70 shall be entitled to receive a maximum single life annuity attributable to his credited service and equal to the sum of the following single life annuities beginning at the effective date of retirement:

(1) A **single life annuity that is the sum of the** standard single life [annuity multiplied by the sum of the products,] **annuities** determined separately for each class of service[, obtained by multiplying] **multiplied by** the appropriate class of service multiplier [by the ratio of years of service credited in that class to the total credited service] **applicable to each standard single life annuity.** In case the member on the effective date of retirement is under superannuation age for any service, a reduction factor calculated to provide benefits actuarially equivalent to an annuity starting at superannuation age **and subject to the provisions of subsection (e)** shall be applied to the product determined for that service[.]: **Provided, however, That any standard single life annuity resulting from Class A-5 service shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 0.25% if the effective date of retirement is on or after the date the member has attained**

age 57 and the member has 25 or more eligibility points , and that any standard single life annuity resulting from Class A-6 service shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 0.25% if the effective date of retirement is on or after the date the member has attained age 62 and the member has 25 or more eligibility points . The class of service multiplier for any period of concurrent service shall be multiplied by the proportion of total State and school compensation during such period attributable to State service **as a member of the system**. In the event a member has two multipliers for one class of service [the class of service multiplier to be used for calculating benefits for that class shall be the average of the two multipliers weighted by the proportion of compensation attributable to each multiplier during the three years of highest annual compensation in that class of service: Provided, That in the case of a member of Class E-1, a portion but not all of whose three years of highest annual judicial compensation is prior to January 1, 1973, two class of service multipliers shall be calculated on the basis of his entire judicial service, the one applying the judicial class of service multipliers effective prior to January 1, 1973 and the second applying the class of service multipliers effective subsequent to January 1, 1973. The average class of service multiplier to be used for calculating benefits for his judicial service shall be the average of the two calculated multipliers weighted by the proportion of compensation attributable to each of the calculated multipliers during the three years of highest annual compensation in that class of service.], **separate standard single life annuities shall be calculated for the portion of service in the class applicable to each class of service multiplier.**

* * *

(4) If eligible, a single life annuity which is actuarially equivalent to the amount by which his regular and additional accumulated deductions attributable to any credited service other than as a member of **Class A-3, Class A-4, Class A-5, Class A-6 and Class C** are greater than one-half of the actuarially equivalent value on the effective date of retirement of the annuity as provided in paragraph (1) attributable to service other than **Class A-3, Class A-4, Class A-5, Class A-6 and Class C** for which regular or joint coverage member contributions were made. [This paragraph shall not apply to any member with State service credited as Class A-3 or Class A-4.]

* * *

(6) If eligible, a single life annuity sufficient together with the annuity provided for in paragraph (1) as a Class A, Class AA, Class A-3 [and], Class A-4, **Class A-5 or Class A-6** member and the highest annuity provided for in paragraph (2) to which he is entitled, or at his option could have been entitled, to produce that percentage of [a] **the sums of the standard single life [annuity] annuities** adjusted by the application of the class of service multiplier for Class A, Class AA, Class A-3 [or], Class A-4, **Class A-5 or Class A-6** as set forth in paragraph (1) in the case where any service is credited as a member of Class A, Class AA, Class A-3 [or], Class A-4, **Class A-5 or Class A-6** on the

effective date of retirement as determined by his total years of credited service as a member of Class A, Class AA, Class A-3 [and], Class A-4, **Class A-5 or Class A-6** and by the following table:

Total Years of Credited Service as a Member of Class A, Class AA, Class A-3 [and], Class A-4, Class A-5 and Class A-6	Percentage of Sums of Standard Single Life [Annuity] Annuities Adjusted for Class A, Class AA, Class A-3 [and], Class A-4, Class A-5 and Class A-6 Class of Service Multipliers
35-40	100%
41	102%
42	104%
43	106%
44	108%
45 or more	110%

* * *

(c) Limitation on amount of annuity.--The annuity paid to a member under subsection (a) and reduced in accordance with the option elected under section 5705 (relating to member's options) shall not exceed the highest compensation received **as a member of the system** during any period of twelve consecutive months of credited service. No limit on the total annuity paid to a member with Class D-3 service shall be applied in the case of a member who served as a constitutional officer of the General Assembly.

* * *

(e) **Coordination of benefits.**--The determination and payment of the maximum single life annuity under this section shall be in addition to any payments a member may be entitled to receive, has received or is receiving as a result of being a participant in the plan.

(f) **Special calculation for Class A-5 and Class A-6.**--For the calculation under subsection (a) for all Class A-5 and Class A-6 members the reduction factor used in the calculation for an annuity for a member, other than a Class A-5 member who has attained age 57 and 25 eligibility points, who has not attained the age of 62 shall be determined so that a maximum single life annuity with an effective date of retirement before the member attains age 62 shall be actuarially equivalent to the maximum single life annuity the member would receive if the member became a vestee and later applied for an annuity with an effective date of retirement on the date the member attained age 62. For purposes of this subsection, the annuity that the member would receive at age 62 shall not be determined using the 0.25% per month reduction in subsection (a)(1) based on having 25 years of service. For purposes of this subsection, the maximum single life annuity actually being received is actuarially equivalent to the maximum single life annuity with an effective date of attaining age 62 if the actual maximum single life annuity has the same present value as the maximum single life annuity at age 62, computed on the basis of interest at 7.375% per annum, compounded annually, and the mortality tables adopted by the board.

§ 5704. Disability annuities.

(a) Amount of annuity.--A member who has made application for a disability annuity and has been found to be eligible in accordance with the provisions of section 5905(c)(1) (relating to duties of the board regarding applications and elections of

members **and participants**) shall receive a disability annuity payable from the effective date of disability as determined by the board and continued until a subsequent determination by the board that the annuitant is no longer entitled to a disability annuity. [The] **If the sum of the products of the number of years and fractional part of a year of credited service in each class and the appropriate class of service multiplier is greater than 16.667, the** disability annuity shall be a **single life annuity that is** equal to [a] **the sum of the** standard single life [annuity] **annuities determined separately for each class of service** multiplied by the **appropriate** class of service multiplier [applicable to the class of service at the time of disability if the product of such class of service multiplier and the total number of years of credited service is greater than 16.667, otherwise the], **otherwise each** standard single life annuity shall be multiplied by the lesser of the following ratios:

$$MY^*/Y \text{ or } 16.667/Y$$

[where] **Where** Y = **total** number of years of credited service[,]; Y* = total years of credited service if the member were to continue as a State employee until attaining superannuation age as applicable **to that class of service** at the time of disability, or if the member has attained superannuation age, as applicable **to that class of service** at the time of disability, then the number of years of credited service and M = the class of service multiplier as applicable **to that class of service** at the effective date of disability. A member of Class C shall receive, in addition, any annuity to which he may be eligible under section 5702(a)(3) (relating to maximum single life annuity). The member shall be entitled to the election of a joint and survivor annuity on that portion of the disability annuity to which he is entitled under section 5702.

* * *

(c) Reduction on account of earned income.--Subsequent to January 1, 1972, payments on account of disability shall be reduced by that amount by which the earned income of the annuitant, as reported in accordance with section 5908(b) (relating to rights and duties of annuitants), for the preceding calendar year together with the disability annuity payments provided in this section other than subsection (b), for the year, exceeds the product of:

[(i)] **(1)** the last year's salary of the annuitant as a [State employee] **member of the system;** and

[(ii)] **(2)** the ratio of the current monthly payment to the monthly payment at the effective date of disability; Provided, That the annuitant shall not receive less than his member's annuity or the amount to which he may be entitled under section 5702 whichever is greater.

* * *

(e) Termination of State service.--Upon termination of disability annuity payments in excess of an annuity calculated in accordance with section 5702, a disability annuitant who[:

(1) does not have Class A-3 or Class A-4 service credit;

or

(2) has Class A-3 or Class A-4 service credit and fewer than ten eligibility points;

and who] does not return to State service may file an application with the board for an amount equal to the excess, if any, of the sum of the shared-risk accumulated deductions plus the regular and additional accumulated deductions standing to his credit at the effective date of disability over one-third

of the total disability annuity payments received. If the annuitant on the date of termination of service was eligible for an annuity as provided in section 5308(a) or (b) (relating to eligibility for annuities), he may file an application with the board for an election of an optional modification of his annuity.

(f) Supplement for service connected disability.--

(1) If a member has been found to be eligible for a disability annuity and if the disability has been found to be a service connected disability and if the member is receiving workers' compensation payments for other than medical benefits, such member shall receive a supplement equal to [70% of his final average salary] **the amount determined under paragraph (2)** less the sum of the annuity as determined under subsection (a) and any payments paid or payable on account of such disability under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, and the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.). Such supplement shall continue as long as he is determined to be disabled and is receiving workers' compensation payments for other than medical benefits on account of his service connected disability in accordance with the Workers' Compensation Act or The Pennsylvania Occupational Disease Act. If the member has received a lump sum workers' compensation payment in lieu of future weekly compensation payments, the length in weeks and calculation of the service connected disability supplement shall be determined by dividing the lump sum payment by the average weekly wage as determined by the Workers' Compensation Board.

(2) **For a member who does not have Class A-5 or Class A-6 service, the amount to be used to determine eligibility for the supplement under paragraph (1) shall be 70% of the member's final average salary. For a member who has Class A-5 or Class A-6 service, the amount to be used to determine eligibility for the supplement under paragraph (1) shall be calculated according to the following formula:**

$$A = .7 \left[\frac{YW \text{ MULTIPLIED BY FASW}}{YT} + \frac{YP \text{ MULTIPLIED BY FASP}}{YT} \right]$$

(3) The following apply to the formula in paragraph (2):

- (i) A equals the amount used to determine the supplement;
- (ii) YT equals total years of credited service;
- (iii) YW equals years of credited service that are not Class A-5 or Class A-6 service;
- (iv) FASW equals final average salary calculated for credited service other than Class A-5 or Class A-6 service;
- (v) YP equals years of service credited as Class A-5 or Class A-6 service; and
- (vi) FASP equals final average salary calculated for service credited as Class A-5 or Class A-6 service.

* * *

(h) **Coordination of benefits.--The determination and payment of a disability annuity under this section is in addition to any payments a member may be entitled to receive, has received or is receiving as a result of being a participant in the plan. § 5705. Member's options.**

(a) **General rule.--Any special vestee [who has attained superannuation age, any vestee who does not have Class A-3 or**

Class A-4 service credit having five or more eligibility points for service other than Class T-E or Class T-F service in the Public School Employees' Retirement System, or vestee who has Class A-3 or Class A-4 service credit having ten or more eligibility points, any member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service having five or more eligibility points or any other eligible member upon termination of State service who has not withdrawn his total accumulated deductions as provided in section 5701 (relating to return of total accumulated deductions)], **vestee or any other member upon termination of State service who is eligible to receive an annuity as provided in section 5308(a) or (b) (relating to eligibility for annuities)** may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 5702 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity **payable after reduction under subsection (a.1)** and in accordance with one of the following options; except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse or alternate payee of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment **under this subsection and subsection (a.1)** he may have elected to receive is less than 50% of the present value of his maximum single life annuity and no member may elect a payment option that would provide benefits that do not satisfy the minimum distribution requirements or would violate the incidental death benefit rules of IRC § 401(a)(9):

(1) Option 1.--A life annuity to the member with a guaranteed total payment equal to the present value of the maximum single life annuity on the effective date of retirement with the provision that, if, at his death, he has received less than such present value, the unpaid balance shall be payable to his beneficiary.

(2) Option 2.--A joint and survivor annuity payable during the lifetime of the member with the full amount of such annuity payable thereafter to his survivor annuitant, if living at his death.

(3) Option 3.--A joint and fifty percent (50%) survivor annuity payable during the lifetime of the member with one-half of such annuity payable thereafter to his survivor annuitant, if living at his death.

(4) Option 4.--Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) any annuity shall be payable without reduction during the lifetime of the member;

(ii) the sum of all annuities payable to the designated survivor annuitants shall not be greater than [one and one-half times] the annuity payable to the member; and

(iii) a portion of the benefit may be payable as a lump sum, except that such lump sum payment shall not exceed an amount equal to the total accumulated deductions standing to the credit of the member that are not the result of contributions and statutory interest made or credited as a result of Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service. The balance of the present value of the maximum single life annuity adjusted in accordance with section 5702(b) shall be paid in the

form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) under this option.

(a.1) Additional lump sum withdrawal.--The following shall apply:

(1) If a member has an effective date of retirement after December 31, 2018, and has elected to have the full amount allowed under subsection (a)(4)(iii) paid in a lump sum, or is not eligible to have any money paid under subsection (a)(4)(iii), then the member may elect to receive an additional amount payable in a lump sum at the same time as the payment elected under subsection (a)(4)(iii), if any.

(2) The additional amount payable in a lump sum may not exceed an amount equal to total accumulated deductions standing to the credit of the member on the effective date of retirement related to service credited as Class A-3, Class A-4, Class A-5 or Class A-6.

(3) If a member elects to be paid an additional lump sum amount under this subsection, then the maximum single life annuity calculated under section 5702 and payable under subsection (a) shall be reduced by the additional amount withdrawn divided by the cost of a dollar annuity on the effective date of retirement computed on the basis of the annual interest rate adopted for that fiscal year by the board for the calculation of the employer normal contribution rate under section 5508(b) (relating to actuarial cost method) and the mortality tables adopted by the board for the determination of actuarially equivalent benefits under this part. The reduction in the maximum single life annuity under this paragraph shall apply before the election and calculation of any reduced annuities payable under subsection (a).

* * *

Section 319. Sections 5705.1 and 5706(a), (a.2), (a.5), (b) and (c)(1) of Title 71 are amended to read:

§ 5705.1. Payment of accumulated deductions resulting from [Class A-3 and Class A-4] **more than one class of** service.

Any superannuation or withdrawal annuitant who:

(1) has Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit;

(2) has service credited in one or more classes of service; and

(3) because he has five or more, but fewer than ten, eligibility points is not eligible to receive an annuity on his Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service shall receive in a lump sum at the time of his retirement, in addition to any other annuity or lump sum payment which he may elect, his accumulated deductions resulting from his Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit. Payment of these accumulated deductions resulting from Class A-3 [or], Class A-4, **Class A-5 or Class A-6** service credit shall not be eligible for installment payments pursuant to section 5905.1 (relating to installment payments of accumulated deductions) but shall be considered a lump sum payment for purposes of section 5905.1(d).

§ 5706. Termination of annuities.

(a) General rule.--

(1) If the annuitant returns to State service or enters or has entered school service and elects multiple service membership, any annuity payable to him under this part shall

cease effective upon the date of his return to State service or entering school service **without regard to whether he is a mandatory, optional or prohibited member of the system or participant in the plan or, if a multiple service member, whether he is a mandatory, optional or prohibited member or participant of the Public School Employees' Retirement System or School Employees' Defined Contribution Plan**; and, in the case of an annuity other than a disability annuity the present value of such annuity, adjusted for full coverage in the case of a joint coverage member who makes the appropriate back contributions for full coverage, shall be frozen as of the date such annuity ceases. An annuitant who is credited with an additional 10% of Class A and Class C service as provided in section 5302(c) (relating to credited State service) and who returns to State service shall forfeit such credited service and shall have his frozen present value adjusted as if his 10% retirement incentive had not been applied to his account. In the event that the cost-of-living increase enacted December 18, 1979 occurred during the period of such State or school employment, the frozen present value shall be increased, on or after the member attains superannuation age, by the percent applicable had he not returned to service.

(2) This subsection shall not apply in the case of any annuitant who:

(i) may render services to the Commonwealth in the capacity of an independent contractor; or

(ii) is over normal retirement age or who has been an annuitant for more than one year and who may render service to the Commonwealth:

(A) as a member of an independent board or commission or as a member of a departmental administrative or advisory board or commission when such members of independent or departmental boards or commissions are compensated on a per diem basis for not more than 150 days per calendar year; or

(B) as a member of an independent board or commission requiring appointment by the Governor, with advice and consent of the Senate, where the annual salary payable to the member does not exceed \$35,000 and where the member has been an annuitant for at least six months immediately preceding the appointment.

* * *

(a.2) Return of benefits.--In the event an annuitant whose annuity **from the system** ceases pursuant to this section receives any annuity payment, including a lump sum payment pursuant to section 5705 (relating to member's options) on or after the date of his return to State service or entering school service, the annuitant shall return to the board the amount so received **from the system** plus statutory interest. The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member or school employee who is an active member of the Public School Employees' Retirement System may be amortized with statutory interest through salary deductions **to the system** in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the member and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit salary

deduction amortization plans to such terms as the board in its sole discretion determines. In the case of a school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

* * *

(a.5) No contributions or credited service.--The service of an annuitant whose annuity does not cease upon his return to State or school service shall not be subject to member contributions or eligible for qualification as creditable State service[.] **and shall not be eligible for participation in the plan, mandatory pickup participant contributions, voluntary contributions or employer defined contributions.**

(b) Subsequent discontinuance of service.--Upon subsequent discontinuance of service, such [member] **terminating State employee** other than a former annuitant who had the effect of his frozen present value eliminated in accordance with subsection (c) or a former disability annuitant shall be entitled to an annuity which is actuarially equivalent to [the sum of] the present value as determined under subsection (a) [and] **to which shall be added, if the service after reemployment was as a member of the system,** the present value of a maximum single life annuity based on years of service credited subsequent to reentry in the system and his final average salary computed by reference to his compensation **as a member of the system or as a member of the Public School Employees' Retirement System** during his entire period of State and school service.

(c) Elimination of the effect of frozen present value.--

(1) An annuitant who returns to State service **as an active member of the system** and earns three eligibility points **as a member of the system** by performing credited State service following the most recent period of receipt of an annuity under this part, or an annuitant who enters school service **other than as a Class DC participant** and:

(i) is a multiple service member; or

(ii) who elects multiple service membership, and earns three eligibility points by performing credited State service **as a member of the system** or credited school service following the most recent period of receipt of an annuity under this part, and who had the present value of his annuity frozen in accordance with subsection (a), shall qualify to have the effect of the frozen present value resulting from all previous periods of retirement eliminated, provided that all **lump sum** payments under Option 4 **or under section 5705(a.1)** and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph (3) shall be returned to the fund in the form of an actuarial adjustment to his subsequent benefits or in such form as the board may otherwise direct.

* * *

Section 320. Section 5707(a), (b) and (f) of Title 71 are amended and the section is amended by adding a subsection to read:

§ 5707. Death benefits.

(a) Members eligible for annuities.--Any active member, inactive member [on leave without pay], vestee or current or former State employee performing USERRA leave who dies and was eligible for an annuity in accordance with section 5308(a) or (b) (relating to eligibility for annuities) or special vestee who has attained superannuation age and dies before applying

for a superannuation annuity shall be considered as having applied for an annuity to become effective the day before his death and in the event he has not elected an option or such election has not been approved prior to his death, it shall be assumed that he elected Option 1. **For purposes of this subsection, a member with Class A-5 service or Class A-6 service who has ten or more eligibility points shall be considered eligible for an annuity based on Class A-5 or Class A-6 service, subject to a reduction factor calculated to provide benefits actuarially equivalent to an annuity starting at superannuation age, even if the member had not attained age 62.**

(b) Members ineligible for annuities.--In the event of the death of a special vestee, an active member, an inactive member [on leave without pay] or a current or former State employee performing USERRA leave who is not entitled to a death benefit as provided in subsection (a), his designated beneficiary shall be paid the full amount of his total accumulated deductions.

(b.1) Members eligible for annuities in some classes of service and ineligible in other classes of service.--In the event of the death of a member who is eligible for an annuity based on service credited in some classes of service and ineligible for an annuity for service credited in other classes of service, a benefit shall be paid under subsection (a) based on the service for which an annuity is deemed payable in addition to payment under subsection (b) of the accumulated deductions attributable to service for which the member was not eligible for an annuity.

* * *

(f) Members subject to limitations under section 5702(c).--Subject to the limitations contained in section 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(9)), the present value of any annuity in excess of that payable under section 5702 (relating to maximum single life annuity) that is not subject to the limitations under section 415(b) of the Internal Revenue Code of 1986 shall be paid in a lump sum to the beneficiary designated by the member after the death of the member. A beneficiary receiving a benefit under this subsection shall not be able to elect a payment method otherwise allowed under section 5709(b)(2) and (3) (relating to payment of benefits **from the system**).

* * *

Section 320.1. Section 5709 heading, (a) and (b) of Title 71 are amended to read:

§ 5709. Payment of benefits **from the system**.

(a) Annuities.--Any annuity granted under the provisions of this part **and paid from the fund** shall be paid in equal monthly installments.

(b) Death benefits.--If the amount of a death benefit payable **from the fund** to a beneficiary **of a member** under section 5707 (relating to death benefits) or under the provisions of Option 1 of section 5705(a)(1) (relating to member's options) is \$10,000 or more, such beneficiary may elect to receive payment according to one of the following options:

(1) a lump sum payment;

(2) an annuity actuarially equivalent to the amount payable; or

(3) a lump sum payment and an annuity such that the annuity is actuarially equivalent to the amount payable less the lump sum payment specified by the beneficiary.

* * *

Section 321. Title 71 is amended by adding a chapter to read:

**CHAPTER 58
STATE EMPLOYEES' DEFINED CONTRIBUTION PLAN**

Sec.

- 5801. Establishment.
 - 5802. Plan document.
 - 5803. Individual investment accounts.
 - 5804. Participant contributions.
 - 5805. Mandatory pickup participant contributions.
 - 5806. Employer defined contributions.
 - 5807. Eligibility for benefits.
 - 5808. Death benefits.
 - 5809. Vesting.
 - 5810. Termination of distributions.
 - 5811. (Reserved).
 - 5812. Powers and duties of board.
 - 5813. Responsibility for investment loss.
 - 5814. Investments based on participant's investment allocation choices.
 - 5815. Expenses.
 - 5816. Tax qualification.
- § 5801. Establishment.

(a) State Employees' Defined Contribution Plan.--The State Employees' Defined Contribution Plan is established. The board shall administer and manage the plan which shall be a defined contribution plan exclusively for the benefit of those State employees who participate in the plan and their beneficiaries within the meaning of and in conformity with IRC § 401(a). The board shall determine the terms and provisions of the plan not inconsistent with this part, the IRC or other applicable law and shall provide for the plan's administration.

(b) State Employees' Defined Contribution Trust.--The State Employees' Defined Contribution Trust is established as part of the plan. The trust shall be comprised of the individual investment accounts and all assets and money in those accounts, and any assets and money held by the board as part of the plan that are not allocated to individual investment accounts. The members of the board shall be the trustees of the trust, which shall be administered exclusively for the benefit of those State employees who participate in the plan and their beneficiaries within the meaning of and in conformity with IRC § 401(a). The board shall determine the terms and provisions of the trust not inconsistent with this part, the IRC or other applicable law and shall provide for the investment and administration of the trust.

(c) Assets held in trust.--All assets and income in the plan that have been or shall be withheld or contributed by the participants, the Commonwealth and other employers in accordance with this part shall be held in trust in any funding vehicle permitted by the applicable provisions of the IRC for the exclusive benefit of the participants and their beneficiaries until such time as the funds are distributed to the participants or their beneficiaries in accordance with the terms of the plan document. The assets of the plan held in trust for the exclusive benefit of the participants and their beneficiaries may be used for the payment of the fees, costs and expenses related to the administration and investment of the plan and the trust.

(d) Name for transacting business.--All of the business of the plan shall be transacted, the trust invested, all requisitions for money drawn and payments made and all of its cash and securities and other property shall be held by the

name of the "State Employees' Defined Contribution Plan." Notwithstanding any other law to the contrary, the board may establish a nominee registration procedure for the purpose of registering securities to facilitate the purchase, sale or other disposition of securities under the provisions of this part. § 5802. Plan document.

The board shall set forth the terms and provisions of the plan and trust in a document containing the terms and conditions of the plan and in a trust declaration that shall be published in the Pennsylvania Bulletin. Any amendments to the plan and trust declaration also shall be published. The creation of the document containing the terms and conditions of the plan and the trust declaration and the establishment of the terms and provisions of the plan and the trust need not be promulgated by regulation or formal rulemaking and shall not be subject to the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. A reference in this part or other law to the plan shall include the plan document unless the context clearly indicates otherwise.

§ 5803. Individual investment accounts.

The board shall establish in the trust an individual investment account for each participant in the plan. All contributions by a participant or an employer for or on behalf of a participant shall be credited to the participant's individual investment account, together with all interest and investment earnings and losses. Investment and administrative fees, costs and expenses shall be charged to the participants' individual investment accounts except as otherwise provided under this part or as the General Assembly otherwise provides by appropriations from the General Fund. Employer defined contributions shall be recorded and accounted for separately from participant contributions, but all interest, investment earnings and losses, and investment and administrative fees, costs and expenses shall be allocated proportionately.

§ 5804. Participant contributions.

(a) Mandatory contributions.--A participant who did not make the election under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) shall make mandatory pickup participant contributions through payroll deductions to the participant's individual investment account equal to 3.25% of compensation for current State service credited as a Class A-5 member or 3.5% of compensation for current State service credited as a Class A-6 member and 7.5% of compensation for current service performed solely as a participant. A participant who made the election under section 5306.5 shall make mandatory pickup participant contributions as provided under section 5306.5. The employer shall cause those contributions for current service to be made and deducted from each payroll or on such schedule as established by the board.

(b) Voluntary contributions.--A participant may make voluntary contributions through payroll deductions, through direct trustee-to-trustee transfers, or through transfers of money received in an eligible rollover into the trust to the extent allowed by IRC § 402. The rollovers shall be made in a form and manner as determined by the board, shall be credited to the participant's individual investment account and shall be separately accounted for by the board.

(c) Prohibited contributions.--No contributions may be allowed that would cause a violation of the limitations related to contributions applicable to governmental plans contained in IRC § 415 or in other provisions of law. In the event that any

disallowed contributions are made, any participant contributions in excess of the limitations and investment earnings on those contributions, but minus investment fees and administrative charges, shall be refunded to the participant by the board.

§ 5805. Mandatory pickup participant contributions.

(a) Treatment for purposes of IRC § 414(h).--The contributions to the trust required to be made under section 5804(a) (relating to participant contributions) with respect to State service rendered by an active participant shall be picked up by the Commonwealth or other employer and shall be treated as the employer's contribution for purposes of IRC § 414(h). After the effective date of this section, an employer employing a participant in the plan shall pick up the required mandatory participant contributions by a reduction in the compensation of the participant.

(b) Treatment for other purposes.--For all other purposes under this part and otherwise, mandatory pickup participant contributions shall be treated as contributions made by a participant in the same manner and to the same extent as if the contributions were made directly by the participant and not picked up.

§ 5806. Employer defined contributions.

(a) Contributions for service.--The Commonwealth or other employer of an active participant shall make employer defined contributions for service of an active participant that shall be credited to the active participant's individual investment account. Employer defined contributions shall be recorded and accounted for separately from participant contributions.

(b) Contributions resulting from participants reemployed from USERRA leave.--When a State employee reemployed from USERRA leave makes the mandatory pickup participant contributions permitted to be made for the USERRA leave, the Commonwealth or other employer by whom the State employee is employed at the time the participant contributions are made shall make whatever employer defined contributions would have been made under this section had the employee making the participant contributions continued to be employed in the participant's State office or position instead of performing USERRA leave. The employer defined contributions shall be placed in the participant's individual investment account as otherwise provided by this part.

(c) Limitations on contributions.--No contributions may be allowed that would cause a violation of the limitations related to contributions applicable to governmental plans contained in IRC § 415 or in other provisions of law. In the event that any disallowed contributions are made, any employer defined contributions in excess of the limitations and investment earnings on the contributions, but minus investment fees and administrative charges, shall be refunded to the employer by the board.

§ 5807. Eligibility for benefits.

(a) Termination of service.--A participant who terminates State service shall be eligible to withdraw the vested accumulated total defined contributions standing to the participant's credit in the participant's individual investment account or a lesser amount as the participant may request. Payment shall be made in a lump sum unless the board has established other forms of distribution in the plan document. A participant who withdraws his vested accumulated total defined contributions shall no longer be a participant in the plan, notwithstanding that the former State employee may continue to be a member of the system or may have contracted to receive an

annuity or other form of payment from a provider retained by the board for such purposes.

(b) Required distributions.--All payments under this section shall start and be made in compliance with the minimum distribution requirements and incidental death benefit rules of IRC § 401(a)(9). The board shall take any action and make any distributions it may determine are necessary to comply with those requirements.

(c) (Reserved).

(d) Prohibited distributions.--A State employee must be terminated from all positions that result in either membership in the system or participation in the plan to be eligible to receive a distribution. No distribution shall be allowed that would be an in-service distribution prohibited by the IRC.

(e) Loans.--Loans or other distributions, including hardship or unforeseeable emergency distributions, from the plan to State employees who have not terminated State service are not permitted, except as required by law.

(f) Small individual investment accounts.--A participant who terminates State service and whose vested accumulated total defined contributions are below the threshold established by law as of the date of termination of service may be paid the vested accumulated total defined contributions in a lump sum as provided in IRC § 401(a)(31).

(g) Option to purchase annuity.--Except as prohibited by the IRC or as otherwise provided in this part, a participant who is eligible and elects to receive a distribution or vested accumulated employer defined contributions may purchase an annuity with that distribution from an annuity provider contracted by the board under section 5808(c) (relating to death benefits) and under such conditions as provided in the plan document. The conditions may include that the board is authorized to make the distribution directly to the annuity provider.

§ 5808. Death benefits.

(a) General rule.--In the event of the death of an active participant or inactive participant, the board shall pay to the participant's beneficiary the vested balance in the participant's individual investment account in a lump sum or in such other manner as the board may establish in the plan document.

(b) Death of participant receiving distributions.--In the event of the death of a participant receiving distributions, the board shall pay to the participant's beneficiary the vested balance in the participant's individual investment account in a lump sum or in such other manner as the board may establish in the plan document or, if the board has established alternative methods of distribution in the plan document under which the participant was receiving distributions, to the participant's beneficiary or successor payee, as the case may be, as provided in the plan document.

(c) Contracts.--The board shall contract with financial institutions, insurance companies or other types of third-party providers to allow a participant, beneficiary or successor payee who receives a lump sum distribution to receive payments and death benefits in a form and manner as provided by the contract. To the extent commercially available, any annuity option shall include an interest rate of at least 2.5% compounded annually.

§ 5809. Vesting.

(a) Participant and voluntary contributions.--Subject to the forfeiture and attachment provisions of section 5953 (relating to taxation, attachment and assignment of funds) or

otherwise as provided by law, a participant shall be vested immediately with respect to all mandatory pickup participant contributions and voluntary contributions paid by or on behalf of the participant to the trust in addition to interest and investment gains or losses on the participant contributions but minus investment fees and administrative charges.

(b) Employer defined contributions.--

(1) Subject to the forfeiture and attachment provisions of section 5953 or otherwise as provided by law, a participant shall be vested with respect to all employer defined contributions paid to the participant's individual investment account in the trust in addition to interest and investment gains and losses on the employer defined contributions but minus investment fees and administrative charges according to the following schedule:

(i) Until such time as a participant has earned three eligibility points as a member of the system or participant in the plan, 0%;

(ii) At and after the attainment of three eligibility points as a member of the system or participant in the plan, 100%.

(2) For purposes of this subsection, all eligibility points credited to a member of the system in any class of service shall be used for determining vested status in the plan even if the employee was not a participant in the plan at the time the eligibility points were earned.

(3) Nonvested employer defined contributions and the interest and investment gains and losses on the nonvested employer defined contributions that are forfeited when a participant terminates State service before accruing three eligibility points as provided under section 5307(c)(3) (relating to eligibility points) are credited to the participant's most recent employer's future obligation assessed under section 5509 (relating to appropriations and assessments by the Commonwealth).

(c) USERRA leave and eligibility points.--A participant in the plan who is reemployed from USERRA leave or who dies while performing USERRA leave shall receive eligibility points under this section for the State service that would have been performed had the member not performed USERRA leave.

§ 5810. Termination of distributions.

(a) Return to State service.--

(1) A participant receiving distributions or an inactive participant who returns to State service shall cease receiving distributions and shall not be eligible to receive distributions until the participant subsequently terminates State service, without regard to whether the participant is a mandatory, optional or prohibited member of the system or participant in the plan.

(2) This subsection shall not apply to distributions that the participant has received or used to purchase an annuity from a provider contracted by the board.

(b) Return of benefits paid during USERRA leave.--

(1) If a former State employee is reemployed from USERRA leave and received any distributions from the plan during the USERRA leave, the employee shall return to the board the amount so received plus interest as provided in the plan document.

(2) The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active participant may be amortized with

interest as provided in the plan document through salary deductions to the trust in amounts agreed upon by the active participant and the board, but for not longer than a period that starts with the date of reemployment and continues for up to three times the length of the active participant's immediate past period of USERRA leave. The repayment period shall not exceed five years.

§ 5811. (Reserved).

§ 5812. Powers and duties of board.

The board, in addition to its powers and duties set forth in Chapter 59 (relating to administration, funds, accounts, general provisions), shall have the following powers and duties to establish the plan and trust and administer the provisions of this chapter and part:

(1) The board may commingle or pool assets with the assets of other persons or entities.

(2) The board shall pay all administrative fees, costs and expenses of managing, investing and administering the plan, the trust and the individual investment accounts from the balance of such individual investment accounts except as otherwise provided under this part or as the General Assembly otherwise provides by appropriations from the General Fund.

(3) The board may establish investment guidelines and limits on the types of investments that participants may make, consistent with the board's fiduciary obligations.

(4) The board shall have the power to change the terms of the plan as may be necessary to maintain the tax-qualified status of the plan.

(5) The board may establish a process for election to participate in the plan by those State employees eligible to do so for whom participation is not mandatory.

(6) The board may perform an annual or more frequent review of any qualified fund manager for the purpose of assuring that the fund manager continues to meet all standards and criteria established.

(7) The board may allow for eligible rollovers and direct trustee-to-trustee transfers into the trust from qualified plans of other employers, regardless of whether the employers are private employers or public employers.

(8) The board may allow an inactive participant to maintain the participant's individual investment account within the plan.

(9) The board shall administer or ensure the administration of the plan in compliance with the qualifications and other rules of the IRC.

(10) The board may establish procedures to provide for the lawful payment of benefits, including, but not limited to, alternate payees as set forth in sections 5953 (relating to taxation, attachment and assignment of funds) through 5953.6 (relating to irrevocable successor payee).

(11) The board shall determine, after reviewing applicable law, what constitutes a termination of State service.

(12) The board may establish procedures for distributions of small accounts as required or permitted by the IRC.

(13) The board may establish procedures in the plan document or promulgate rules and regulations as it deems necessary for the administration and management of the plan, including, but not limited to, establishing:

(i) Procedures for eligible participants to change voluntary contribution amounts or their investment choices on a periodic basis or make other elections regarding their participation in the plan.

(ii) Procedures for deducting mandatory pickup participant contributions and voluntary contributions from a participant's compensation.

(iii) Procedures for rollovers and trustee-to-trustee transfers allowed under the IRC and permitted as part of the plan.

(iv) Standards and criteria for providing not less than ten options which are offered by three or more providers of investment options to eligible individuals regarding investments of amounts deferred under the plan. The standards and criteria must provide for a variety of investment options and shall be reviewed in accordance with criteria established by the board.

(v) Standards and criteria for disclosing to the participants the anticipated and actual income attributable to amounts invested, property rights and all fees, costs and expenses to be made against amounts deferred to cover the fees, costs and expenses of administering and managing the plan or trust.

(vi) Procedures, standards and criteria for the making of distributions from the plan upon termination from employment or death or in other circumstances consistent with the purpose of the plan.

(14) The board may waive any reporting or information requirement contained in this part if the board determines that the information is not needed for the administration of the plan.

(15) The board may contract any services and duties in lieu of staff, except final adjudications and as prohibited by law. Any duties or responsibilities of the board not required by law to be performed by the board can be delegated to a third-party provider subject to appeal to the board.

(16) The board may provide that any duties of the employer or information provided by the participant to the employer be performed or received directly by the board.

(17) The board shall ensure that participants are provided with educational materials about investment options and choices.

(18) The provisions and restrictions of the act of July 2, 2010 (P.L.266, No.44), known as the Protecting Pennsylvania's Investments Act, shall not apply to the participants' individual investment accounts or the moneys and investments therein, but the board is authorized to offer to the plan participants investment vehicles that would be permitted under the Protecting Pennsylvania's Investments Act.

§ 5813. Responsibility for investment loss.

The board, the Commonwealth, an employer or other political subdivision shall not be responsible for any investment or other loss incurred under the plan or for the failure of any investment to earn any specific or expected return or to earn as much as any other investment opportunity or to cost less than any other investment opportunity, whether or not the other opportunity was offered to participants in the plan.

§ 5814. Investments based on participant's investment allocation choices.

(a) Investment by participant.--All contributions, interest and investment earnings shall be invested based on a

participant's investment allocation choices, provided that the board may provide for a default investment option. All investment allocation choices shall be credited proportionally between participant contributions and employer defined contributions. Each participant shall be credited individually with the amount of contributions, interest and investment earnings.

(b) Investment of contributions made by entities other than the Commonwealth.--Investment of contributions by any corporation, institution, insurance company, custodial bank or other entity that the board has approved shall not be unreasonably delayed, and in no case may the investment of contributions be delayed more than 30 days from the date of payroll deduction or the date voluntary contributions are made to the date that funds are invested. Any interest earned on the funds pending investment shall be used to pay administrative costs and fees that would otherwise be required to be borne by participants who are then participating in the plan or paid by appropriations from the General Fund.

§ 5815. Expenses.

All fees, costs and expenses of establishing and administering the plan and the trust and investing the assets of the trust shall be borne by the participants and paid from assessments against the balances of the individual investment accounts as established by the board, except that the fees, costs and expenses of establishing and administering the plan and the trust shall be paid by the Commonwealth through annual appropriations.

§ 5816. Tax qualification.

(a) Required distributions.--All payments under this chapter shall start and be made in compliance with the required beginning date, minimum distribution requirements and incidental death benefit rules of IRC § 401(a).

(b) Limitations.--The following shall apply:

(1) (i) Except as provided under subparagraph (ii) and notwithstanding a provision of this part, a contribution or benefit related to the plan may not exceed any limitation under IRC § 415 with respect to a governmental plan which is in effect on the date the contribution or benefit payment takes effect.

(ii) An increase in a limitation under IRC § 415 shall apply to all participants on and after the effective date of this section.

(iii) For the purposes of this paragraph, the term "governmental plan" shall have the same meaning as the term has in IRC § 414(d).

(2) (i) Except as provided under subparagraph (ii), an amendment of this part on or after the effective date of this section that increases contributions or benefits for active participants, inactive participants or participants receiving distributions shall not be deemed to provide for a contribution or benefit in excess of any limitation, adjusted on or after the effective date of this section, under IRC § 415 unless specifically provided by legislation.

(ii) Notwithstanding subparagraph (i), an increase in benefits on or after the effective date of this section for a participant in the plan shall be authorized and apply to the fullest extent allowed by law.

Section 322. Sections 5901(a), (c), (d) and (e), 5902(a)(2), (a.1), (b), (c), (e), (h), (i), (j), (k), (l), (m) and (n) and

5903 heading of Title 71 are amended and the sections are amended by adding subsections to read:

§ 5901. The State Employees' Retirement Board.

(a) Status and membership.--The board shall be an independent administrative board and consist of 11 members: the State Treasurer, ex officio, **the Secretary of Banking and Securities, ex officio**, two Senators, two members of the House of Representatives and [six] **five** members appointed by the Governor, one of whom shall be an annuitant of the system **or a participant in the plan who has terminated State service and is receiving or is eligible to receive distributions**, for terms of four years, subject to confirmation by the Senate. At least five board members shall be active members of the system **or active participants in the plan**, and at least two shall have ten or more years of credited State service[.] **or shall have been active participants in the plan for ten calendar years or have a combination of years of credited State service in the system and calendar years as active participants in the plan equal to ten or more years.** The chairman of the board shall be designated by the Governor from among the members of the board. Each member of the board who is a member of the General Assembly may appoint a duly authorized designee to act in his stead. **In the event that a board member, who is designated as an active participant or as a participant in the plan who is receiving or is eligible to receive distributions, receives a total distribution of his interest in the plan, that board member may continue to serve on the board for the remainder of his term.**

* * *

(c) Oath of office.--Each member of the board shall take an oath of office that he will, so far as it devolves upon him, diligently and honestly, administer the affairs of said board, **the system and the plan** and that he will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to this part. Such oath shall be subscribed by the member taking it and certified by the officer before whom it is taken and shall be immediately filed in the Office of the Secretary of the Commonwealth.

(d) Compensation and expenses.--The members of the board who are members of the system **or participants in the plan** shall serve without compensation but shall not suffer loss of salary or wages through serving on the board. The members of the board who are not members of the system **or participants in the plan** shall receive \$100 per day when attending meetings and all board members shall be reimbursed for any necessary expenses. However, when the duties of the board as mandated are not executed, no compensation or reimbursement for expenses of board members shall be paid or payable during the period in which such duties are not executed.

(e) Corporate power and legal advisor.--For the purposes of this part, the board shall possess the power and privileges of a corporation. [The Attorney General of the Commonwealth shall be the legal advisor of the board.] **The board shall be an independent agency under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.**

(f) Board training.--Each member of the board will be required to obtain eight hours of mandatory training in investment strategies, actuarial cost analysis and retirement portfolio management on an annual basis.

§ 5902. Administrative duties of the board.

(a) Employees.--

* * *

(2) Notwithstanding any other provisions of law, the compensation of investment professionals **and legal counsel** shall be established by the board. The compensation of all other officers and employees of the board who are not covered by a collective bargaining agreement shall be established by the board consistent with the standards of compensation established by the Executive Board of the Commonwealth.

(a.1) Secretary.--The secretary shall act as chief administrative officer for the board **with respect to both the system and the plan**. In addition to other powers and duties conferred upon and delegated to the secretary by the board, the secretary shall:

(1) Serve as the administrative agent of the board.

(2) Serve as liaison between the board and applicable legislative committees, the Treasury Department, the Department of the Auditor General, and between the board and the investment counsel and the mortgage supervisor in arranging for investments to secure maximum returns to the fund.

(3) Review and analyze proposed legislation and legislative developments affecting the system **or the plan** and present findings to the board, legislative committees, and other interested groups or individuals.

(4) Direct the maintenance of files and records and preparation of periodic reports required for actuarial evaluation studies.

(5) Receive inquiries and requests for information concerning the system **or the plan** from the press, Commonwealth officials, State employees, the general public, research organizations, and officials and organizations from other states, and provide information as authorized by the board.

(6) (i) Supervise a staff of administrative, technical, and clerical employees engaged in record-keeping and clerical processing activities **for both the system and the plan** in maintaining files of members **and participants**, accounting for contributions, processing payments to annuitants **and terminated participants**, preparing required reports, and retirement counseling.

(ii) **The board may utilize the staff of employees provided for under this paragraph for both the system and the plan but shall allocate the fees, costs and expenses incurred under this paragraph between the system and the plan as appropriate.**

(b) Professional personnel.--

(1) The board shall contract for the services of a chief medical examiner, an actuary, investment advisors and counselors, and such other professional personnel as it deems advisable. The board may[, with the approval of the Attorney General,] contract for legal services.

(2) **The board may utilize the same individuals and firms contracted under this subsection for both the system and the plan but shall allocate the fees, costs and expenses incurred under this subsection between the system and the plan as appropriate.**

(c) Expenses.--

(1) The board shall, through the Governor, submit to the General Assembly annually a budget covering the administrative expenses of [this part.] **the system and a separate budget covering the administrative expenses of the**

plan. Budgets under this paragraph shall include those expenses necessary to establish the plan and trust.

(2) Such expenses of the system as approved by the General Assembly in an appropriation bill shall be paid from investment earnings of the fund.

(3) For fiscal years ending on or before June 30, 2020, and for any additional fiscal years as the General Assembly may provide, such expenses of the plan as approved by the General Assembly in an appropriation bill shall be paid from the General Fund. For fiscal years beginning on or after July 1, 2020, such expenses of the plan as approved by the General Assembly shall be paid from interest under section 5814(b) (relating to investments based on participant's investment allocation choices) or assessments on the balances of the participants' individual investment accounts or as otherwise provided in this part except as the General Assembly otherwise provides by appropriations from the General Fund.

(4) Concurrently with its administrative budget, the board shall also submit to the General Assembly annually a list of proposed expenditures which the board intends to pay through the use of directed commissions, together with a list of the actual expenditures from the past year actually paid by the board through the use of directed commissions. All such directed commission expenditures shall be made by the board for the exclusive benefit of the system and its members.

* * *

(e) Records.--

(1) The board shall keep a record of all its proceedings which shall be open to [inspection] **access** by the public, except as otherwise provided in this part or by other law.

(2) Any record, material or data received, prepared, used or retained by the board or its employees, investment professionals or agents relating to an investment shall not constitute a public record subject to public [inspection] **access** under the act of [June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law] **February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law**, if, in the reasonable judgment of the board, the [inspection] **access** would:

(i) in the case of an alternative investment or alternative investment vehicle, involve the release of sensitive investment or financial information relating to the alternative investment or alternative investment vehicle which the fund **or trust** was able to obtain only upon agreeing to maintain its confidentiality;

(ii) cause substantial competitive harm to the person from whom sensitive investment or financial information relating to the investment was received; or

(iii) have a substantial detrimental impact on the value of an investment to be acquired, held or disposed of by the fund **or trust** or would cause a breach of the standard of care or fiduciary duty set forth in this part.

(3) **The following apply:**

(i) The sensitive investment or financial information excluded from [inspection] **access** under paragraph (2)(i), to the extent not otherwise excluded from [inspection] **access**, shall constitute a public record subject to public [inspection] **access** under the

Right-to-Know Law once the board is no longer required by its agreement to maintain confidentiality.

(ii) The sensitive investment or financial information excluded from [inspection] **access** under paragraph (2)(ii), to the extent not otherwise excluded from [inspection] **access**, shall constitute a public record subject to public [inspection] **access** under the Right-to-Know Law once:

(A) the [inspection] **access** no longer causes substantial competitive harm to the person from whom the information was received; or

(B) the entity in which the investment was made is liquidated;
whichever is later.

(iii) The sensitive investment or financial information excluded from [inspection] **access** under paragraph (2)(iii), to the extent not otherwise excluded from [inspection] **access**, shall constitute a public record subject to public [inspection] **access** under the Right-to-Know Law once:

(A) the [inspection] **access** no longer has a substantial detrimental impact on the value of an investment of the fund **or trust** and would not cause a breach of the standard of care or fiduciary duty set forth in this part; or

(B) the entity in which the investment was made is liquidated;
whichever is later.

(4) Except for the provisions of paragraph (3), nothing in this subsection shall be construed to designate any record, material or data received, prepared, used or retained by the board or its employees, investment professionals or agents relating to an investment as a public record subject to public [inspection] **access** under the Right-to-Know Law.

(5) **Any record, material or data received, prepared, used or retained by the board or its employees, or agents relating to the contributions, account value or benefits payable to or on account of a participant shall not constitute a public record subject to public access under the Right-to-Know Law if, in the reasonable judgment of the board, the access would disclose any of the following:**

(i) The existence, date, amount and any other information pertaining to the voluntary contributions, including rollover contributions or trustee-to-trustee transfers, of any participant.

(ii) The investment option selections of any participant.

(iii) The balance of a participant's individual investment account, including the amount distributed to the participant, investment gains or losses or rates of return.

(iv) The identity of a participant's designated beneficiary, successor payee or alternate payee.

(v) The form of distribution of a participant's account.

(6) Nothing in this subsection shall be construed to designate any record, material or data received, prepared, used or retained by the board or its employees, or agents relating to the contributions, account value or benefits payable to or on account of a participant as a public record subject to public access under the Right-to-Know Law.

(7) The following apply:

(i) Nothing in this part shall be construed to mean that the release or publicizing of a record, material or data which would not constitute a public record under this subsection shall be a violation of the board's fiduciary duties.

(ii) This subsection shall apply to a record, material or data under this subsection, notwithstanding any of the following:

(A) Whether the record, material or data was created, generated or stored before the effective date of this paragraph.

(B) Whether the record, material or data was previously released or made public.

(C) Whether a request for the record, material or data was made or is pending final response under the Right-to-Know Law.

* * *

(h) Regulations and procedures.--The board shall, with the advice of the Attorney General, **legal counsel** and the actuary, adopt and promulgate rules and regulations for the uniform administration of the system. The actuary shall approve in writing all computational procedures used in the calculation of contributions and benefits **pertaining to the system**, and the board shall by resolution adopt such computational procedures, prior to their application by the board. Such rules, regulations and computational procedures as so adopted from time to time and as in force and effect at any time, together with such tables as are adopted pursuant to subsection (j) as necessary for the calculation of annuities and other benefits, shall be as effective as if fully set forth in this part. Any actuarial assumption specified in or underlying any such rule, regulation or computational procedure and utilized as a basis for determining any benefit shall be applied in a uniform manner.

(i) Data.--The board shall keep in convenient form such data as are stipulated by the actuary in order that an annual actuarial valuation of the various accounts **of the fund** can be completed within six months of the close of each calendar year.

(j) Actuarial investigation and valuation.--The board shall have the actuary make an annual valuation of the various accounts **of the fund** within six months of the close of each calendar year. In the year 1975 and in every fifth year thereafter the board shall have the actuary conduct an actuarial investigation and evaluation of the system based on data including the mortality, service, and compensation experience provided by the board annually during the preceding five years concerning the members and beneficiaries **of the system**. The board shall by resolution adopt such tables as are necessary for the actuarial valuation of the fund and calculation of contributions, annuities and other benefits based on the reports and recommendations of the actuary. Within 30 days of their adoption, the secretary of the board shall cause those tables which relate to the calculation of annuities and other benefits to be published in the Pennsylvania Bulletin in accordance with the provisions of 45 Pa.C.S. § 725(a) (relating to additional contents of Pennsylvania Bulletin) and, unless the board specifies therein a later effective date, such tables shall become effective on such publication. The board shall include a report on the significant facts, recommendations and data developed in each five-year actuarial investigation and evaluation of the system in the annual financial statement published pursuant to the requirements of subsection (m) for

the fiscal year in which such investigation and evaluation were concluded.

(k) Certification of employer contributions **to fund**.--The board shall, each year in addition to the itemized budget required under section 5509 (relating to appropriations and assessments by the Commonwealth), certify, as a percentage of the members' payroll, the shared-risk contribution rate, **the shared-gain adjustment to the regular member contribution rate**, the employers' contributions as determined pursuant to section 5508 (relating to actuarial cost method) necessary for the funding of prospective annuities for active members and the annuities of annuitants and certify the rates and amounts of the employers' normal contributions as determined pursuant to section 5508(b), accrued liability contributions as determined pursuant to section 5508(c), supplemental annuities contribution rate as determined pursuant to section 5508(e), the experience adjustment factor as determined pursuant to section 5508(f), the collared contribution rate pursuant to section 5508(h) and the final contribution rate pursuant to section 5508(i), which shall be paid to the fund and credited to the appropriate accounts. The board may allocate the final contribution rate and certify various employer contribution rates **and amounts** based upon the different benefit eligibility, class of service multiplier, superannuation age, **final average salary calculation, compensation limits** and other benefit differences resulting from State service credited for individual members even though such allocated employer contribution rate on behalf of any given member may be more or less than 5% of the member's compensation for the period from July 1, 2010, to June 30, 2011, or may differ from the prior year's contribution for that member by more or less than the percentages used to calculate the collared contribution rate for that year and may be below any minimum contribution rate established for the collared contribution rate or final contribution rate. These certifications shall be regarded as final and not subject to modification by the Secretary of the Budget.

(l) Member contributions.--The board shall cause all pickup contributions made on behalf of a member to be credited to the account of the member and credit to his account any other payment made by such member, including, but not limited to, amounts collected by the Public School Employees' Retirement System for the reinstatement of previous State service or creditable nonstate service and amounts paid to return benefits paid after the date of return to State service or entering school service representing lump sum payments made pursuant to section 5705(a)(4)(iii) **or (a.1)** (relating to member's options) and member's annuity payments, but not including other benefits returned pursuant to section 5706(a.2) or (a.3) (relating to termination of annuities), and shall pay all such amounts into the fund.

(m) Annual financial statement.--The board shall prepare and have published, on or before July 1 of each year, [a financial statement] **financial statements** as of the calendar year ending December 31 of the previous year showing the condition of the fund, **the trust** and the various accounts, including, but not limited to, the board's accrual and expenditure of directed commissions, and setting forth such other facts, recommendations, and data as may be of use in the advancement of knowledge concerning annuities and other benefits provided by this part. The board shall submit said financial [statement] **statements** to the Governor and shall file copies

with the head of each department for the use of the State employees and the public.

(n) Independent [audit] **audits**.--The board shall provide for [an annual audit] **annual audits** of the system **and the plan** by [an] independent certified public [accountant, which audit] **accountants**. **The audits** shall include the board's accrual and expenditure of directed commissions. **The board may use the same independent certified public accountant for the audits of both the system and the plan.**

* * *

(p) **Participant and employer contributions to trust**.--The board shall, each year in addition to any fees and itemized budget required under section 5509, certify, as a percentage of each participant's compensation, the employer defined contributions, which shall be paid to the trust and credited to each participant's individual investment account. Certifications under this subsection shall be regarded as final and not subject to modification by the Secretary of the Budget. The board shall cause all mandatory pickup participant contributions made on behalf of a participant and all voluntary contributions made by a participant to be credited to the participant's individual investment account.

(q) **Limitation on fees charged to the board**.--In order to strive towards actuarial savings of \$1,500,000,000 over 30 years from the effective date of this subsection while achieving the assumed annual rate of return at the least cost and maximum return on the system assets, the board shall:

(1) Consider the findings and recommendations of the Public Pension Management and Asset Investment Review Commission. The board shall, at its discretion, adopt guidelines and procedures to implement any recommendations of the Public Pension Management and Asset Investment Review Commission that the board believes will ensure the highest return on investment at the lowest responsible cost.

(2) Review, identify and implement any investment fee reduction and cost avoidance strategies identified to be prudent by the board, to reduce expenditures for investment.

§ 5903. Duties of the board to advise and report to heads of departments [and], members **and participants**.

* * *

(b.1) **Participant status statements**.--The board shall furnish annually to each participant, on or before April 1 and more frequently as the board may agree or as required by law, a statement showing the accumulated total defined contributions credited to the participant's individual investment account, the nature and type of investments and the investment allocation of future contributions as of December 31 of the previous year, and shall request the participant to make any necessary correction or revision regarding the designated beneficiary.

* * *

Section 323. Section 5904(c) of Title 71 is amended to read:
§ 5904. Duties of the board to report to the Public School Employees' Retirement Board.

* * *

(c) **Applications for benefits for school employees**.--Upon receipt of notification and the required data from the Public School Employees' Retirement Board that a former State employee who elected multiple service has applied for a public school employees' retirement benefit or, in the event of his death, his legally constituted representative has applied for such benefit, the board shall:

(1) certify to the Public School Employees' Retirement Board;

(i) the salary history as a member of the State Employees' Retirement System and the final average salary as calculated on the basis of the compensation received as a [State and school employee] **member of the system and as a member of the Public School Employees' Retirement System;** and

(ii) the annuity or benefit to which the member or his beneficiary is entitled as modified according to the option selected; and

(2) transfer to the Public School Employees' Retirement Fund the total accumulated deductions standing to such member's credit and the actuarial reserve required on account of years of credited service in the State system, final average salary determined on the basis of his compensation **as a member** in both systems and the average noncovered salary to be charged to the State accumulation account, the State Police benefit account or the enforcement officers' benefit account, as each case may require.

* * *

Section 324. Section 5905 heading, (c.1) and (g) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5905. Duties of the board regarding applications and elections of members **and participants.**

* * *

(c.1) Termination of service **by a member.**--In the case of any member terminating State service who is entitled to an annuity and who is not then a disability annuitant, the board shall advise such member in writing of any benefits **from the system** to which he may be entitled under the provisions of this part and shall have the member prepare, on or before the date of termination of State service, one of the following three forms, a copy of which shall be given to the member and the original of which shall be filed with the board:

(1) an application for the return of total accumulated deductions;

(2) **if eligible**, an election to vest his retirement rights and, if he is a joint coverage member and so desires, elect to become a full coverage member and agree to pay within 30 days of the date of termination of service the lump sum required; or

(3) **if eligible**, an application for an immediate annuity and, if he desires:

(i) an election to convert his medical, major medical and hospitalization insurance coverage to the plan for State annuitants; and

(ii) if he is a joint coverage member, an election to become a full coverage member and an agreement to pay within 30 days of date of termination of service the lump sum required.

(c.2) **Termination of service by participant.**--In the case of a participant terminating State service, the board shall advise the participant in writing of the vested accumulated total defined contributions credited to the participant's individual investment account as of the date stated in the writing, any notices regarding rollover or other matters required by IRC or other law, the obligation of the participant to commence distributions from the plan by the participant's required beginning date and the ability to receive all or part of the vested balance in the participant's individual investment

account in a lump sum or in such other form as the board may authorize or as required by law.

* * *

(e.2) Notification to inactive participants approaching required beginning date.--The board shall notify in writing each inactive participant who has terminated State service and has not commenced distribution by 90 days before the participant's required beginning date that the inactive participant has an obligation to commence distributions by the required beginning date in a form and manner required by IRC § 401(a) (9) and other applicable provisions of the IRC.

* * *

(f.1) Initial payment to participants.--The board shall make the initial payment to a participant who has applied for a distribution within 60 days of the receipt of all information necessary to process the application for a distribution.

(g) Death benefits.--Upon receipt of notification from the head of a department of the death of an active member, a member performing USERRA leave [or], a member on leave without pay, **an active participant, an inactive participant on leave without pay or a former participant performing USERRA leave**, the board shall advise the designated beneficiary of the benefits to which he is entitled, and shall make the first payment to the beneficiary within 60 days of receipt of certification of death and other necessary data. If no beneficiary designation is in effect at the date of the member's death or no notice has been filed with the board to pay the amount of the benefits to the member's estate, the board is authorized to pay the benefits to the executor, administrator, surviving spouse or next of kin of the deceased member, and payment pursuant [hereto] **to this subsection** shall fully discharge the fund from any further liability to make payment of such benefits to any other person. **If no beneficiary designation is in effect at the date of a participant's death or no notice has been filed with the board to pay the amount of the benefits to the participant's estate, the board may pay the benefits as established in the plan document, and payment pursuant to this subsection shall fully discharge the trust from any further liability to make payment of such benefits to any other person.**

* * *

Section 325. Section 5905.1(a), (b) and (d) of Title 71 are amended to read:

§ 5905.1. Installment payments of accumulated deductions.

(a) General rule.--Notwithstanding any other provision of this part, whenever a member elects to withdraw his total accumulated deductions pursuant to section 5311(a) (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions) or elects to receive a portion of his benefit payable as a lump sum pursuant to section 5705(a)(4)(iii) **or (a.1)** (relating to member's options), the member may elect to receive the amount in not more than four installments.

(b) Payment of first installment.--The payment of the first installment shall be made in the amount and within seven days of the date specified by the member, except as follows:

(1) Upon receipt of a member's application to withdraw his total accumulated deductions as provided in section 5311(a) or 5701 and upon receipt of all required data from the head of the department and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor

before being transferred to State employment, the board shall not be required to pay the first installment prior to 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(2) In the case of an election as provided in section 5705(a)(4)(iii) **or (a.1)** by a member terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the head of the department and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment, the board shall not be required to pay the first installment prior to 21 days after the later of the filing of the application and the receipt of the data or the date of termination of service, but, unless otherwise directed by the member, the payment shall be made no later than 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(3) In the case of an election as provided in section 5705(a)(4)(iii) **or (a.1)** by a member who is not terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the head of the department and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment, the board shall not be required to pay the first installment prior to 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

* * *

(d) Statutory interest.--Any lump sum, including a lump sum payable pursuant to section 5705.1 (relating to payment of accumulated deductions resulting from [Class A-3 and Class A-4] **more than one class of service**), or installment payable shall include statutory interest credited to the date of payment, except in the case of a member, other than a vestee or special vestee, who has not filed his application prior to 90 days following his termination of service.

Section 326. Section 5906(a), (b), (d), (e), (g), (h), (i) and (l) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5906. Duties of heads of departments.

(a) Status of members **and participants**.--The head of department shall, at the end of each pay period, notify the board in a manner prescribed by the board of salary changes effective during that period for any members **and participants** of the department, the date of all removals from the payroll, and the type of leave of any members **and participants** of the department who have been removed from the payroll for any time during that period, and:

(1) if the removal is due to leave without pay, he shall furnish the board with the date of beginning leave and the date of return to service, and the reason for leave; or

(2) if the removal is due to a transfer to another department, he shall furnish such department and the board with a complete State service record, including past State

service in other departments or agencies, or creditable nonstate service; or

(3) if the removal is due to termination of State service, he shall furnish the board with a complete State service record, including service in other departments or agencies, or creditable nonstate service and;

(i) in the case of death of the member **or participant**, the head of the department shall so notify the board;

(ii) in the case of a service connected disability **of a member**, the head of department shall, to the best of his ability, investigate the circumstances surrounding the disablement of the member and submit in writing to the board information which shall include but not necessarily be limited to the following: date, place and time of disablement to the extent ascertainable; nature of duties being performed at such time; and whether or not the duties being performed were authorized and included among the member's regular duties. In addition, the head of department shall furnish in writing to the board all such other information as may be related to the member's disablement;

(iii) in the case of a member terminating from The Pennsylvania State University who is a member of the system with five or more but less than ten eligibility points and who has terminated State service on June 30, 1997, because of the transfer of his job position or duties to a controlled organization of the Penn State Geisinger Health System or because of the elimination of his job position or duties due to the transfer of other job positions or duties to a controlled organization of the Penn State Geisinger Health System, the head of the department shall so certify to the board.

(b) Records and information **regarding members and participants**.--At any time at the request of the board and at termination of service of a member **or participant**, the head of department shall furnish service and compensation records and such other information as the board may require and shall maintain and preserve such records as the board may direct for the expeditious discharge of its duties.

* * *

(c.1) **Participant and employer defined contributions**.--The head of department shall:

(1) Cause to be made:

(i) the mandatory pickup participant contributions on behalf of a participant;

(ii) the deduction of any voluntary contributions authorized by a participant; and

(iii) the employer defined contributions on behalf of a participant.

(2) Notify the board at times and in a manner prescribed by the board of the compensation of any participant to whom the limitation under IRC § 401(a)(17) either applies or is expected to apply and cause the participant's contributions to be deducted from payroll to cease at the limitation under IRC § 401(a)(17) on the payroll date if and when such limit shall be reached.

(3) Certify to the State Treasurer the amounts picked up and deducted and the employer defined contributions being made and send the total amount picked up, deducted and contributed together with a duplicate of the voucher to the

secretary of the board every pay period or on such schedule as established by the board.

(d) New employees subject to mandatory membership **or participation**.--Upon the assumption of duties of each new State employee whose membership in the system **or plan** is mandatory, the head of department shall cause an application for membership **or participation** and a nomination of beneficiary to be made by such employee and filed with the board and shall make pickup contributions **or mandatory pickup participant contributions** from the effective date of State employment.

(e) New employees subject to optional membership **or participation**.--The head of department shall, upon the employment or entering into office of any State employee whose membership in the system **or participation in the plan** is not mandatory, inform such employee of his opportunity to become a member of the system **or a participant in the plan**. If such employee so elects, the head of department shall cause an application for membership **or participation** and a nomination of beneficiary to be made by him and filed with the board and shall cause proper contributions to be made from the effective date of membership **or participation**.

* * *

(g) Former school employee contributors.--The head of department shall, upon the employment of a former contributor to the Public School Employees' Retirement System who is not an annuitant of the Public School Employees' Retirement System, advise such employee [of his] **if he has a** right to elect within 365 days of entry into the system to become a multiple service member, and in the case of any such employee who so elects and has withdrawn his accumulated deductions, require him to reinstate his credit in the Public School Employees' Retirement System. The head of the department shall advise the board of such election.

(h) Former school employee annuitants.--The head of department shall, upon the employment of an annuitant of the Public School Employees' Retirement System who applies for membership in the system, advise such employee [that] **if** he may elect multiple service membership within 365 days of entry into the system and if he so elects his public school employee's annuity will be discontinued effective upon the date of his return to State service and, upon termination of State service and application for an annuity, the annuity will be adjusted in accordance with section 5706 (relating to termination of annuities). The head of department shall advise the board of such election.

(i) Annual statement to members.--Annually, upon receipt from the board, the head of department shall furnish to each member the statement specified in section 5903(b) (relating to duties of the board to advise and report to heads of departments [and], members **and participants**).

* * *

(l) State employees performing USERRA or military-related leave of absence.--The head of department shall report to the board any State employee who ceases to be an active member **or active participant** to perform USERRA service, or who is granted a leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) or a military leave of absence under 51 Pa.C.S. § 7302 (relating to granting military leaves of absence), the date on which the USERRA service, leave of absence or military leave of absence began, the date on which the State employee is reemployed from USERRA

leave or returns after the leave of absence or military leave of absence, if the event occurs, and any other information the board may require or direct.

* * *

(n) Employees receiving payments for overtime service or duties.--The head of department shall report to the board in a form and manner established by the board any payments made to, and hours worked by, a Class A-5 exempt employee for overtime service or duties and identify which of those payments and hours were for voluntary overtime.

Section 327. Section 5907 heading, (a), (b)(1), (c), (d), (e), (f) and (h) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5907. Rights and duties of State employees [and], members **and participants.**

(a) Information on new employees.--Upon his assumption of duties each new State employee shall furnish the head of department with a complete record of his previous State service, his school service or creditable nonstate service, and proof of his date of birth and current status in the system **and the plan** and in the Public School Employees' Retirement System **and the School Employees' Defined Contribution Plan.** Willful failure to provide the information required by this subsection to the extent available upon entrance into the system shall result in the forfeiture of the right of the member to subsequently assert any right to benefits based on any of the required information which he failed to provide. In any case in which the board finds that a member is receiving an annuity based on false information, the total amount received predicated on such false information together with statutory interest doubled and compounded shall be deducted from the present value of any remaining benefits to which the member is legally entitled.

(b) Application for membership.--

(1) In the case of a new employee who is not currently a member of the system, and whose membership is mandatory or in the case of a new employee whose membership in the system is not mandatory but **is permitted and** who desires to become a member of the system, the new employee shall execute an application for membership and a nomination of beneficiary.

* * *

(b.1) Application for participation.--On or after January 1, 2019, the following types of employees shall execute an application for participation and a nomination of a beneficiary:

(1) An employee who is not currently a participant in the plan and whose participation is mandatory.

(2) An employee whose participation is not mandatory but is permitted and who desires to become a participant in the plan.

(c) Multiple service membership.--Any active member who was formerly an active member in the Public School Employees' Retirement System may elect to become a multiple service member. Such election shall occur no later than 365 days after becoming an active member in this system. A State employee who is eligible to elect to become a multiple service member who begins USERRA leave during the election period without having elected multiple service membership [may make the election within 365 days after being reemployed from] **shall have the election period extended by the number of days on USERRA leave.**

(d) Credit for previous service or change in membership status.--Any active member or eligible school employee who desires to receive credit for **the portion of** his total previous

State service or creditable nonstate service to which he is entitled, or a joint coverage member who desires to become a full coverage member, shall so notify the board and upon written agreement by the member and the board as to the manner of payment of the amount due, the member shall receive credit for such service as of the date of such agreement subject to the provisions in this part relating to the limitations under IRC § 415.

* * *

(d.2) Contributions for USERRA leave.--Any active participant or inactive participant on leave without pay or former participant who was reemployed from USERRA leave who desires to make mandatory pickup participant contributions and voluntary contributions for his USERRA leave shall notify the board within the time period required under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) of his desire to make such contributions. Upon the participant making the permitted mandatory pickup participant contributions within the allowed time period, the head of department shall make the corresponding employer defined contributions at the same time.

(d.3) Voluntary contributions by a participant.--Any participant who desires to make voluntary contributions to be credited to his individual investment account shall notify the board and, upon compliance with the requirements, procedures and limitations established by the board in the plan document, may do so subject to the limitations under IRC §§ 401(a) and 415 and other applicable law.

(e) Beneficiary for death benefits from system.--Every member shall nominate a beneficiary by written designation filed with the board as provided in section 5906(d) or (e) (relating to duties of heads of departments) to receive the death benefit payable under section 5707 (relating to death benefits) or the benefit payable under the provisions of Option 1 of section 5705(a)(1) (relating to member's options). Such nomination may be changed at any time by the member by written designation filed with the board. A member may also nominate a contingent beneficiary or beneficiaries to receive the death benefit provided under section 5707 or the benefit payable under the provisions of Option 1 of section 5705(a)(1).

(e.1) Beneficiary for death benefits from the plan.--Every participant shall nominate a beneficiary by written designation filed with the board as provided in section 5906(d) or (e) to receive the death benefit payable under section 5808 (relating to death benefits). A participant may also nominate a contingent beneficiary or beneficiaries to receive the death benefit provided under section 5808. Such nominations may be changed at any time by the participant by written designation filed with the board.

(e.2) Beneficiaries for employees who are members and participants.--A State employee who is both a member of the system and a participant in the plan may designate or nominate different persons to be beneficiaries, survivor annuitants and successor payees for his benefits from the system and the plan.

(f) Termination of service by members.--Each member who terminates State service and who is not then a disability annuitant shall execute on or before the date of termination of service the appropriate application, duly attested by the member or his legally constituted representative, electing to:

- (1) withdraw his total accumulated deductions; or**
- (2) if eligible, vest his retirement rights; and if he is a joint coverage member, and so desires, elect to become**

a full coverage member and agree to pay within 30 days of the date of termination of service the lump sum required;
or

- (3) **if eligible**, receive an immediate annuity and may,
(i) if eligible, elect to convert his medical, major medical, and hospitalization coverage to the plan for State annuitants; and
(ii) if he is a joint coverage member, elect to become a full coverage member and agree to pay within 30 days of date of termination of service the lump sum required.

* * *

(g.1) Deferral of retirement rights.--If a participant terminates State service and does not commence receiving a distribution, he shall nominate a beneficiary, and he may anytime thereafter, but no later than his required beginning date, withdraw the vested accumulated total defined contributions standing to his credit or apply for another form of distribution required by law or authorized by the board.

(h) Vestees and special vestees attaining superannuation age.--Upon attainment of superannuation age a vestee or special vestee shall execute and file an application for an annuity. Any such application filed within 90 days after attaining superannuation age shall be effective as of the date of attainment of superannuation age. Any application filed after such period shall be filed by the member's required beginning date and shall be effective as of the date it is filed with the board, subject to the provisions of section 5905(f) (relating to duties of the board regarding applications and elections of members **and participants**).

* * *

Section 328. Sections 5931(b), 5932, 5933(a), 5934, 5935, 5936, 5937, 5938, 5939, 5951, 5953, 5953.1, 5953.2, 5953.3 and 5953.4(a) of Title 71 are amended to read:
§ 5931. Management of fund and accounts.

* * *

(b) Crediting of interest.--The board, annually, shall allow the required interest on the mean amount for the preceding year to the credit of each of the accounts **other than the individual investment accounts**. The amount so allowed shall be credited thereto by the board and transferred from the interest reserve account.

* * *

§ 5932. State Employees' Retirement Fund.

(a) General rule.--The fund shall consist of all balances in the several separate accounts set apart to be used under the direction of the board for the benefit of members of the system; and the Treasury Department shall credit to the fund all moneys received from the Department of Revenue arising from the contributions **relating to or on behalf of members of the system** required under the provisions of Chapter 55 (relating to contributions), and any income earned by the investments or moneys of said fund. There shall be established and maintained by the board the several ledger accounts specified in sections 5933 (relating to members' savings account), 5934 (relating to State accumulation account), 5935 (relating to annuity reserve account), 5936 (relating to State Police benefit account), 5937 (relating to enforcement officers' benefit account), 5938 (relating to supplemental annuity account) and 5939 (relating to interest reserve account).

(b) Individual investment accounts and trust.--The individual investment accounts that are part of the trust shall

not be part of the fund. Mandatory pickup participant contributions, voluntary contributions and employer defined contributions made under this part and any income earned by the investment of such contributions shall not be paid or credited to the fund but shall be paid to the trust and credited to the individual investment accounts.

§ 5933. Members' savings account.

(a) Credits to account.--The members' savings account shall be the ledger account to which shall be credited the amounts of the pickup contributions made by the Commonwealth or other employer and contributions or lump sum payments made by active members in accordance with the provisions of sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk member contributions [for Class A-3 and Class A-4 service] **and shared-gain adjustments to regular member contributions**), 5502 (relating to social security integration member contributions), 5503 (relating to joint coverage member contributions), 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member), 5505.1 (relating to additional member contributions) and 5505 (relating to contributions for the purchase of credit for creditable nonstate service) and transferred from the members' savings account of the Public School Employees' Retirement System in accordance with the provisions of section 5303.2 (relating to election to convert school service to State service).

* * *

§ 5934. State accumulation account.

The State accumulation account shall be the ledger account to which shall be credited all contributions of the Commonwealth or other employers whose employees are members of the system and made in accordance with the provisions of section 5507(a) or (d) (relating to contributions **to the system** by the Commonwealth and other employers) except that the amounts received under the provisions of the act of May 12, 1943 (P.L.259, No.120), and the amounts received under the provisions of the Liquor Code, act of April 12, 1951 (P.L.90, No.21), shall be credited to the State Police benefit account or the enforcement officers' benefit account as the case may be. All amounts transferred to the fund by county retirement systems or pension plans in accordance with the provisions of section 5507(c) also shall be credited to the State accumulation account. All amounts transferred to the fund by the Public School Employees' Retirement System in accordance with section 5303.2(e) (relating to election to convert school service to State service), except amounts credited to the members' savings account, and all amounts paid by the Department of Corrections in accordance with section 5303.2(f) also shall be credited to the State accumulation account. The State accumulation account shall be credited with valuation interest. The reserves necessary for the payment of annuities and death benefits **resulting from membership in the system** as approved by the board and as provided in Chapter 57 (relating to benefits) shall be transferred from the State accumulation account to the annuity reserve account provided for in section 5935 (relating to annuity reserve account), except that the reserves necessary on account of a member who is an officer of the Pennsylvania State Police or an enforcement officer shall be transferred from the State accumulation account to the State Police benefit account provided for in section 5936 (relating to State Police benefit account) or to the enforcement officers' benefit account as provided for in section 5937 (relating to enforcement

officers' benefit account) as the case may be. The reserves necessary for the payment of supplemental annuities in excess of those reserves credited to the supplemental annuity account on June 30, 2010, shall be transferred from the State accumulation account to the supplemental annuity account. In the event that supplemental annuities are increased by legislation enacted after December 31, 2009, the necessary reserves shall be transferred from the State accumulation account to the supplemental annuity account.

§ 5935. Annuity reserve account.

(a) Credits and charges to account.--The annuity reserve account shall be the ledger account to which shall be credited the reserves held for payment of annuities and death benefits on account of all annuitants except in the case of members who are officers of the Pennsylvania State Police or enforcement officers. The annuity reserve account shall be credited with valuation interest. After the transfers provided in sections 5933 (relating to members' savings account), 5934 (relating to State accumulation account) and 5938 (relating to supplemental annuity account), all annuity and death benefit payments **resulting from membership in the system** except those payable to any member who retires as an officer of the Pennsylvania State Police or an enforcement officer shall be charged to the annuity reserve account and paid from the fund.

(b) Transfers from account.--Should an annuitant other than a member who was retired as an officer of the Pennsylvania State Police or an enforcement officer be subsequently restored to active service **as a member of the system or as a participant in the plan**, the present value of his member's annuity at the time of reentry into State service shall be transferred from the annuity reserve account and placed to his individual credit in the members' savings account. In addition, the actuarial reserve for his annuity less the amount transferred to the members' savings account shall be transferred from the annuity reserve account to the State accumulation account.

§ 5936. State Police benefit account.

(a) Credits and charges to account.--The State Police benefit account shall be the ledger account to which shall be credited all contributions received under the provisions of the act of May 12, 1943 (P.L.259, No.120), **referred to as the Foreign Casualty Insurance Premium Tax Allocation Law**, and any additional Commonwealth or other employer contributions provided for in section 5507 (relating to contributions **to the system** by the Commonwealth and other employers) which are creditable to the State Police benefit account. The State Police benefit account shall be credited with the required interest. In addition, upon the filing of an application for an annuity by a member who is an officer of the Pennsylvania State Police, the total accumulated deductions standing to the credit of the member in the members' savings account and the necessary reserves from the State accumulation account shall be transferred to the State Police benefit account. Thereafter, the total annuity of such annuitant shall be charged to the State Police benefit account and paid from the fund.

(b) Transfers from account.--Should the said annuitant be subsequently restored to active service **as a member of the system or as a participant in the plan**, the present value of the member's annuity at the time of reentry into State service shall be transferred from the State Police benefit account and placed to his individual credit in the members' savings account. In addition, the actuarial reserve for his annuity, calculated as if he had been a member of Class A if he has Class A or Class

C service credited[; as if he had been a member of Class A-3 if the annuitant has Class A-3 State service credited; or as if he had been a member of Class A-4 if the annuitant has Class A-4 service credited], less the amount transferred to the members' savings account shall be transferred from the State Police benefit account to the State accumulation account. Upon subsequent retirement other than as an officer of the Pennsylvania State Police the actuarial reserve remaining in the State Police benefit account shall be transferred to the appropriate reserve account.

§ 5937. Enforcement officers' benefit account.

(a) Credits and charges to account.--The enforcement officers' benefit account shall be the ledger account to which shall be credited moneys transferred from the enforcement officers' retirement account in the State Stores Fund according to the provisions of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, and any additional Commonwealth or other employer contributions provided for in section 5507 (relating to contributions **to the system** by the Commonwealth and other employers) which are creditable to the enforcement officers' benefit account. The enforcement officers' benefit account shall be credited with the required interest. In addition, upon the filing of an application for an annuity by a member who is an enforcement officer of the Pennsylvania Liquor Control Board, the total accumulated deductions standing to the credit of the member in the members' savings account and the necessary reserves from the State accumulation account shall be transferred to the enforcement officers' benefit account. Thereafter, the total annuity of such annuitant shall be charged to the enforcement officers' benefit account and paid from the fund.

(b) Transfers from account.--Should the said annuitant be subsequently restored to active service **as a member of the system or as a participant in the plan**, the present value of the member's annuity at the time of reentry into State service shall be transferred from the enforcement officers' benefit account and placed to his individual credit in the members' savings account. In addition, the actuarial reserve for his annuity [calculated as if he had been a member of Class A if the annuitant does not have any Class AA, Class A-3 or Class A-4 service credited; as if he had been a member of Class AA if the annuitant does have Class AA service credited; as if he had been a member of Class A-3 if the annuitant has Class A-3 State service credited; or as if he had been a member of Class A-4 if the annuitant has Class A-4 service credited], less the amount transferred to the members' savings account shall be transferred from the enforcement officers' benefit account to the State accumulation account. Upon subsequent retirement other than as an enforcement officer the actuarial reserve remaining in the enforcement officers' benefit account shall be transferred to the appropriate reserve account.

§ 5938. Supplemental annuity account.

The supplemental annuity account shall be the ledger account to which shall be credited all contributions from the Commonwealth and other employers in accordance with section 5507(b) (relating to contributions **to the system** by the Commonwealth and other employers) for the payment of the supplemental annuities provided in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994), 5708.4 (relating to special

supplemental postretirement adjustment), 5708.5 (relating to supplemental annuities commencing 1998), 5708.6 (relating to supplemental annuities commencing 2002), 5708.7 (relating to supplemental annuities commencing 2003) and 5708.8 (relating to special supplemental postretirement adjustment of 2002) made before July 1, 2010, the amount transferred from the State accumulation account to provide all additional reserves necessary as of June 30, 2010, to pay such supplemental annuities and adjustments, and the amounts transferred from the State accumulation account to provide all additional reserves necessary as a result of supplemental annuities enacted after December 31, 2009. The supplemental annuity account shall be credited with valuation interest. The reserves necessary for the payment of such supplemental annuities shall be transferred from the supplemental annuity account to the annuity reserve account as provided in section 5935 (relating to annuity reserve account).

§ 5939. Interest reserve account.

The interest reserve account shall be the ledger account to which shall be credited all income earned by the fund and to which shall be charged all administrative and investment expenses incurred by the fund. At the end of each year the required interest shall be transferred from the interest reserve account to the credit of each of the accounts **of the fund** in accordance with the provisions of this subchapter. In addition, at the end of each accounting period, the interest reserve account shall be credited or charged with all recognized changes in the market valuation of the investments of the fund. The administrative and investment expenses of the board **relating to the administration of the system and investments of the fund** shall be paid from the fund out of earnings. Any surplus or deficit in the interest reserve account at the end of each year shall be transferred to the State accumulation account.

§ 5951. State guarantee **regarding the system.**

The required interest charges payable, the maintenance of reserves in the fund, and the payment of all annuities and other benefits granted by the board **from the system** under the provisions of this part **relating to the establishment and administration of the system** are hereby made obligations of the Commonwealth. All income, interest, and dividends derived from deposits and investments **of the system** authorized by this part shall be used for the payment of the said obligations of the Commonwealth **and shall not be used for any obligation of the plan or trust.**

§ 5953. Taxation, attachment and assignment of funds.

(a) General rule.--

(1) Except as provided in paragraphs (2), (3) and (4), the right of a person to any benefit or right accrued or accruing under the provisions of this part and the moneys in the fund **and the trust** are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election, the provisions of Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, or any other process whatsoever, **and no participant or beneficiary, successor payee or alternate payee of a participant shall have the ability to commute, sell, assign, alienate, anticipate, mortgage, pledge, hypothecate, commutate or otherwise transfer or convey any benefit or interest in an individual investment account or rights to receive or direct distributions under this part or under agreements entered into under this part except as provided**

in this part, and in the case of either a member or a participant except for a set-off by the Commonwealth in the case provided in this paragraph, and shall be unassignable except to the Commonwealth in the case of a member **or participant** who is terminating State service and has been determined to be obligated to the Commonwealth for the repayment of money owed on account of his employment.

(2) **(i)** Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act, and by or pursuant to section 16(b) of Article V of the Constitution of Pennsylvania. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.

(ii) In accordance with section 16(b) of Article V of the Constitution of Pennsylvania and notwithstanding this paragraph, the Public Employee Pension Forfeiture Act, or 42 Pa.C.S. § 3352 (relating to pension rights), the accumulated mandatory participant contributions and accumulated voluntary contributions standing to the credit of a participant shall not be forfeited but shall be available for payment of fines and restitution as provided by law. In accordance with section 16(b) of Article V of the Constitution of Pennsylvania, amounts in the trust that have been ordered to be distributed to an alternate payee as the result of an equitable distribution of marital property as part of an approved domestic relations order entered before the date of the order or action in a court or other tribunal resulting in a forfeiture of a participant's interest in the trust shall not be subject to the provisions of the Public Employee Pension Forfeiture Act or 42 Pa.C.S. § 3352. Any accumulated employer defined contributions forfeited as a result of this paragraph or other law shall be retained by the board and notwithstanding sections 5812(2) (relating to powers and duties of board), 5815 (relating to expenses) and 5902(c) (relating to administrative duties of the board) used for the payment of expenses of the plan.

(3) Rights under this part shall be subject to attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(4) Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this paragraph, a "distributee" includes a member [and], **a participant**, a member's surviving spouse [and], **a participant's surviving spouse**, a member's former spouse who is an alternate payee under an approved domestic relations order[.], **a participant's former spouse who is an alternate payee under an approved domestic relations order and anyone else authorized under the IRC and the plan terms approved by the board to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover.** For purposes of this paragraph, the term "eligible rollover distribution" has the meaning given such term by IRC § 402(f)(2)(A), and "eligible

retirement plan" has the meaning given such term by IRC § 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in IRC § 408(a) and (b).
(b) Authorized payments from fund **and trust**.--

(1) The board shall be authorized to pay from the fund **and the trust** in the case of a member **or participant** who is terminating service, the amount determined after certification by the head of the department that the member **or participant** is so obligated, and after review and approval by the department or agency's legal representative or upon receipt of an assignment from the member **or participant** in the amount so certified[.], **except that no payment shall be made from the individual investment account of a participant until the participant otherwise applies for and receives a distribution and shall not exceed the amount of the distribution.**

(2) In the case of a participant whose former spouse is an alternate payee of an equitable distribution of marital assets under an approved domestic relations order, a lump sum of the alternate payee's interest in the participant's vested accumulated total defined contributions. This paragraph shall apply without regard to whether the participant has not terminated, is terminating or has terminated State service.

§ 5953.1. Approval of domestic relations orders.

(a) Certification **regarding members**.--A domestic relations order **pertaining to a member of the system** shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if that order meets all of the following:

(1) Requires the system to provide any type or form of benefit or any option **applicable to members** already provided under this part.

(2) Requires the system to provide no more than the total amount of benefits than the member would otherwise receive (determined on the basis of actuarial value) unless increased benefits are paid to the member or alternate payee based upon cost-of-living increases or increases based on other than actuarial value.

(3) Specifies the amount or percentage of the member's benefits to be paid by the system to each such alternate payee or the manner in which such amount or percentage is to be determined.

(4) Specifies the retirement option to be selected by the member upon retirement or states that the member may select any retirement option offered by this part upon retirement.

(5) Specifies the name and last known mailing address, if any, of the member and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the system.

(6) Does not grant an alternate payee any of the rights, options or privileges of a member under this part.

(7) Requires the member to execute an authorization allowing each alternate payee to monitor the member's compliance with the terms of the domestic relations order

through access to information concerning the member maintained by the system. An authorization granted under this section shall be construed as an authorization for the alternate payee to receive information concerning the administration, calculation and payment of the alternate payee's share of the benefits payable under this part and not as an authorization to exercise the rights afforded to members or to obtain information which is not related to the administration, calculation and payment of the alternate payee's share of the benefits payable under this part.

(a.1) Certification regarding participants.--A domestic relations order pertaining to a participant shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if the order meets all of the following:

(1) Does not require the plan to provide a type or form of benefit or an option applicable to members of the system or participants in the plan.

(2) Does not require the segregation of the alternate payee's share of the participant's individual investment account into a subaccount or newly established individual account titled in the name of the alternate payee.

(3) Does not require the plan to recover or distribute any funds that were distributed to the participant or at the participant's direction prior to the approval of the domestic relations order by the secretary of the board or his designated representative.

(4) Requires the plan to pay to the alternate payee no more than the lesser of the vested amount of the participant's individual investment account specified by the domestic relations order or the vested amount of the participant's individual investment account as of the date of the transfer of the alternate payee's share to the alternate payee.

(5) States that the plan shall not be required to recoup or make good for losses in value to the participant's individual investment account incurred between the date of the valuation of the account used for equitable distribution purposes and the date of distribution to the alternate payee.

(6) Specifies the amount or percentage of the participant's individual investment account to be paid to the alternate payee and the date upon which the valuation is based.

(7) Specifies the name and last known mailing address, if any, of the participant and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the plan.

(8) Does not grant an alternate payee the rights, privileges or options available to a participant.

(9) Requires the participant to execute an authorization allowing each alternate payee to monitor the participant's compliance with the terms of the domestic relations order through access to information concerning the participant maintained by the plan. An authorization granted under this section shall be construed as an authorization for the alternate payee to receive information concerning the participant that relates to the administration, calculation and payment of the alternate payee's share of the participant's account and not as an authorization to exercise the rights afforded to participants or obtain information

that is not related to the administration, calculation and payment of the alternate payee's share of the participant's individual investment account.

(10) Requires the immediate distribution of the alternate payee's share of the participant's individual investment account, which may be made by direct payment, eligible rollover or trustee-to-trustee transfer to another eligible plan or qualified account owned by the alternate payee.

(11) In the case of a participant who is currently receiving distributions from the plan as of the date the domestic relations order is approved by the secretary of the board or his designated representative, may not order the board to pay the alternate payee more than the vested balance available in the participant's individual investment account as of the date the order is approved or require that distributions continue to the alternate payee after the death of the participant and final settlement of the participant's individual investment account.

(b) Determination by secretary.--Within a reasonable period after receipt of a domestic relations order, the secretary of the board, or his designated representative, shall determine whether [this] **the** order is an approved domestic relations order and notify the member **or participant** and each alternate payee of this determination. Notwithstanding any other provision of law, the exclusive remedy of any member, **participant** or alternate payee aggrieved by a decision of the secretary of the board, or his designated representative, shall be the right to an adjudication by the board under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure) with appeal therefrom to the Commonwealth Court under 2 Pa.C.S. Ch. 7 (relating to judicial review) and 42 Pa.C.S. § 763(a)(1) (relating to direct appeals from government agencies).

(c) Other orders.--The requirements for approval identified in [subsection (a)] **subsections (a) and (a.1)** shall not apply to any domestic relations order which is an order for support as the term is defined at 23 Pa.C.S. § 4302 (relating to definitions) or an order for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages). These orders shall be approved to the extent that they do not attach moneys in excess of the limits on attachments as established by the laws of the United States and this Commonwealth[.], **require distributions of benefits in a manner that would violate the laws of the United States, any other state or this Commonwealth or require the distribution of funds for support or enforcement of arrearages against a participant who is not receiving distributions from the plan at the time the order is entered. These orders may be approved notwithstanding any other provision of this part or the plan that would require a distribution of accumulated employer defined contributions in the form of an annuity or to require the purchase of an annuity.**

(d) Obligation discharged.--Only the requirements of this part and any regulations promulgated hereunder shall be used to govern the approval or disapproval of a domestic relations order. Therefore, if the secretary of the board, or his designated representative, acts in accordance with the provisions of this part and any promulgated regulations in approving or disapproving a domestic relations order, then the obligations of the system **or the plan** with respect to such approval or disapproval shall be discharged.
§ 5953.2. Irrevocable beneficiary.

Notwithstanding any other provision of this part, a domestic relations order may provide for an irrevocable beneficiary. A domestic relations order requiring the nomination of an irrevocable beneficiary shall be deemed to be one that requires a member **or participant** to nominate an alternate payee as a beneficiary and that prohibits the removal or change of that beneficiary without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, after the member **or participant** makes such nomination, in which case the irrevocable beneficiary so ordered by the court cannot be changed by the member **or participant** without approval by the court.

§ 5953.3. Irrevocable survivor annuitant.

Notwithstanding any other provisions of this part, a domestic relations order **pertaining to a member** may provide for an irrevocable survivor annuitant. A domestic relations order requiring the designation of an irrevocable survivor annuitant shall be deemed to be one that requires a member to designate an alternate payee as a survivor annuitant and that prohibits the removal or change of that survivor annuitant without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, in which case the irrevocable survivor annuitant so ordered by the court cannot be changed by the member without approval by the court. A person ineligible to be designated as a survivor annuitant may not be designated as an irrevocable survivor annuitant.

§ 5953.4. Amendment of approved domestic relations orders.

(a) Deceased alternate payee.--In the event that the alternate payee predeceases the member **or the participant** and there are benefits payable to the alternate payee, the divorce court may amend the approved domestic relations order to substitute a person for the deceased alternate payee to receive any benefits payable to the deceased alternate payee.

* * *

Section 329. Title 71 is amended by adding a section to read:

§ 5953.6. Irrevocable successor payee.

(a) Condition.--Notwithstanding any other provision of this part, a domestic relations order **pertaining to a participant** may provide for an irrevocable successor payee if the participant is receiving a payment under a payment option provided by the board that allows for a successor payee.

(b) Determination.--A domestic relations order requiring the designation of an irrevocable successor payee is an order which:

- (1) requires a participant who is receiving payments from an annuity or other distribution option to designate an alternate payee as a successor payee; and
- (2) except by operation of law, prohibits the removal or change of the successor payee without approval of a court of competent jurisdiction.

(c) Certification.--A domestic relations order under subsection (b) may be certified as an approved domestic relations order by the secretary of the board or his designated representative. If a domestic relations order is certified under this subsection, the irrevocable successor payee ordered by the

court shall not be changed by the participant without approval by the court.

(d) **Ineligibility.**--A person ineligible to be designated as a successor payee shall not be designated as an irrevocable successor payee. A court shall not name an irrevocable successor payee if the alternate payee is eligible to receive a lump sum distribution of the alternate payee's portion of the marital portion of the pension benefit.

Section 330. Sections 5954, 5955, 5955.2(d) and 5957 of Title 71 are amended to read:

§ 5954. Fraud and adjustment of errors.

(a) **Penalty for fraud.**--Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this system **or plan** in any attempt to defraud the system **or plan** as a result of such act shall be guilty of a misdemeanor of the second degree.

(b) **Adjustment of errors.**--Should any change or mistake in records result in any member, **participant**, beneficiary [or], survivor annuitant **or successor payee** receiving from the system **or plan** more or less than he would have been entitled to receive had the records been correct, then regardless of the intentional or unintentional nature of the error and upon the discovery of such error, the board shall correct the error and **if the error affected contributions to or payments from the system, then so far as practicable shall adjust the payments which may be made for and to such person in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid. If the error affected contributions to or payments from the plan, the board shall take action as provided for in the plan document.**

§ 5955. Construction of part.

(a) **Exclusive source of rights and benefits.**--Regardless of any other provision of law, pension and benefit rights of State employees shall be determined solely by this part or any amendment thereto[,] **or the plan document established by the board;** and no collective bargaining agreement nor any arbitration award between the Commonwealth and [its] **other employers and the Commonwealth's and other employer's** employees or their collective bargaining representatives shall be construed to change any of the provisions herein, to require the board to administer pension or retirement benefits not set forth in this part **or not established by the board in the plan document, to require the board to modify, amend or change any of the terms and provisions of the plan document, or to** otherwise require action by any other government body pertaining to pension or retirement benefits or rights of State employees. Notwithstanding the foregoing, any pension or retirement benefits or rights previously so established by or as a result of an arbitration award shall remain in effect after the expiration of the current collective bargaining agreement between the State employees so affected and the Commonwealth until the expiration of each of the collective bargaining agreements in effect on January 1, 2011, at which time the classes of membership and resulting member contribution rates and contributions for creditable nonstate service, eligibility for vesting, withdrawal and superannuation annuities, optional modification of annuities and other terms and conditions related to class of membership shall be as determined by this part for employees covered by those and successor collective bargaining agreements. For purposes of administering this part, for those State employees who are members of each such collective

bargaining unit, the date January 1, 2011, contained in this part, except in this section, shall be replaced with the date of the day immediately following the expiration of each such collective bargaining agreement. The provisions of this part insofar as they are the same as those of existing law are intended as a continuation of such laws and not as new enactments. The provisions of this part shall not affect any act done, liability incurred, right accrued or vested, or any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any repealed laws.

(b) (Reserved).

(c) Officer or member of the Pennsylvania State Police.--

(1) Notwithstanding a provision of subsection (a) or section 12.1 of the act of November 23, 2010 (P.L.1269, No.120), regarding the continued effectiveness of pension or retirement benefits or rights previously established by or as a result of a binding arbitration award issued before July 1, 1989, under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, and implemented by the board, the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award of a State employee who first becomes a State police officer on or after January 1, 2019, shall be determined using only service performed and compensation and eligibility points earned as an officer or member of the Pennsylvania State Police or while on USERRA leave from service as an officer or member of the Pennsylvania State Police and provided that service credit and eligibility points for service as an officer or member of the Pennsylvania State Police shall be adjusted for any other concurrent service as a State employee.

(2) Any service other than service as an officer or member of the Pennsylvania State Police performed by a State employee eligible for a benefit under the binding arbitration under paragraph (1) shall be used to determine benefits as provided in this part in addition to any benefit an officer or member of the Pennsylvania State Police is eligible to receive under the binding arbitration award as set forth in this subsection.

(3) (Reserved).

(4) A State employee who first becomes a State police officer on or after January 1, 2019, who does not have 20 or more eligibility points as an officer or member of the Pennsylvania State Police or from USERRA leave from service as an officer or member of the Pennsylvania State Police and who terminates State service on or after January 1, 2019, shall be eligible to receive a maximum single life annuity before optional modification under section 5705 (relating to member's options) equal to the maximum single life annuity that the State employee is eligible to receive under this part attributable to all credited service, compensation and eligibility points.

(5) Except as otherwise provided under this part, service as a State police officer credited in the system shall not operate to prevent any State employee from being a participant in the plan for any State service that is not service as a Class A-5 exempt employee that would otherwise result in participation in the plan. Any benefit resulting from participation in the plan shall be in addition to any benefit a State police officer may be eligible to receive as a member of the system.

(6) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:

"Binding arbitration award." A binding arbitration award issued before July 1, 1989, under the Policemen and Firemen Collective Bargaining Act, and implemented by the board.

(7) For the determination of the entire annuity under this subsection and any applicable binding arbitration award, any salary or compensation for service as a Class A-5 exempt employee by a State employee who first became a member of the system on or after January 1, 2019, shall not include remuneration received in any pay period for voluntary overtime service or duty that exceeds 10% of the State employee's base salary or wages in that pay period.

(d) Adverse inference.--Nothing in this part shall be construed to mean that the limitations on benefits or other requirements under IRC § 401(a) or other applicable provisions of the IRC which are applicable to participants in the plan do not apply to the participants or to members of the system and the benefits payable under this part.

§ 5955.2. Construction of part with respect to the Internal Revenue Code.

* * *

(d) References to Internal Revenue Code of 1986 or the **Uniformed Services Employment and Reemployment Rights Act**.--References in this part to provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or the **Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149)**, including for this purpose administrative regulations promulgated under [that act] **the acts**, are intended to include such laws and regulations as are in effect on the effective date of this section and as they may be amended or supplemented or supplanted by successor provisions after the effective date of this section.

* * *

§ 5957. Independent Fiscal Office study.

The Independent Fiscal Office shall study and analyze the implementation of shared-risk contributions under section 5501.1 (relating to shared-risk member contributions [for Class A-3 and Class A-4 service] **and shared-gain adjustments to regular member contributions**) and its impact on the system. The study shall be completed by December 31, 2015, and shall be transmitted to the Appropriations Committee and the Finance Committee of the Senate, the Appropriations Committee and the Finance Committee of the House of Representatives and to the Governor.

Section 331. Title 71 is amended by adding a section to read:

§ 5958. **Public Pension Management and Asset Investment Review Commission.**

(a) **Establishment**.--A Public Pension Management and Asset Investment Review Commission shall be established, which shall be composed of five appointees, one appointed by each of the following:

- (1) The Governor.
- (2) The President pro tempore of the Senate.
- (3) The Minority Leader of the Senate.
- (4) The Speaker of the House of Representatives.
- (5) The Minority Leader of the House of Representatives.

The appointees shall be investment professionals and retirement advisors and shall be appointed within 90 days of the effective date of this section.

(b) Duties.--The duties of the Public Pension Management and Asset Investment Review Commission are as follows:

(1) Study the performance of current investment strategies and procedures of the system, comparing realized rates of return to established benchmarks and considering associated fees paid for active and passive management.

(2) Study the costs and benefits of both active and passive investment strategies in relation to future investment activities of the State Employees' Retirement System.

(3) Study alternative future investment strategies with available assets of the State Employees' Retirement System that will maximize future rates of return net of fees.

(3.1) The commission shall evaluate and make recommendations on:

(i) Improving investment fee transparency on alternative investments as specified in the Standardized Reporting Guidelines of the Institutional Limited Partners Association.

(ii) Implementing the recommendations of the Society of Actuaries Blue Ribbon Panel on stress testing, to test the ability of the plan to withstand a period of investment returns above or below the level of assumed return.

(4) Publish extensive and detailed findings online, including findings about:

(i) assets;

(ii) returns;

(iii) financial managers;

(iv) consultants;

(v) requests for proposals; and

(vi) investment performance measured against benchmarks.

(5) Recommend the lowest amount of investment fees to be paid by the board for the board to achieve the board's anticipated annual rate of return and to develop recommendations to reduce expenditures to generate actuarial savings of \$1,500,000,000 over 30 years from the effective date of this section.

(6) Report its findings and recommendations to the Governor and the General Assembly within six months of its first organizational meeting.

(c) Quorum.--A majority of appointed members shall constitute a quorum for the purpose of conducting business. The members shall select one of their number to be chairperson and another to be the vice chairperson.

(d) Transparency and ethics.--The Public Pension Management and Asset Investment Review Commission shall be subject to the following laws:

(1) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(2) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(3) 65 Pa.C.S. Ch. 7 (relating to open meetings).

(4) 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(e) Information gathering.--The Public Pension Management and Asset Investment Review Commission may conduct hearings and otherwise gather pertinent information and analysis that it considers appropriate and necessary to fulfill its duties.

(f) Logistical and other support.--The Public Pension Management and Asset Investment Review Commission shall receive

logistical and other support from the Joint State Government Commission and may employ additional temporary staff as needed.

(g) Reimbursement.--The members of the Public Pension Management and Asset Investment Review Commission shall be reimbursed for reasonable expenses.

(h) Expiration.--The Public Pension Management and Asset Investment Review Commission shall expire 60 days after delivery of its report in accordance with subsection (b) (5). Any unspent appropriation shall lapse back to the General Fund.

(i) Administrative costs and payment.--None of the administrative costs and expenses of the Public Pension Management and Asset Investment Review Commission, including, but not limited to, member and employee salary, wages, benefits and other forms of compensation or remuneration, shall be paid or appropriated from the fund or the trust.

ARTICLE IV

Section 401. The following shall apply:

(1) The following provisions shall not create in a member of the Public School Employees' Retirement System, a participant in the School Employees' Defined Contribution Plan or another person claiming an interest in the account of a member or participant an express or implied contractual right in the provisions nor in a construction of 24 Pa.C.S. Pt. IV, 51 Pa.C.S. or rules or regulations adopted under 24 Pa.C.S. Pt. IV or 51 Pa.C.S.:

(i) A provision of this act which amends 51 Pa.C.S. or 24 Pa.C.S. Pt. IV in relation to requirements for any of the following:

(A) (Reserved).

(B) Qualification of the School Employees' Defined Contribution Plan as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 401(a) and 415(b)), or compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149).

(C) Domestic relations orders regarding alternate payees of participants in the School Employees' Defined Contribution Plan.

(ii) A construction of 24 Pa.C.S. Pt. IV or 51 Pa.C.S. or rules or regulations adopted under 24 Pa.C.S. Pt. IV or 51 Pa.C.S. or a term or provision of the School Employees' Defined Contribution Plan or School Employees' Defined Contribution Trust, established by statute or in the plan document or trust declaration or by contract with providers of investment and administrative services to the School Employees' Defined Contribution Plan or the School Employees' Defined Contribution Trust.

(2) The provisions of 24 Pa.C.S. Pt. IV shall remain subject to the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act, and regulations under those statutes, and the General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions as may be required in order to maintain the qualification of the Public School Employees' Retirement System and the School Employees' Defined Contribution Plan as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act.

(3) The following provisions shall not create in a member of the State Employees' Retirement System, a

participant in the State Employees' Defined Contribution Plan or another person claiming an interest in the account of a member or participant an expressed or implied contractual right in the provisions nor in a construction of 51 Pa.C.S. § 7306, 71 Pa.C.S. Pt. XXV, or rules or regulations adopted under 51 Pa.C.S. § 7306 or 71 Pa.C.S. Pt. XXV:

(i) A provision of this act which amends 51 Pa.C.S. § 7306 or 71 Pa.C.S. Pt. XXV, in relation to requirements for any of the following:

(A) Qualification of the State Employees' Defined Contribution Plan as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)).

(B) Compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353).

(C) Domestic relations orders regarding alternate payees of participants in the State Employees' Defined Contribution Plan.

(ii) A construction of 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV, or rules or regulation promulgated under 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV, or a term or provision of the State Employees' Defined Contribution Plan or State Employees' Defined Contribution Trust established by statute or in the plan document or trust declaration or by contract with providers of investment and administrative services to the State Employees' Defined Contribution Plan or State Employees' Defined Contribution Trust.

(4) The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act, and regulations promulgated under those statutes.

(5) The General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions of 71 Pa.C.S. Pt. XXV in order to maintain the qualification of the State Employees' Retirement System and the State Employees' Defined Contribution Plan as qualified pension plans under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act. Section 402. The following shall apply:

(1) Nothing in this act shall be construed to mean that a calculation or actuarial method used by the Public School Employees' Retirement Board, its actuaries or the Public School Employees' Retirement System was not in accordance with the provisions of 24 Pa.C.S. Pt. IV or other applicable law prior to the effective date of this paragraph.

(2) Nothing in this act shall be construed to mean that a calculation or actuarial method used by the State Employees' Retirement Board, its actuaries or the State Employees' Retirement System was not in accordance with the provisions of 71 Pa.C.S. Pt. XXV or other applicable law prior to the effective date of this section.

Section 403. (Reserved).

Section 404. The following shall apply:

(1) Notwithstanding any other provision of law:

(i) A change in accrued liability of the State Employees' Retirement System created under this act shall be funded in equal dollar installments over a period of 30 years beginning July 1, 2019.

(ii) A change in accrued liability of the State Employees' Retirement System created under this act by the amendment of 71 Pa.C.S. § 5508(b) shall be funded in equal dollar installments over a period of 30 years beginning July 1, 2022.

(2) (Reserved).

Section 405. The following shall apply:

(1) This act shall be construed and administered in such a manner that the Public School Employees' Retirement System and the School Employees' Defined Contribution Plan shall satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)), other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149). The rules, regulations and procedures adopted and promulgated by the Public School Employees' Retirement Board and the terms and conditions of the plan document and trust declaration adopted by the Public School Employees' Retirement Board may include provisions necessary to accomplish the purpose of this section.

(2) Nothing in this act shall be construed or deemed to imply that any member shall be required to make contributions to the Public School Employees' Retirement System in excess of the limits established by section 415(n)(3)(A)(iii) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415(n)(3)(A)(iii)). A contribution made by a member that is determined to be in excess of the limits shall be refunded to the member in a lump sum subject to withholding for all applicable taxes and penalties as soon as administratively possible after the determination is made. A refund under this subparagraph shall not affect the benefit payable to the member and shall not be treated as or deemed to be a withdrawal of the member's accumulated deductions.

(3) Nothing in this act shall be construed to mean that an interpretation or application of 24 Pa.C.S. Pt. IV or benefits available to members of the Public School Employees' Retirement System was not in accordance with 24 Pa.C.S. Pt. IV or other applicable law, including the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act before the effective date of this section.

Section 406. The following shall apply to construction related to Federal law as to the State Employees' Retirement System:

(1) This act shall be construed and administered in a manner that the State Employees' Retirement System and the State Employees' Defined Contribution Plan shall satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)), other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149). The rules, regulations and procedures adopted and promulgated by the State Employees' Retirement Board and the terms and conditions of the plan document and trust declaration adopted by the State Employees' Retirement Board may include provisions necessary to accomplish the purpose of this section.

(2) Nothing in this act shall be construed or deemed to imply that any member shall be required to make contributions to the State Employees' Retirement System in excess of the limits established by section 415(n) (3) (A) (iii) of the Internal Revenue Code of 1986. A contribution made by a member that is determined to be in excess of the limits shall be refunded to the member in a lump sum subject to withholding for all applicable taxes and penalties as soon as administratively possible after the determination is made. A refund under this subparagraph shall not affect the benefit payable to the member and shall not be treated as or deemed to be a withdrawal of the member's accumulated deductions.

(3) Nothing in this act shall be construed to mean that an interpretation or application of 71 Pa.C.S. Pt. XXV or benefits available to members of the State Employees' Retirement System was not in accordance with 71 Pa.C.S. Pt. XXV or other applicable law, including the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act before the effective date of this section.

Section 407. (Reserved).

Section 408. Nothing in this act shall be deemed to permit the restoration of service credit or retirement benefits that:

(1) were or are subject to section 16 of Article V of the Constitution of Pennsylvania or 42 Pa.C.S. § 3352; or

(2) were or are the subject of an order of forfeiture under the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

Section 409. Notwithstanding the amendment of 24 Pa.C.S. § 8501(e) and 71 Pa.C.S. § 5901(e), the Governor's Office of General Counsel shall continue to provide legal counsel and legal services to the Public School Employees' Retirement Board and the State Employees' Retirement Board until such time as each board appoints a chief counsel and such other counsel as it deems necessary to provide it with legal services and through its secretary gives such notice to the General Counsel.

Section 410. No school employee otherwise a member of, eligible to be a member of, or having school or nonschool service credited in a class of service other than Class T-G may cancel, decline or waive membership in such other class of service in order to obtain Class T-G service credit, become a member of Class T-G or elect Class T-G membership.

Section 411. Except as provided under 71 Pa.C.S. § 5306.5, no State employee otherwise a member of, eligible to be a member of or having State or nonstate service credited in a class of service other than Class A-5 or Class A-6 may cancel, decline or waive membership in such other class of service in order to obtain Class A-5 or Class A-6 service credit, become a member of Class A-5 or Class A-6 or elect Class A-5 or Class A-6 membership or to be solely a participant in the plan.

Section 412. Notwithstanding any regulation promulgated by the Public School Employees' Retirement Board, application or interpretation of 24 Pa.C.S. Pt. IV, or administrative practice to the contrary, a member's eligibility deriving from Class T-G or Class T-H service credit for a superannuation annuity or other rights and benefits based upon attaining superannuation age shall be determined by including only those eligibility points actually accrued.

Section 412.1. Notwithstanding any regulation promulgated by the State Employees' Retirement Board, application or interpretation of 71 Pa.C.S. Pt. XXV, or administrative practice to the contrary, the eligibility of a member of the State

Employees' Retirement System deriving from Class A-5 or Class A-6 service credit for a superannuation annuity, withdrawal annuity or other rights and benefits based on attaining a specific age or number of eligibility points or a combination of age and eligibility points shall be determined by including only those eligibility points actually accrued.

Section 413. The following shall apply:

(1) Except as provided under paragraph (2), if a provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application.

(2) The following shall apply:

(i) If the application of the shared-risk provisions of 71 Pa.C.S. Pt. XXV is declared inapplicable to any person by a court or administrative tribunal of competent jurisdiction, the provisions of Pt. XXV relating to shared-gain adjustments to regular member contributions shall be inapplicable to that person.

(ii) The following shall apply:

(A) If the application of any provision of this act relating to membership in Class A-5 or Class A-6 or participation in the State Employees' Defined Contribution Plan is declared invalid to any person for any period of State service, the invalidity shall not affect the application of this act to any other person. The provisions of this act relating to both membership in Class A-5 or Class A-6 and participation in the State Employees' Defined Contribution Plan shall be invalid as to the person for the period of State service for which part of the State service was invalid and that person shall be considered a Class A-5 exempt employee for the service at issue. If a State employee's participation in the State Employees' Defined Contribution Plan is declared invalid for any period of State service, the affected State employee shall return to the State Employees' Defined Contribution Trust any distributions related to the period of State service at issue, shall be granted the status and service credit in the State Employees' Retirement System as if he was a Class A-5 exempt employee and shall be required to make all contributions to the State Employees' Retirement Fund as if he was a Class A-5 exempt employee for the period of State service at issue.

(B) The affected State employee's accumulated mandatory participant contributions and accumulated voluntary contributions shall be transferred to the affected employee's member savings account to the extent necessary to fund that account with the member contributions and interest that would have been standing to the member's account had the State employee been a Class A-5 exempt employee for the period of service at issue. Any remaining balance shall be refunded to the State employee, who also shall be responsible for paying to the fund in a manner and time determined by the State Employees' Retirement Board any additional funds required if the accumulated mandatory participant contributions and accumulated voluntary contributions were not sufficient.

(C) The accumulated employer defined contributions shall be transferred to the State Accumulation Account and no further amount shall be due from the employer or refund paid.

Section 414. Notwithstanding the provisions of 71 Pa.C.S. § 5903(b), the statement for each member prepared by the State Employees' Retirement Board for the periods ending December 31, 2017, December 31, 2018, and December 31, 2019, and any other statements or estimates of benefits prepared by the board pursuant to the State Employees' Retirement Code from the effective date of this section to December 31, 2019, need not reflect the provisions of this act and in the case of the statements for each member for the periods ending on or before December 31, 2019, need not include a projection of the benefit to which the member is entitled upon attainment of superannuation age.

Section 415. Notwithstanding the provisions of 71 Pa.C.S. Pt. XXV, the obligation of the State Employees' Retirement Board to make payments within specified time periods of the receipt of applications for benefits or other information shall not apply from the effective date of this section to December 31, 2019.

Section 416. The following shall apply:

(1) The appointment of the Secretary of Banking and Securities to the membership of the Public School Employees' Retirement Board in the amendment of 24 Pa.C.S. § 8501(a) shall take effect when the first of the two positions currently appointed by the Governor becomes vacant or an incumbent member's term expires. Notification of the expiration or vacancy shall be submitted by the Public School Employees' Retirement Board to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(2) The appointment of the Secretary of Banking and Securities to the membership of the State Employees' Retirement Board and reduction of the number of members appointed by the Governor from six to five in 71 Pa.C.S. § 5901(a) shall take effect when the first of the six positions currently appointed by the Governor that is not held by an annuitant becomes vacant or an incumbent member's term expires. Notification of the expiration or vacancy shall be submitted by the State Employees' Retirement System to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

Section 417. This act shall take effect immediately.

APPROVED--The 12th day of June, A.D. 2017.

TOM WOLF