

## CHAPTER 103

**AN ACT** concerning the Public Employees' Retirement System of New Jersey, the Teachers' Pension and Annuity Fund, the Defined Contribution Retirement Program, the State Health Benefits Program, and the State Investment Council, revising various parts of the statutory law and supplementing P.L.1961, c.49 (C.52:14-17.25 et seq.).

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:66-29 is amended to read as follows:

Members' contribution rate.

18A:66-29. Members enrolled in the retirement system on or after July 1, 1994 shall contribute 5% of compensation to the system. Members enrolled in the system prior to July 1, 1994 shall contribute 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, provided, however, that any member enrolled before July 1, 1994, whose full contribution rate under the system prior to the revisions by this act was less than 6%, shall pay 4% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, and 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1996.

Members enrolled in the retirement system on or after July 1, 2007 shall contribute 5.5% of compensation to the system. Members enrolled in the system prior to July 1, 2007 shall contribute 5.5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 2007.

2. Section 25 of P.L.1954, c.84 (C.43:15A-25) is amended to read as follows:

C.43:15A-25 Annuity savings fund; members' contributions.

25. a. The annuity savings fund shall be the fund in which shall be credited accumulated deductions and contributions by members or on their behalf to provide for their allowances. A single account shall be established in this fund for each person who is or shall become a member and all contributions deducted from each such member's compensation shall be credited to his account regardless of the number of positions a member might hold or the number of employers as he might have.

b. (1) Members enrolled in the retirement system on or after July 1, 1994 shall contribute 5% of compensation to the system. Members enrolled in the system prior to July 1, 1994 shall contribute 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, provided, however, that any member enrolled before July 1, 1994, whose full contribution rate under the system prior to the revisions by this act was less than 6%, shall pay 4% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, and 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1996.

(2) Members enrolled in the retirement system on or after July 1, 2007 who are:  
employees of the State, other than employees of the Judicial Branch;  
employees of an independent State authority, board, commission, corporation, agency or organization;

employees of a local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, State-operated school district, charter school, county college, any officer, board, or commission under the authority of the Commissioner of Education or of the State Board of Education, and any other public entity which is established pursuant to authority provided by Title 18A of the New Jersey Statutes; or

employees of a State public institution of higher education, other than employees of the University of Medicine and Dentistry of New Jersey

shall contribute 5.5% of compensation to the system, and all such members described above enrolled in the system prior to July 1, 2007 shall contribute 5.5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 2007.

Members enrolled in the retirement system on or after July 1, 2008, other than those described in the paragraph above, shall contribute 5.5% of compensation to the system. Members enrolled in the system prior to July 1, 2008, other than those described in the paragraph above, shall contribute 5.5% of compensation to the system effective with the payroll period that begins immediately after July 1, 2008.

c. The retirement system shall certify to each State department or subdivision thereof, and to each branch of the State service not included in a State department, and to every other employer, the proportion of each member's compensation to be deducted and to facilitate the making of deductions the retirement system may modify the deduction required by a member by such an amount as shall not exceed 1/10 of 1% of the compensation upon the basis of which the deduction is to be made.

If payment in full, representing the monthly or biweekly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 6% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

d. Every employee to whom this act applies shall be deemed to consent and agree to any deduction from his compensation required by this act and to all other provisions of this act. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other perquisites, or tenure of a person to whom this act applies, or shall apply, and notwithstanding that the minimum salary, pay, or compensation or other perquisites provided by law for him shall be reduced thereby, payment, less such deductions, shall be a full and complete discharge and acquittance of all claims and demands for service rendered by him during the period covered by such payment.

3. Section 2 of P.L.1972, c.167 (C.43:15A-136) is amended to read as follows:

C.43:15A-136 Accounts in annuity savings fund; contributions.

2. Notwithstanding the provisions of section 25 of P.L.1954, c.84 (C.43:15A-25), (a) a separate account shall be established in the annuity savings fund for each member of the Legislature and all contributions based on legislative salaries shall be credited to this account as distinguished from any other account that the legislator may have as a result of other public service covered by the retirement system; and (b) the member of the Legislature shall contribute at a rate equal to 5% of his legislative salary, which contribution shall be deducted from his salary at the time or times it is paid, and which shall be exclusive of any other contribution required of the member for Social Security, contributory death benefits or

deductions for any other purpose. The contribution rate shall be 5.5% of the member's legislative salary beginning July 1, 2007.

A member of the Legislature who is enrolled on the basis of other public service before, during, or after his service as a member of the Legislature shall contribute for such other service at the rate of contribution required of other members as provided by section 25.

4. Section 3 of P.L.1972, c.167 (C.43:15A-137) is amended to read as follows:

C.43:15A-137 Purchase of service credit; adjustment of contributions.

3. Notwithstanding any other law regarding the purchase of service credit in the retirement system, a member of the Legislature may purchase credit for all previous legislative service by paying into the annuity savings fund 5%, and 5.5% after July 1, 2007, of the salaries he received in such prior periods, in which event he shall agree to make such purchase within 1 year after the effective date of this supplementary act or during the first year of membership as a member of the Legislature; if the request for the purchase is received beyond the 1-year period, interest shall be added to the amount of the arrearage obligation at the regular interest rate. The purchase of such credit may be by lump sum or in regular installments over a maximum period of 10 years.

In the case of any member of the Legislature coming under the provisions of this section, full pension credit for the period of service for which arrears are being paid by the member shall be given upon the payment of at least 1/2 of the total arrearage obligation and the completion of 1 year of membership and the making of such arrears payments, except that in the case of retirement pursuant to P.L.1954, c.84, sections 38, 41(b), 48 and 61 and to the provisions of this supplementary act, the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation of the member.

The contributions of all members of the Legislature related to their legislative service shall be adjusted for all years prior to the effective date of this supplementary act to determine either an overpayment or shortage in the separate account, requiring the payment of contributions at the percentage of salary provided for in this section. Overpayments shall be refunded and shortages shall be established as arrearage obligations to be satisfied in the same manner as any other arrearage obligation established pursuant to this section.

No member shall receive credit for any legislative service for which he has not contributed as required by this section.

5. Section 3 of P.L.2001, c.259 (C.43:15A-144) is amended to read as follows:

C.43:15A-144 Separate accounts, contributions.

3. a. Notwithstanding the provisions of section 25 of P.L.1954, c.84 (C.43:15A-25) to the contrary, a separate account shall be established in the annuity savings fund for each workers compensation judge and all contributions based on the judge's salary shall be credited to this account. This account shall be separate from any other account that the member may have as a result of other public service covered by the retirement system.

b. A workers compensation judge shall contribute at a rate equal to 5% of the judge's salary, which contribution shall be deducted from the salary at the time or times it is paid, and which shall be exclusive of any other contribution required of the member for Social Security, contributory death benefits or deductions for any other purpose. The contribution

rate shall be 5.5% of the judge's salary effective with the payroll period for which the beginning date is closest to July 1, 2007.

c. A workers compensation judge who is enrolled on the basis of other public service before, during, or after service as a judge of compensation shall contribute for such other service at the rate of contribution required of other members as provided by section 25.

6. Section 3 of P.L.2007, c.92 (C.43:15C-3) is amended to read as follows:

C.43:15C-3 Employee, employer contribution.

3. a. The employer shall reduce the compensation of each participant in the Defined Contribution Retirement Program and pay over to the plan provider for the benefit of the participant an employee contribution for the retirement benefit contract or contracts equal to 5.5% of the participant's base salary. At the option and request of a participant, the employer shall reduce the compensation of the participant for additional contributions as permitted by the federal Internal Revenue Code. The intervals for reductions and payments shall be determined by the Division of Pensions and Benefits.

All participant contributions shall be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. s.414(h)).

b. The employer shall make payment of the employer contributions to the program at a rate equal to 3% of the employee's base salary, which moneys shall be paid to the designated provider for the benefit of each participant. Additionally, employers shall pay their share of the administrative costs of the program. The intervals for all payments and the allocation of administrative costs shall be determined by the Division of Pensions and Benefits including due dates and penalties for non compliance.

c. No employer contributions shall be vested in a participant until after the participant commences the second year of employment unless the participant, at the time of initial employment, either (1) participates in a program substantially similar to the retirement program, or (2) is a member of another State-administered pension fund or retirement system.

7. N.J.S.18A:66-37 is amended to read as follows:

Early retirement.

18A:66-37. Should a member resign after having established 25 years of creditable service before reaching age 60, the member may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof the member desires to be retired. The member shall receive, in lieu of the payment provided in N.J.S.18A:66-34, an annuity which is the actuarial equivalent of the member's accumulated deductions and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1/64 of the member's final compensation for each year of service credited as class A service and 1/55 of the member's final compensation for each year of service credited as class B service, calculated in accordance with N.J.S.18A:66-44, reduced:

(a) by 1/4 of 1% for each month that the member lacks of being age 55; or

(b) for a person who becomes a member of the retirement system on or after July 1, 2007, by 1/4 of 1% for each month that the member lacks of being age 55 and by 1/12 of 1% for each month that the member lacks of being age 60 but over age 55; provided, however, that

upon the receipt of proper proofs of the death of such a member there shall be paid to the member's beneficiary an amount equal to  $\frac{3}{16}$  of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service or in the year of the member's highest contractual salary, whichever is higher.

Subparagraph (b) of this section shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to N.J.S.18A:66-15.1, but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to N.J.S.18A:66-53.2 after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

The board of trustees shall retire the member at the time specified or at such other time within one month after the date so specified as the board finds advisable.

8. Section 41 of P.L.1954, c.84 (C.43:15A-41) is amended to read as follows:

C.43:15A-41 Withdrawal from service; early retirement; death benefits.

41. a. A member who withdraws from service or ceases to be an employee for any cause other than death or retirement shall, upon the filing of an application therefor, receive all of his accumulated deductions standing to the credit of his individual account in the annuity savings fund, plus regular interest, less any outstanding loan, except that for any period after June 30, 1944, the interest payable shall be such proportion of the interest determined at the regular rate of 2% per annum bears to the regular rate of interest, and except that no interest shall be payable in the case of a member who has less than three years of membership credit for which he has made contributions. He shall cease to be a member two years from the date he discontinued service as an eligible employee, or, if prior thereto, upon payment to him of his accumulated deductions. If any such person or member shall die before withdrawing or before endorsing the check constituting the return of his accumulated deductions, such deductions shall be paid to the member's beneficiary. No member shall be entitled to withdraw the amounts contributed by his employer covering his military leave unless he shall have returned to the payroll and contributed to the retirement system for a period of 90 days.

b. Should a member resign after having established 25 years of creditable service before reaching age 60, he may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in subsection a. of this section, an annuity which is the actuarial equivalent of his accumulated deductions together with regular interest, and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of  $\frac{1}{64}$  of his final compensation for each year of service credited as Class A service and  $\frac{1}{55}$  of his final compensation for each year of service credited as Class B service, calculated in accordance with section 48 (C. 43:15A-48) of this act, reduced:

(a) by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55; or

(b) for a person who becomes a member of the retirement system on or after July 1, 2007, by  $\frac{1}{4}$  of 1% for each month that the member lacks of being age 55 and by  $\frac{1}{12}$  of 1% for each month that the member lacks of being age 60 but over age 55; provided, however, that upon the receipt of proper proofs of the death of such a member there shall be paid to his beneficiary an amount equal to three-sixteenths of the compensation upon which

contributions by the member to the annuity savings fund were based in the last year of creditable service.

Paragraph (b) of this subsection shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to section 14 of P.L.1954, c.84 (C.43:15A-14), but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to section 27 of P.L.1966, c.217 (C.43:15A-57.2) after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

The board of trustees shall retire him at the time specified or at such other time within one month after the date so specified as the board finds advisable.

c. Upon the receipt of proper proofs of the death of a member in service on account of which no accidental death benefit is payable under section 49 there shall be paid to such member's beneficiary:

(1) The member's accumulated deductions at the time of death together with regular interest; and

(2) An amount equal to one and one-half times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

9. N.J.S.18A:66-2 is amended to read as follows:

Definitions.

18A:66-2. As used in this article:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or in behalf of the member, including interest credited to January 1, 1956, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.

c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.

d. (1) "Compensation" means the contractual salary, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year.

(2) In the case of a person who becomes a member of the retirement system on or after July 1, 2007, "compensation" means the amount of the contractual salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year. This paragraph shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-

administered retirement system pursuant to N.J.S.18A:66-15.1, but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to N.J.S.18A:66-53.2 after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

e. "Employer" means the State, the board of education or any educational institution or agency of or within the State by which a teacher is paid.

f. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted to a member from the Teachers' Pension and Annuity Fund, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who had established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified by the retirement system in accordance with N.J.S.18A:66-29.

m. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education, members of the State Department of Education who are certificated, unclassified professional staff and other members of the teaching or professional staff of any class, public school, high school, normal school, model school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any persons under contract or

engagement to perform one or more of these functions. It shall also mean any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in this subsection. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article, including the several funds placed under said system. By that name all its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of



assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided; and provided further that any member classed as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran, whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict, on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship

actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of the operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-

incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

t. (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

u. (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

v. "Parent" means the parent of a member who was receiving at least one-half of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for in N.J.S.18A:66-56.

x. (1) "Spouse," for employees of the State, means the husband or wife, or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), of a member.

(2) Subject to the provisions of paragraph (1) of this subsection, "spouse," for employees of public employers other than the State, means the husband or wife of a member.

(3) A public employer other than the State may adopt a resolution providing that the term "spouse" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

10. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read as follows:

C.43:15A-6 Definitions.

6. As used in this act:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or on behalf of the member, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this act.

c. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this act.

e. "Child" means a deceased member's unmarried child either (1) under the age of 18 or (2) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

f. "Parent" shall mean the parent of a member who was receiving at least 1/2 of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The

dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

g. (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least 1/2 of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

h. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

i. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

j. "Medical board" shall mean the board of physicians provided for in section 17 (C.43:15A-17).

k. "Pension" means payments for life derived from appropriations made by the employer as provided in this act.

l. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted under the provisions of this act, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

m. "Public Employees' Retirement System of New Jersey," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this act including the several funds placed under said system. By that name all of its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

n. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of

earnings on investments based on the market value of the assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this paragraph prior to

August 1, 1966, shall continue to be classed as a veteran whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 90 days' service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is the latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998 and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or



before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

q. (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least 1/2 of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widow" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

r. (1) "Compensation" means the base or contractual salary, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular workday or the regular work year.

(2) In the case of a person who becomes a member of the retirement system on or after July 1, 2007, "compensation" means the amount of base or contractual salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for services as an employee, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular workday or the regular work year. This paragraph shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to section 14 of P.L.1954, c.84 (C.43:15A-14), but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to section 27 of P.L.1966, c.217 (C.43:15A-57.2) after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

In cases where salary includes maintenance, the retirement system shall fix the value of that part of the salary not paid in money which shall be considered under this act.

11. Section 1 of P.L.2007, c.92 (C.43:15C-1) is amended to read as follows:

C.43:15C-1 Defined Contribution Retirement Program; rules, regulations; terms defined.

1. There is hereby established in the Department of the Treasury a Defined Contribution Retirement Program. The program design shall be one that is permitted for governmental plans under the federal Internal Revenue Code as determined by the State Treasurer. The retirement program is deemed to be a pension fund or retirement system for purposes of P.L.1968, c.23 (C.43:3C-1 et seq.).

The State Treasurer may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of sections 1 through 15 of P.L.2007, c.92 (C.43:15C-1 et seq.), except that notwithstanding the provisions of P.L.1968, c.410 to the contrary, the State Treasurer may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the State Treasurer deems necessary to implement the provisions of sections 1 through 15 of P.L.2007, c.92 (C.43:15C-1 et seq.), which shall be effective for a period not to exceed 12 months and shall thereafter be adopted or re-adopted by the State Treasurer in accordance with the provisions of P.L.1968, c.410.

For the purposes of the Defined Contribution Retirement Program:

"Base salary" means a participant's regular base salary; except that for a participant pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, it shall mean the excess over the maximum compensation as specified in that paragraph. It shall exclude overtime or other forms of extra compensation, including but not limited to, longevity lump sum payments, lump sum terminal sick leave or vacation pay, the value of maintenance, individual pay adjustments made within or at the conclusion of the participant's final year of service, retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless the adjustment was made as a result of a general pay adjustment for all personnel of the public office or agency in which the participant is employed, or any unscheduled individual adjustment made in the final year to place the participant at the maximum salary level within salary range.

"Employer" means the State or a political subdivision thereof, or an agency, board, commission, authority or instrumentality of the State or a subdivision, that pays the base salary of a participant for services rendered by the participant.

"Retirement program" means the Defined Contribution Retirement Program established by this section.

12. Section 2 of P.L.2007, c.92 (C.43:15C-2) is amended to read as follows:

C.43:15C-2 Eligibility for participation in the Defined Contribution Retirement Program.

2. a. The following persons shall be eligible and shall participate in the Defined Contribution Retirement Program:

(1) A person who commences service on or after the effective date of this section of P.L.2007, c.92 (C.43:15C-1 et al.) in an elective public office of this State or of a political subdivision thereof, except that it shall not include a person who holds elective public office on the effective date of this section and is enrolled in the Public Employees' Retirement

System while that person continues to hold that elective public office without a break in service. Service in the Legislature shall be considered a single elective public office.

(2) A person who commences service on or after the effective date of this section in an employment, office or position of the State or of a political subdivision thereof, or an agency, board, commission, authority or instrumentality of the State or of a subdivision, pursuant to an appointment by the Governor that requires the advice and consent of the Senate, or pursuant to an appointment by the Governor to serve at the pleasure of the Governor only during his or her term of office. This paragraph shall not be deemed to include a person otherwise eligible for membership in the State Police Retirement System or the Judicial Retirement System.

(3) A person who commences service on or after the effective date of this section in an employment, office or position in a political subdivision of the State, or an agency, board, commission, authority or instrumentality of a subdivision, pursuant to an appointment by an elected public official or elected governing body, that requires the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted ordinance or resolution, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs or the Department of Education, as appropriate to the elected governing body. This paragraph shall not be deemed to include a person otherwise eligible for membership in the Teachers' Pension and Annuity Fund or the Police and Firemen's Retirement System, or a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency, board, commission, authority or instrumentality of a subdivision, or a person who holds a professional license or certificate to perform and is performing as a certified health officer, tax assessor, tax collector, municipal planner, chief financial officer, registered municipal clerk, construction code official, licensed uniform subcode inspector, qualified purchasing agent, or certified public works manager.

(4) A person who is granted a pension or retirement allowance under any pension fund or retirement system established under the laws of this State and elects to participate pursuant to section 1 of P.L.1977, c.171 (C.43:3C-3) upon being elected to public office.

(5) A member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System for whom compensation is defined as the amount of base or contractual salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the federal Insurance Contributions Act, for contribution and benefit purposes in either of those retirement systems, for whom participation in this retirement program shall be with regard to any excess over the maximum compensation only.

b. No person shall be eligible to participate in the retirement program with respect to any public employment, office, or position if:

(1) the base salary for that employment, office, or position is less than \$1,500 per year;

(2) the person is, on the basis of service in that employment, office, or position, eligible for membership or enrolled as a member of another State or locally-administered pension fund or retirement system established under the laws of this State including the Alternate Benefit Program, except as otherwise specifically provided in subsection a. of this section;

(3) the person is receiving a benefit as a retiree from any other State or locally-administered pension fund or retirement system established under the laws of this State, except as provided in section 1 of P.L.1977, c.171 (C.43:3C-3); or

(4) the person is an officer or employee of a political subdivision of this State or of a board of education, or of any agency, authority or instrumentality thereof, who is ineligible for membership in the Public Employees' Retirement System pursuant to section 20 of P.L.2007, c.92 (C.43:15A-7.2).

c. A person eligible and required to participate in the retirement program whose base salary is less than \$5,000 may at the commencement of service in an employment, office or position irrevocably elect to waive participation with regard to that employment, office, or position by filing, at the time and on a form required by the division, a written waiver with the Division of Pensions and Benefits that waives all rights and benefits that would otherwise be provided by the retirement program.

A person eligible and required to participate in the retirement program pursuant to paragraph (5) of subsection a. of this section may elect to waive participation with regard to that employment, office, or position by filing, when first eligible, on a form required by the division, a written waiver with the Division of Pensions and Benefits that waives all rights and benefits that would otherwise be provided by the retirement program. Such a person may thereafter elect to participate in the retirement program by filing, on a form required by the division, a written election to participate in the retirement program and participation in the retirement program pursuant to such election shall commence on the January 1 next following the filing of the election to participate.

d. Service credited to a participant in the Defined Contribution Retirement Program shall not be recognized as service credit to determine eligibility for employer-paid health care benefits in retirement pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), N.J.S.40A:10-16 et seq., P.L.1979, c.391 (C.18A:16-12 et al.) or any other law, rule or regulation.

13. Section 7 of P.L.2007, c.92 (C.43:15C-7) is amended to read as follows:

C.43:15C-7 Insurance benefits under group contract.

7. The benefit under a group contract or contracts providing life insurance shall be in an amount equal to one and one-half the base annual salary of the participant in the retirement program, except that in the event of death after retirement, the amount payable shall equal 3/16 of the participant's base annual salary. "Base annual salary" means the base salary upon which contributions by the participant and the participant's employer to the retirement program were based during the last year of creditable service.

For purposes of this section, a participant shall be deemed to be in service and covered by the group life insurance for a period of official leave of absence without pay when such leave is due to illness or any reason other than illness, with such period to be determined by the Division of Pensions and Benefits, if satisfactory evidence is presented to the division of such official leave of absence. A participant shall be deemed to be on an official leave of absence only if the leave is formally approved by the employer prior to the time the leave commenced and timely notice is filed by the employer with the division. If timely notice is not filed, the employer shall be responsible for the payment of any benefits pursuant to this section if the participant was otherwise eligible for such benefits.

In the event of the death of a participant in active service in the first year of participation as a result of an accident met in the actual performance of duty at some definite time and place, the death benefit payable pursuant to this section shall be computed at the annual rate of base salary.

No beneficiary of a retired participant shall be entitled to receive the death benefits payable in the event of death after retirement pursuant to this section unless the participant

either: had at least 25 years of credited participation in the retirement program established pursuant to this act; or had at least 10 years of such credited participation and had attained 60 years of age and was an actively employed participant in the program in the year immediately preceding initial receipt of a retirement annuity. For a member who is a participant pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, service credit in the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System shall also be considered in determining if the participant met the requirements of this paragraph.

14. Section 11 of P.L.2007, c.92 (C.43:15C-11) is amended to read as follows:

C.43:15C-11 Facts requiring evidence of insurability.

11. Any person entitled to become a participant in the retirement program shall not be allowed any of the group life insurance and disability benefits if on the date of filing an application for participation the person is 60 or more years of age, or if the person makes application for participation in the retirement program beyond the year after first becoming eligible for participation, regardless of age, unless the participant furnishes satisfactory evidence of insurability and on the effective date of participation is actively at work and performing all regular duties at the customary place of employment.

The effective date of coverage for such benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

Such evidence of insurability shall not be required of any person enrolling in the retirement program upon transfer from another State-administered retirement system, if such retirement system provided a benefit of a similar nature and the transferring person was covered by such a benefit at the time of the transfer. If such transferring person was not covered by such a benefit at the time of the transfer, the person may be allowed the benefit under the group policy or policies; however, any such person shall furnish satisfactory evidence of insurability if he had been unable or failed to give such evidence as a member of the retirement system from which the person transferred. Such evidence of insurability shall not be required of any member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System who is enrolling in the retirement program pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, if such retirement system provides a benefit of a similar nature and the participant is covered by such a benefit at the time of enrollment in the program.

Any person who must furnish satisfactory evidence of insurability under the provisions of this section and who ceases to be a participant in the retirement program without such evidence having been given shall continue to be subject to the same requirement if the person subsequently becomes a participant.

15. Section 13 of P.L.2007, c.92 (C.43:15C-13) is amended to read as follows:

C.43:15C-13 Disability benefit coverage.

13. The disability benefit coverage provided under a group policy or policies shall provide a monthly income if the participant becomes totally disabled from occupational or nonoccupational causes for a period of at least six consecutive months following the effective date of the coverage. The monthly disability benefit may be paid by the insurance company so long as the participant remains disabled up to the seventieth birthday, provided

the disability commenced prior to the sixtieth birthday. The benefit shall terminate when the participant is no longer considered totally disabled or begins to receive retirement benefits.

The participant shall be considered totally disabled if the participant is unable to perform each duty of the participant's occupation and is under the regular care of a physician. After the 24 months following the commencement of such disability benefit payments, the participant shall be unable to engage in any gainful occupation for which the participant is reasonably fitted by education, training or experience. Total disability shall not be considered to exist if the participant is gainfully employed. Following an agreement with the insurance company and the policyholder, the participant may continue to receive disability benefits for a limited time while performing some type of work. During the period of rehabilitation, the monthly benefit shall be the regular payment less 80% of the participant's earnings from such rehabilitative position.

A participant shall be deemed to be in service and covered by the disability benefit insurance provisions for a period of no more than six months while on official leave of absence without pay if satisfactory evidence is presented to the Division of Pensions and Benefits that such leave of absence without pay is due to illness and that the participant was not actively engaged in any gainful occupation during such period of leave of absence without pay.

Disability benefit insurance provisions of the group policy or policies shall not cover disability resulting from or contributed to by pregnancy, act of war, intentionally self-inflicted injury, or attempted suicide whether or not sane. For purposes of such disability benefit coverage, the participant shall not be considered to be disabled while the participant is imprisoned or while outside the United States, its territories or possessions, or Canada.

If the participant has recovered from the disability for which the member had received benefits and again becomes totally disabled while insured, the later disability shall be regarded as a continuation of the prior one unless the participant has returned to full-time covered employment for at least six months. If the later absence is due to an unrelated cause and the participant had returned to full-time work, it shall be considered a new disability. The disability benefit insurance cannot be converted to an individual policy.

No participant shall be covered by the disability benefit provision of the group policy or policies except upon the completion of one year of full-time continuous employment in a position eligible for participation in the Defined Contribution Retirement Program. For a member who is a participant pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, completion of one year of full-time continuous employment in a position eligible for membership in the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System shall also be considered in determining if the participant met the requirements of this paragraph.

16. Section 14 of P.L.2007, c.92 (C.43:15C-14) is amended to read as follows:

C.43:15C-14 Amount of disability benefits; "Defined Contribution Retirement Program Disability Premium Fund."

14. The disability benefit provided under a group policy or policies shall be in an amount equal to 60% of the participant's base monthly salary, reduced by periodic benefits to which the participant may be entitled during the period of total disability. For a member who is a participant pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, base monthly salary for this disability benefit shall mean the base or contractual salary upon which contributions were

made to the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System and to this program.

The periodic benefit by which the monthly disability benefit may be reduced shall include salary or wages, retirement benefits or benefits from any source for which the State or other public employer has paid any part of the cost or made payroll deductions, Social Security disability or other benefits, including dependents' benefits, and benefits paid by Social Security at the option of the participant before the age of 65, but not including any increase in Social Security benefits enacted after the disability benefit under such group policy or policies has commenced, and any other periodic benefits provided by law except on account of military service.

When a participant begins to receive a disability benefit under such group policy or policies, the insurance company shall pay an amount equal to the employee contribution which would have been required of the participant and deducted from the participant's base salary in order to meet the participant's obligation for the program. Such amount shall be paid by the insurance company without reduction by any other periodic benefit which the participant is eligible to receive. Such amount shall be paid by the insurance company to the insurer or insurers for the participant's retirement annuity.

Premiums for such disability coverage shall be paid from a special fund, hereby created, called the "Defined Contribution Retirement Program Disability Premium Fund." The State Treasurer shall estimate annually the amount that will be required for premiums for such benefits for the ensuing fiscal year and shall certify such amounts that shall be applied to the total State and other employer contributions due on behalf of the participants in the retirement program from the State and other employers, depositing such amounts in the premium fund. Additionally, employers will pay their share of the administrative costs of the program. The intervals for all payments and the allocation of administrative costs shall be determined by the Division of Pensions and Benefits including due dates and penalties for non compliance.

17. N.J.S.18A:66-15 is amended to read as follows:

Service credit for retirement.

18A:66-15. In computing for retirement or for purposes of resignation or separation from service under sections 18A:66-36 and 18A:66-37 the total service of a member about to be retired, the retirement system shall credit him with all service rendered by him since he last became a member and in addition, with all the service to which he is entitled and with no other service. Except as otherwise provided in this article, such service credit shall be final and conclusive for retirement purposes, or for purposes of resignation under sections 18A:66-36 and 18A:66-37, unless the member shall discontinue his service for more than two consecutive years. In the case of a member for whom compensation is defined in paragraph (2) of subsection d. of N.J.S.18A:66-2, the retirement system shall credit the member with the time of all service rendered by the member during the part of any year that the member was a participant of the Defined Contribution Retirement Program, pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, and making contributions to that program.

For the purpose of computing service for retirement purposes, the board of trustees shall fix and determine by appropriate rules and regulations how much service in any year shall equal a year of service and part of a year of service. Not more than one year shall be credited for all service in a calendar year.

18. Section 39 of P.L.1954, c.84 (C.43:15A-39) is amended to read as follows:  
C.43:15A-39 Computing service.

39. In computing for retirement purposes the total service of a member about to be retired, the retirement system shall credit the member with the time of all service rendered by the member since that member's last enrollment, and in addition with all the service to which the member is entitled and with no other service. Except as otherwise provided in this act, this service credit shall be final and conclusive for retirement purposes unless the member shall discontinue service for more than two consecutive years. In the case of a member for whom compensation is defined in paragraph (2) of subsection r. of section 6 of P.L.1954, c.84 (C.43:15A-6), the retirement system shall credit the member with the time of all service rendered by the member during the part of any year that the member was a participant of the Defined Contribution Retirement Program, pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, and making contributions to that program.

For the purpose of computing service for retirement purposes, the board shall fix and determine by appropriate rules and regulations how much service in any year shall equal a year of service and a part of a year of service. Not more than one year shall be credited for all service in a calendar year. A member may purchase credit for time during which the member shall have been absent on an official leave without pay. The credit shall be purchased for a period of time equal to:

- (1) three months or the duration of the leave, whichever is less; or
- (2) if the leave was due to the member's personal illness, two years or the duration of the leave, whichever is less; or
- (3) the period of leave that is specifically allowed for retirement purposes by the provisions of any law of this State.

The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service credit by section 8 of P.L.1954, c.54 (C.43:15A-8). In computing the service or in computing final compensation, no time during which a member was in employment, office, or position for which the annual salary or remuneration was fixed at less than \$500.00 in the case of service rendered prior to November 6, 1986, or less than \$1,500.00 in the case of service rendered on or after that date, shall be credited, except that in the case of a veteran member credit shall be given for service rendered prior to January 2, 1955, in an employment, office or position if the annual salary or remuneration therefor was fixed at not less than \$300.00 and such service consisted of the performance of the full duties of the employment, office or position.

19. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to read as follows:

C.52:14-17.26 Definitions relative to health care benefits for public employees.

2. As used in this act:

- (a) The term "State" means the State of New Jersey.
- (b) The term "commission" means the State Health Benefits Commission, created by section 3 of this act.
- (c) The term "employee" means an appointive or elective officer or full-time employee of the State of New Jersey. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State



during such time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. The term "employee" shall further mean, for purposes of this act, a former employee of the South Jersey Port Corporation, who is employed by a subsidiary corporation or other corporation, which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued membership in the Public Employees' Retirement System pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

For the purposes of this act the term "employee" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation from the State is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties, provided, however, that the term "employee" shall include persons employed on an intermittent basis to whom the State has agreed to provide coverage under P.L.1961, c.49 (C.52:14-17.25 et seq.) in accordance with a binding collective negotiations agreement. An employee paid on a 10-month basis, pursuant to an annual contract, will be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under this act but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B. A determination by the commission that a person is an eligible employee within the meaning of this act shall be final and shall be binding on all parties.

(d) (1) The term "dependents" means an employee's spouse, partner in a civil union couple or an employee's domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children placed by the Division of Youth and Family Services in the Department of Children and Families, provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, partner in a civil union couple, domestic partner or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses, partners in a civil union couple or domestic partners of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary and subject to the provisions of paragraph (3) of this subsection, for the purposes of an employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34), the term "dependents" means an employee's spouse or partner in a civil union couple and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and children placed by the Division of Youth and Family Services in the Department of Children and Families provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, partner in a civil union couple or child enlisting or inducted into

military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses or partners in a civil union couple of retired persons who are otherwise eligible for benefits under P.L.1961, c.49 (C.52:14-17.25 et seq.) but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B.

(3) An employer other than the State that is participating in the State Health Benefits Program pursuant to section 3 of P.L.1964, c.125 (C.52:14-17.34) may adopt a resolution providing that the term "dependents" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

(e) The term "carrier" means a voluntary association, corporation or other organization, including a health maintenance organization as defined in section 2 of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services, under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

(f) The term "hospital" means (1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic and major surgical facilities for the care and treatment of sick and injured persons on an inpatient basis, and which provides such facilities under the supervision of a staff of physicians and with 24 hour a day nursing service by registered graduate nurses, or (2) an institution not meeting all of the requirements of (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term "hospital" include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

(g) The term "State managed care plan" means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents: (1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

(i) The term "traditional plan" means a health care plan which provides basic benefits, extended basic benefits and major medical expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-17.29) by indemnifying eligible employees, retirees, and dependents for expenses for covered health care services and supplies through payments to providers or reimbursements to participants.

(j) The term "successor plan" means a State managed care plan that shall replace the traditional plan and that shall provide benefits as set forth in subsection (B) of section 5 of

P.L.1961, c.49 (C.52:14-17.29) with provisions regarding reimbursements and payments as set forth in paragraph (1) of subsection (C) of section 5 of P.L.1961, c.49 (C.52:14-17.29).

20. Section 3 of P.L.1961, c.49 (C.52:14-17.27) is amended to read as follows:

C.52:14-17.27 State Health Benefits Commission.

3. There is hereby created a State Health Benefits Commission, consisting of five members: the State Treasurer; the Commissioner of Banking and Insurance; the Commissioner of Personnel; a State employees' representative chosen by the Public Employees' Committee of the AFL-CIO; and, through June 30, 2008, when employers of employees, as defined in section 32 of P.L.2007, c.103 (C.52:14-17.46.2), will no longer be eligible to participate in the State Health Benefits Program authorized by P.L.1961, c.49, a representative chosen by the New Jersey Education Association, which represents the largest number of employees of employers other than the State participating in the State Health Benefits Program. Beginning July 1, 2008, the fifth member of the commission shall be a local employees' representative chosen by the Public Employees' Committee of the AFL-CIO.

The treasurer shall be chairman of the commission and the health benefits program authorized by P.L.1961, c.49 shall be administered in the Treasury Department. The Director of the Division of Pensions and Benefits shall be the secretary of the commission. The commission shall establish a health benefits program for the employees of the State, the cost of which shall be paid as specified in section 6 of P.L.1961, c.49. The commission shall establish rules and regulations as may be deemed reasonable and necessary for the administration of P.L.1961, c.49.

The Attorney General shall be the legal advisor of the commission.

The members of the commission shall serve without compensation but shall be reimbursed for any necessary expenditures. The public employee members shall not suffer loss of salary or wages during service on the commission.

The commission shall publish annually a report showing the fiscal transactions of the program for the preceding year and stating other facts pertaining to the plan. The commission shall submit the report to the Governor and furnish a copy to every employer for use of the participants and the public.

21. Section 4 of P.L.1961, c.49 (C.52:14-17.28) is amended to read as follows:

C.52:14-17.28 Purchase of contracts; conditions.

4. a. The commission shall negotiate with and arrange for the purchase, on such terms as it deems to be in the best interests of the State and its employees, from carriers licensed to operate in the State or in other jurisdictions, as appropriate, contracts providing hospital, surgical, obstetrical, and other covered health care services and benefits covering employees of the State and their dependents, and shall execute all documents pertaining thereto for and on behalf and in the name of the State.

b. Except for contracts entered into after June 30, 2007, the commission shall not enter into a contract under this act unless the benefits provided thereunder equal or exceed the minimum standards specified in section 5 of P.L.1961, c.49 (C.52:14-17.29) for the particular coverage which such contract provides, and unless coverage is available to all eligible employees and their dependents on the basis specified by section 7 of P.L.1961, c.49 (C.52:14-17.31), except that a State employee enrolled in the program on or after July 1,

2003 and all law enforcement officers employed by the State for whom there is a majority representative for collective negotiations purposes may not be eligible for coverage under the traditional plan as defined in section 2 of P.L.1961, c.49 (C.52:14-17.26) pursuant to a binding collective negotiations agreement or pursuant to the application by the commission, in its sole discretion, of the terms of any collective negotiations agreement binding on the State to State employees for whom there is no majority representative for collective negotiations purposes.

c. The commission shall not enter into a contract under P.L.1961, c.49 (C.52:14-17.25 et seq.) after June 30, 2007, unless the contract includes the successor plan, one or more health maintenance organization plans and a State managed care plan that shall be substantially equivalent to the NJ PLUS plan in effect on June 30, 2007, with adjustments to that plan pursuant to a binding collective negotiations agreement or pursuant to action by the commission, in its sole discretion, to apply such adjustments to State employees for whom there is no majority representative for collective negotiations purposes, and unless coverage is available to all eligible employees and their dependents on the basis specified by section 7 of P.L.1961, c.49 (C.52:14-17.31), except as provided in subsection d. of this section.

d. Eligibility for coverage under the successor plan may be limited pursuant to a binding collective negotiations agreement or pursuant to the application by the commission, in its sole discretion, of the terms of any collective negotiations agreement binding on the State to State employees for whom there is no majority representative for collective negotiations purposes. Coverage under the successor plan and under the State managed care plan required to be included in a contract entered into pursuant to subsection c. of this section shall be made available in retirement to all State employees who accrued 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems before July 1, 2007. Coverage under the State managed care plan required to be included in a contract entered into pursuant to subsection c. of this section shall be made available in retirement to all State employees who accrue 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems on or after July 1, 2007.

e. Actions taken by the commission before the effective date of P.L.2007, c. 103 in anticipation of entering into any contract pursuant to subsection c. of this section are hereby deemed to have been within the authority of the commission pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.).

22. Section 6 of P.L.1996, c.8 (C.52:14-17.28b) is amended to read as follows:

C.52:14-17.28b Determination of obligation of State agencies to pay premium; periodic charges; cost sharing.

6. a. Notwithstanding the provisions of any other law to the contrary, the obligations of the State or an independent State authority, board, commission, corporation, agency, or organization to pay the premium or periodic charges for health benefits coverage provided under P.L.1961, c.49 (C.52:14-17.25 et seq.) may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time of the adoption of P.L.1996, c.8. With respect to State employees for whom there is no majority representative for collective negotiations purposes, the commission may, in its sole discretion, modify the respective payment obligations set forth in P.L.1961, c.49 for the State and such employees in a manner consistent with the terms of any collective negotiations agreement binding on the State. With respect to employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is no majority

representative for collective negotiations purposes, the employer may, in its sole discretion, modify the respective payment obligations set forth in P.L.1961, c.49 for such employer and such employees in a manner consistent with the terms of any collective negotiations agreement binding on such employer. The provisions of this subsection shall also apply to employees deemed or considered to be employees of the State pursuant to subsection (c) of section 2 of P.L.1961, c.49 (C.52:14-17.26).

b. (1) Notwithstanding the provisions of any other law to the contrary, for each State employee who accrues 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems before July 1, 1997, excepting the employee who elects deferred retirement, the State, upon the employee's retirement, shall pay the full cost of the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and shall also reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's spouse.

(2) Notwithstanding the provisions of any other law to the contrary, and except as otherwise provided by section 8 of P.L.1961, c.49 (C.52:14-17.32) as amended by P.L.2005, c.341, and by subsection c. of this section, for each State employee who accrues 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems on or after July 1, 1997, excepting the employee who elects deferred retirement, the State, upon the employee's retirement, shall pay the premium or periodic charges for the health benefits provided to a retired State employee and dependents covered under the State Health Benefits Program, but not including survivors, and shall reimburse the retired employee for premium charges under Part B of Medicare covering the retired employee and the employee's spouse: (a) in accordance with the provisions, if any, concerning health benefits coverage in retirement which are in the collective negotiations agreement applicable to the employee at the time of the employee's accrual of 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems, or (b) if the employee has no majority representative for collective negotiations purposes, in a manner consistent with the terms, if any, concerning health benefits coverage in retirement which are in any collective negotiations agreement deemed applicable by the State Health Benefits Commission to that employee at the time of the employee's accrual of 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems. The terms for the payment of premiums or periodic charges established pursuant to this paragraph for the traditional plan shall apply to the successor plan, and the terms for the payment of premiums or periodic charges established pursuant to this paragraph for the NJ PLUS plan shall apply to the State managed care plan required to be included in a contract entered into pursuant to subsection c. of section 4 of P.L.1961, c.49 (C.52:14-17.28).

c. (1) Effective July 1, 2007, but, with respect to employees to whom this subsection applies who are paid through the State centralized payroll, effective with the first pay period beginning after July 1, 2007, the cost of benefits provided pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.) shall be shared by employees through the withholding of a contribution in an amount as determined in accordance with paragraph (2) of this subsection.

(2) The amount of the contribution required pursuant to paragraph (1) of this subsection as to State employees and employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is a majority representative for collective negotiations purposes shall be determined by means of a binding collective negotiations agreement. The amount of the contribution required pursuant to paragraph (1) of this subsection as to State employees or employees of an independent State authority, board,

commission, corporation, agency, or organization for whom there is no majority representative for collective negotiations purposes shall be 1.5 percent of base salary.

(3) Except as provided in paragraph (5) of this subsection, the cost of benefits provided pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.) shall be shared by retirees to whom this subsection applies through the withholding of a contribution in an amount as determined in accordance with paragraph (4) of this subsection.

(4) The amount of the contribution required pursuant to paragraph (3) of this subsection as to State employees and employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is a majority representative for collective negotiations purposes who accrue 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems on or after July 1, 2007, and who retire on or after July 1, 2007, excepting employees who elect deferred retirement, but including those who retire on a disability pension after July 1, 2007, shall be determined by means of a binding collective negotiations agreement applicable at the time of the employee's accrual of 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems. The amount of the contribution required pursuant to paragraph (3) of this subsection as to State employees or employees of an independent State authority, board, commission, corporation, agency, or organization for whom there is no majority representative for collective negotiations purposes who accrue 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems on or after July 1, 2007, and who retire on or after July 1, 2007, excepting employees who elect deferred retirement, but including those who retire on a disability pension after July 1, 2007, shall be determined in a manner consistent with the terms, if any, concerning health benefits coverage in retirement which are in any collective negotiations agreement deemed applicable by the commission to that employee at the time of the employee's accrual of 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems, except that for employees who accrue 25 years of nonconcurrent service credit in one or more State or locally-administered retirement systems in the period beginning July 1, 2007, and ending June 30, 2011, the contribution shall be 1.5 percent of the monthly retirement allowance, including any future cost-of-living adjustments, or, with respect to retirees for whom there is no majority representative and who are members of the alternate benefit program, an amount determined pursuant to a formula developed by the commission that shall be designed to result in a contribution that is comparable to the contribution that applies to retirees who are not members of the alternate benefit program.

(5) The contribution required pursuant to paragraph (3) of this subsection shall not take effect until the New Jersey Retirees' Wellness Program is open for enrollment and thereafter the contribution shall be waived for a retiree who participates in the New Jersey Retirees' Wellness Program. The Division of Pensions and Benefits shall issue a report on the New Jersey Retirees' Wellness Program. The report shall include, but need not be limited to, the claims experience with regard to retirees in the program, and the costs and savings realized. The report shall be issued at the end of the third year after the program's implementation or by December 30, 2010, whichever is earlier. The report shall be submitted to the Governor, the Legislature, and the State Treasurer.

(6) Any employee or retiree from whom withholding of a contribution is required pursuant to this subsection shall not be required to pay any percentage of the premiums or periodic charges for health care benefits provided under P.L.1961, c.49 (C.52:14-17.25 et seq.), other than dental benefits.

(7) The contribution required pursuant to this subsection may be terminated only upon withdrawal from all health care benefits coverage as an employee or retiree, other than coverage for dental benefits, and the submission to the commission of written certification by the employee that the employee is covered by other health care benefits and that those benefits are in force. The commission shall not apply the written certification requirement to retirees or to employees to whom Article VI, Section VI, paragraph 6 of the New Jersey Constitution applies.

23. Section 5 of P.L.1961, c.49 (C.52:14-17.29) is amended to read as follows:

C.52:14-17.29 State health benefits program, coverages.

5. (A) The contract or contracts purchased by the commission pursuant to subsection b. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall provide separate coverages or policies as follows:

(1) Basic benefits which shall include:

- (a) Hospital benefits, including outpatient;
- (b) Surgical benefits;
- (c) Inpatient medical benefits;
- (d) Obstetrical benefits; and

(e) Services rendered by an extended care facility or by a home health agency and for specified medical care visits by a physician during an eligible period of such services, without regard to whether the patient has been hospitalized, to the extent and subject to the conditions and limitations agreed to by the commission and the carrier or carriers.

Basic benefits shall be substantially equivalent to those available on a group remittance basis to employees of the State and their dependents under the subscription contracts of the New Jersey "Blue Cross" and "Blue Shield" Plans. Such basic benefits shall include benefits for:

- (i) Additional days of inpatient medical service;
- (ii) Surgery elsewhere than in a hospital;
- (iii) X-ray, radioactive isotope therapy and pathology services;
- (iv) Physical therapy services;
- (v) Radium or radon therapy services;

and the extended basic benefits shall be subject to the same conditions and limitations, applicable to such benefits, as are set forth in "Extended Outpatient Hospital Benefits Rider," Form 1500, 71(9-66), and in "Extended Benefit Rider" (as amended), Form MS 7050J(9-66) issued by the New Jersey "Blue Cross" and "Blue Shield" Plans, respectively, and as the same may be amended or superseded, subject to filing by the Commissioner of Banking and Insurance; and

(2) Major medical expense benefits which shall provide benefit payments for reasonable and necessary eligible medical expenses for hospitalization, surgery, medical treatment and other related services and supplies to the extent they are not covered by basic benefits. The commission may, by regulation, determine what types of services and supplies shall be included as "eligible medical services" under the major medical expense benefits coverage as well as those which shall be excluded from or limited under such coverage. Benefit payments for major medical expense benefits shall be equal to a percentage of the reasonable charges for eligible medical services incurred by a covered employee or an employee's covered dependent, during a calendar year as exceed a deductible for such calendar year of \$100.00 subject to the maximums hereinafter provided and to the other terms and conditions

authorized by this act. The percentage shall be 80% of the first \$2,000.00 of charges for eligible medical services incurred subsequent to satisfaction of the deductible and 100% thereafter. There shall be a separate deductible for each calendar year for (a) each enrolled employee and (b) all enrolled dependents of such employee. Not more than \$1,000,000.00 shall be paid for major medical expense benefits with respect to any one person for the entire period of such person's coverage under the plan, whether continuous or interrupted except that this maximum may be reapplied to a covered person in amounts not to exceed \$2,000.00 a year. Maximums of \$10,000.00 per calendar year and \$20,000.00 for the entire period of the person's coverage under the plan shall apply to eligible expenses incurred because of mental illness or functional nervous disorders, and such may be reapplied to a covered person, except as provided in P.L.1999, c.441 (C.52:14-17.29d et al.). The same provisions shall apply for retired employees and their dependents. Under the conditions agreed upon by the commission and the carriers as set forth in the contract, the deductible for a calendar year may be satisfied in whole or in part by eligible charges incurred during the last three months of the prior calendar year.

Any service determined by regulation of the commission to be an "eligible medical service" under the major medical expense benefits coverage which is performed by a duly licensed practicing psychologist within the lawful scope of his practice shall be recognized for reimbursement under the same conditions as would apply were such service performed by a physician.

(B) The contract or contracts purchased by the commission pursuant to subsection c. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall include coverage for services and benefits that are at a level that is equal to or exceeds the level of services and benefits set forth in this subsection, provided that such services and benefits shall include only those that are eligible medical services and not those deemed experimental, investigative or otherwise not eligible medical services. The determination of whether services or benefits are eligible medical services shall be made by the commission consistent with the best interests of the State and participating employers, employees, and dependents. The following list of services is not intended to be exclusive or to require that any limits or exclusions be exceeded.

Covered services shall include:

- (1) Physician services, including:
  - (a) Inpatient services, including:
    - (i) medical care including consultations;
    - (ii) surgical services and services related thereto; and
    - (iii) obstetrical services including normal delivery, cesarean section, and abortion.
  - (b) Outpatient/out-of-hospital services, including:
    - (i) office visits for covered services and care;
    - (ii) allergy testing and related diagnostic/therapy services;
    - (iii) dialysis center care;
    - (iv) maternity care;
    - (v) well child care;
    - (vi) child immunizations/lead screening;
    - (vii) routine adult physicals including pap, mammography, and prostate examinations; and
    - (viii) annual routine obstetrical/gynecological exam.
- (2) Hospital services, both inpatient and outpatient, including:
  - (a) room and board;
  - (b) intensive care and other required levels of care;
  - (c) semi-private room;



- (d) therapy and diagnostic services;
  - (e) surgical services or facilities and treatment related thereto;
  - (f) nursing care;
  - (g) necessary supplies, medicines, and equipment for care; and
  - (h) maternity care and related services.
- (3) Other facility and services, including:
- (a) approved treatment centers for medical emergency/accidental injury;
  - (b) approved surgical center;
  - (c) hospice;
  - (d) chemotherapy;
  - (e) diagnostic x-ray and lab tests;
  - (f) ambulance;
  - (g) durable medical equipment;
  - (h) prosthetic devices;
  - (i) foot orthotics;
  - (j) diabetic supplies and education; and
  - (k) oxygen and oxygen administration.

(4) All services for which coverage is required pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.), as amended and supplemented. Benefits under the contract or contracts purchased as authorized by the State Health Benefits Program shall include those for mental health services subject to limits and exclusions consistent with the provisions of the New Jersey State Health Benefits Program Act.

(C) The contract or contracts purchased by the commission pursuant to subsection c. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall include the following provisions regarding reimbursements and payments:

(1) In the successor plan, the co-payment for doctor's office visits shall be \$10 per visit with a maximum out-of-pocket of \$400 per individual and \$1,000 per family for in-network services for each calendar year. The out-of-network deductible shall be \$100 per individual and \$250 per family for each calendar year, and the participant shall receive reimbursement for out-of-network charges at the rate of 80% of reasonable and customary charges, provided that the out-of-pocket maximum shall not exceed \$2,000 per individual and \$5,000 per family for each calendar year.

(2) In the State managed care plan that is required to be included in a contract entered into pursuant to subsection c. of section 4 of P.L.1961, c.49 (C.52:14-17.28), the co-payment for doctor's office visits shall be \$15 per visit. The participant shall receive reimbursement for out-of-network charges at the rate of 70% of reasonable and customary charges. The in-network and out-of-network limits, exclusions, maximums, and deductibles shall be substantially equivalent to those in the NJ PLUS plan in effect on June 30, 2007, with adjustments to that plan pursuant to a binding collective negotiations agreement or pursuant to action by the commission, in its sole discretion, to apply such adjustments to State employees for whom there is no majority representative for collective negotiations purposes.

(3) "Reasonable and customary charges" means charges based upon the 90th percentile of the usual, customary, and reasonable (UCR) fee schedule determined by the Health Insurance Association of America or a similar nationally recognized database of prevailing health care charges.

(D) Benefits under the contract or contracts purchased as authorized by this act may be subject to such limitations, exclusions, or waiting periods as the commission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or

benefits otherwise available, including coverage afforded under the laws of the United States, such as the federal Medicare program, or for other reasons.

Benefits under the contract or contracts purchased as authorized by this act shall include those for the treatment of alcoholism where such treatment is prescribed by a physician and shall also include treatment while confined in or as an outpatient of a licensed hospital or residential treatment program which meets minimum standards of care equivalent to those prescribed by the Joint Commission on Hospital Accreditation. No benefits shall be provided beyond those stipulated in the contracts held by the State Health Benefits Commission.

(E) The rates charged for any contract purchased under the authority of this act shall reasonably and equitably reflect the cost of the benefits provided based on principles which in the judgment of the commission are actuarially sound. The rates charged shall be determined by the carrier on accepted group rating principles with due regard to the experience, both past and contemplated, under the contract. The commission shall have the right to particularize subgroups for experience purposes and rates. No increase in rates shall be retroactive.

(F) The initial term of any contract purchased by the commission under the authority of this act shall be for such period to which the commission and the carrier may agree, but permission may be made for automatic renewal in the absence of notice of termination by the commission. Subsequent terms for which any contract may be renewed as herein provided shall each be limited to a period not to exceed one year.

(G) A contract purchased by the commission pursuant to subsection b. of section 4 of P.L.1961, c.49 (C.52:14-17.28) shall contain a provision that if basic benefits or major medical expense benefits of an employee or of an eligible dependent under the contract, after having been in effect for at least one month in the case of basic benefits or at least three months in the case of major medical expense benefits, is terminated, other than by voluntary cancellation of enrollment, there shall be a 31-day period following the effective date of termination during which such employee or dependent may exercise the option to convert, without evidence of good health, to converted coverage issued by the carriers on a direct payment basis. Such converted coverage shall include benefits of the type classified as "basic benefits" or "major medical expense benefits" in subsection (A) hereof and shall be equivalent to the benefits which had been provided when the person was covered as an employee. The provision shall further stipulate that the employee or dependent exercising the option to convert shall pay the full periodic charges for the converted coverage which shall be subject to such terms and conditions as are normally prescribed by the carrier for this type of coverage.

(H) The commission may purchase a contract or contracts to provide drug prescription and other health care benefits or authorize the purchase of a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement or as may be required to implement a determination by a public employer to provide such benefit or benefits to employees not included in collective negotiations units.

(I) The commission shall take action as necessary, in cooperation with the School Employees' Health Benefits Commission established pursuant to section 33 of P.L.2007, c.103 (C.52:14-17.46.3), to effectuate the purposes of the School Employees' Health Benefits Program Act as provided in sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11) and to enable the School Employees' Health Benefits Commission to begin providing coverage to participants pursuant to the School Employees' Health Benefits Program Act as of July 1, 2008.

24. Section 1 of P.L.2001, c.284 (C.52:14-17.29g) is amended to read as follows:

C.52:14-17.29g Notice to enrollees in State Health Benefits Program managed care plans if primary physician is terminated from plan.

1. a. The State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of P.L.2001, c.284 (C.52:14-17.29g) provides that if an enrollee's or member's primary care physician's contract as a participating physician in a health maintenance organization or State managed care plan will be terminated, the health maintenance organization or State managed care plan, as appropriate, shall provide the enrollee or member with 90-days' notice of the termination. If 90-days' notice cannot be provided because the termination will occur prior to the end of the 90-day period, the health maintenance organization or State managed care plan shall notify the enrollee or member as soon as the health maintenance organization or State managed care plan has knowledge of the termination.

b. Notwithstanding the provisions of any policy governing open enrollment to the contrary, an enrollee or member who has been notified by a health maintenance organization or State managed care plan pursuant to this section may change his coverage to another health benefits plan under the State Health Benefits Program upon receiving notice that his primary care physician will no longer be a participating physician with the health maintenance organization or State managed care plan, in which the person is currently enrolled.

25. Section 7 of P.L.1961, c.49 (C.52:14-17.31) is amended to read as follows:

C.52:14-17.31 Effective date of coverage; rules and regulations; furnishing of information to Division of Pensions and Benefits.

7. The coverage provided solely for employees shall, subject to the provisions below, automatically become effective for all eligible employees from the first day on or after the effective date of the program on which they satisfy the definition of "employee" contained in this act. The commission shall establish the rules and regulations governing the enrollment and effective dates of coverage of dependents of employees it deems necessary or desirable. The rules and regulations shall not defer coverage with respect to any qualified dependent an employee has on the date the employee's employer becomes a participating employer, provided the employee was, immediately prior to the date, insured with respect to the dependent under a group insurance plan of the employer which was in effect immediately prior to the date. Under the rules and regulations established by the commission, each employee shall be given the opportunity to enroll for coverage for dependents as of the earliest date the employee becomes eligible for enrollment. With respect to the traditional plan, an employee may elect to enroll dependents for both basic coverage and major medical expense coverage but may not enroll for either coverage alone.

In the event that the group health plan which covered an employee or dependents immediately prior to the date the employee's employer becomes a participating employer provides, after termination of coverage thereunder, any continuation of benefits, or would so provide in the absence of coverage pursuant to this act, no coverage shall be afforded pursuant to this act for any such expenses (i) which are covered, or which would be covered in the absence of coverage pursuant to this act, in whole or in part, by the prior insurance

plan or (ii) which may be used in satisfaction of any deductible requirement under the prior insurance plan to establish entitlement to the continuation of benefits.

Each employee shall furnish the Division of Pensions and Benefits, in the prescribed form, the information necessary on account of the employee's own coverage and necessary to enroll dependents. Any employee not desiring coverage at the time the employee first becomes eligible, shall give the division written notice of that fact in the form prescribed by the division. The employee may not enroll thereafter except at the times and under the conditions prescribed by the commission.

If an employee of an employer other than the State eligible for coverage has a spouse who is also an employee of an employer other than the State eligible for coverage, the spouse may elect single coverage as an employee and to enroll as a dependent, in which event no coverage shall be provided for such spouse as an employee while covered as a dependent. The employee of an employer other than the State, who has enrolled such spouse, and who is required to pay the full cost of dependent coverage, may receive a refund from the State Division of Pensions and Benefits equivalent in amount to the employer's cost for an employee's coverage. When both husband and wife are covered as employees, only one may enroll for their children as dependents.

A similar refund shall be authorized pursuant to such rules and regulations as the commission deems necessary or desirable in the case of an employee of an employer other than the State who is paying the full cost of dependent coverage for a spouse who is an employee of the State and eligible for coverage.

If a husband and wife are both eligible for coverage under the program as employees:

- a. each may elect coverage for himself or herself as an employee and for their qualified dependents, including the spouse, in any plan offered other than a health maintenance organization, but only one may elect coverage for himself or herself and for their qualified dependents, including the spouse, in a participating health maintenance organization; and
- b. each may elect single coverage in any participating health maintenance organization, provided that he or she is not covered under the participating health maintenance organization as a dependent of his or her spouse.

Any person employed as a substitute teacher by a school district and who provides evidence of coverage under another health benefits program may waive coverage for the current school year on or after the date on which the person becomes an employee eligible for coverage.

26. Section 1 of P.L.2003, c.142 (C.52:14-17.32n) is amended to read as follows:

C.52:14-17.32n National Guard on State active duty, certain; SHBP coverage.

1. a. A qualified member of the organized militia, as defined in N.J.S.38A:1-1, and the member's dependents, as defined in section 2 of P.L.1961, c.49 (C.52:14-17.26), shall be eligible to participate in the State Health Benefits Program and be covered under the "State managed care plan", as defined in section 2 of P.L.1961, c.49 (C.52:14-17.26), in accordance with the law and rules governing the program and plan, except as otherwise provided by this act, P.L.2003, c.142 (C.52:14-17.32n).

A qualified member is a member who is called to State active duty by an order of the Governor issued pursuant to law, when the written order directly applicable to that member states that active duty shall be for a period of 30 days within a 35 consecutive day period, provided the member (1) is not a compensated, full-time appointed or elected public officer or employee of the State or any political subdivision thereof when called to active duty; (2)

had employer-provided health care benefits coverage that was cancelled due to the member's military service or does not have employer-provided health care benefits coverage; and (3) is not covered for health care benefits under a program, plan or policy as a dependent of the member's spouse when called to active duty. For the limited purpose of this act, a qualified member shall be deemed a State employee, as defined in section 2 of P.L.1961, c.49 (C.52:14-17.26).

The member may waive coverage provided pursuant to this section by notifying the Division of Pensions and Benefits in writing.

b. The Department of Military and Veterans' Affairs shall notify the Division of Pensions and Benefits of the members who are eligible for health care benefits coverage pursuant to this section, and shall notify the members themselves of the coverage provided, by whatever means deemed efficient and expeditious.

c. The State Health Benefits Program shall not provide coverage for health care services and supplies provided to a member or the member's dependents prior to the first day of active duty. The department, or the member when so requested, shall provide to the division all information necessary on account of the member's coverage and to enroll the member's dependents pursuant to applicable law and regulations governing the program and plan. If information is not provided to the division in a timely manner, coverage shall commence only upon receipt by the division of all information deemed necessary by the division to provide the coverage. The division shall make such accommodation and provision for the addition of the member and the member's dependents to the program and plan as may be necessary under the circumstances.

d. The coverage provided pursuant to this section shall be extended for health care services and supplies commencing on the first day of active duty service until the last day of active duty service, provided the information requirements in subsection c. of this section are met in a timely manner.

e. The State shall be liable for the premium or periodic charges for the coverage for the qualified member and member's dependents, including the program's expenses for the administration of this section, in such amount as determined and fixed by the State Health Benefits Commission. The commission shall annually certify to the State the cost for providing health care benefits coverage to qualified members and their dependents under this section. The State shall annually remit to the commission the amount certified at a time specified by the State Treasurer.

f. If a member or the member's dependents, or both, have health care benefits coverage, other than through the member's spouse, immediately preceding the call to active duty and that coverage continues, or is eligible to continue, during active duty status, the coverage provided pursuant to this section shall only be secondary to that primary coverage and shall not cover expenses which are covered, or which would be covered in the absence of coverage pursuant to this section, in whole or in part, by that prior existing coverage. If that coverage is terminated through the action or inaction of the member, the member's spouse or the member's employer, other than pursuant to terms and conditions in effect immediately preceding the call to active duty, the coverage under this section shall also terminate.

This section shall not be deemed to replace, supersede or modify health care benefits coverage received by the member, the member's spouse or dependents immediately preceding the call to active duty.

g. Health care benefits coverage shall be provided pursuant to this section only if the provision of such coverage by the State Health Benefits Program does not violate applicable

federal statutes in a manner that would change the nature, governance or status of the program.

h. The Treasurer, in consultation with the Adjutant General, shall adopt regulations to effectuate the purposes of this act pursuant to the "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et seq.), except that the Treasurer may immediately adopt regulations the Division of Pensions and Benefits deems necessary to implement the provisions of this act, upon the filing of such regulations with the Office of Administrative Law.

27. Section 1 of P.L.2003, c.172 (C.52:14-17.33a) is amended to read as follows:

C.52:14-17.33a Participation in SHBP for certain part-time faculty, adjuncts.

1. a. Notwithstanding any provision of P.L.1961, c.49 (C.52:14-17.25 et seq.) to the contrary, a part-time State employee, or a part-time faculty member, including part-time lecturers and adjunct faculty members, at a State public institution of higher education in this State if the public institution of higher education participates in the program, who is enrolled in a State-administered retirement system shall be eligible to participate in the State Health Benefits Program and may purchase health benefits coverage under the program in the State managed care plan as defined in section 2 of P.L.1961, c.49 (C.52:14-17.26) for the employee or faculty member and the dependents of the employee or faculty member. If such an employee or faculty member elects to enroll in the program, the employee or faculty member shall pay the full cost of the coverage selected and the employer shall not be responsible for any costs in connection with the purchase of the coverage, unless the employer shall be obligated to pay all or a portion of such costs in accordance with the provisions of a binding collective negotiations agreement.

b. The State Health Benefits Commission may establish rules and regulations concerning the enrollment and termination of coverage of employees and faculty members in the State Health Benefits Program, pursuant to this section, and the procedures for the remittance to the program of the cost of coverage.

The employee or faculty member shall also be required to pay a proportionate share of administrative expenses of the program in such amounts and at such times as shall be determined and fixed by the commission. Amounts payable by a participating employee or faculty member for administrative expenses shall be collected in the same manner as premiums or periodic charges are paid and remitted to the State treasury and shall be used for such purposes.

c. The laws and regulations governing the State Health Benefits Program, except as modified in this section, are applicable to enrollments in the program under this section and shall be construed to apply to part-time employees or faculty members and their dependents in the same manner as to full-time employees or faculty members and their dependents to the extent possible.

d. Participation in the State Health Benefits Program pursuant to this section shall not qualify the employee or faculty member for employer or State-paid health care benefits in retirement in the program. Upon retirement, such employees or faculty members shall be permitted to enroll in the State managed care plan they were enrolled in prior to retirement through the retired group at their own expense.

e. The State Health Benefits Commission shall advise eligible employees, and the State public institutions of higher education shall advise eligible faculty members, that they may enroll in the State Health Benefits Program pursuant to this section and shall further advise eligible employees and faculty members, as may be appropriate, of any benefits to which

they are entitled upon the termination of their employment. The State Health Benefits Commission shall determine the manner and form of the advisory notice to the employees and faculty members.

28. Section 3 of P.L.1964, c.125 (C.52:14-17.34) is amended to read as follows:

C.52:14-17.34 Extension of New Jersey State Health Benefits Program, certain.

3. In order that the New Jersey State Health Benefits Program Act may be extended to include other public employees, participation by counties, municipalities, public agencies or organizations as defined in section 71 of P.L.1954, c.84 (C.43:15A-71), including the New Jersey Turnpike Authority, the Interstate Environmental Commission, the Delaware River Basin Commission, New Jersey Housing and Mortgage Finance Agency, New Jersey Educational Facilities Authority, New Jersey Meadowlands Commission and the Compensation Rating and Inspection Bureau, hereinafter defined as employers, is hereby authorized, provided, however, that no such employer shall enroll for coverage under the State Health Benefits Program pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.) employees as defined in section 32 of P.L.2007, c.103 (C.52:14-17.46.2).

29. Section 4 of P.L.1964, c.125 (C.52:14-17.35) is amended to read as follows:

C.52:14-17.35 Definitions.

4. As used in this act and in the act to which this act is a supplement:

(a) The term "employer" means a county, municipality, public agency or organization as defined in section 71 of P.L.1954, c.84 (C.43:15A-71), including the New Jersey Turnpike Authority, the Interstate Environmental Commission, the Delaware River Basin Commission, New Jersey Housing and Mortgage Finance Agency, New Jersey Educational Facilities Authority, New Jersey Meadowlands Commission and the Compensation Rating and Inspection Bureau. The term "employer" shall include a subsidiary corporation or other corporation established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), except that only persons who are employees of the South Jersey Port Corporation on the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and are re-employed by the subsidiary or other corporation within 365 days of the effective date are eligible to participate in the program.

(b) The term "State Treasury" means the State agency responsible for the administration of the New Jersey State Health Benefits Program Act which is to be located in the Division of Pensions and Benefits in the Department of the Treasury.

30. Section 5 of P.L.1993, c.8 (C.52:14-17.38b) is amended to read as follows:

C.52:14-17.38b Participation in State Health Benefits Program by local board of education, limitation.

5. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, any local board of education may elect to participate in the State Health Benefits Program upon the termination of any contract in effect on the effective date of this amendatory and supplementary act, P.L.1993, c.8 (C.52:14-17.38b et al.), between the board of education and an insurance company writing insurance pursuant to Title 17B of the New Jersey Statutes, hospital service corporation, medical service corporation, health service corporation, or

health maintenance organization to provide hospital and medical expense benefits. Such election shall be in accordance with the laws and regulations otherwise applicable to participation by employers other than the State in the program. If the board does not elect to participate in the State Health Benefits Program at that time, its eligibility to elect such participation thereafter shall be subject to the time period specified by the State Health Benefits Commission for participating again in the State Health Benefits Program after a participant's withdrawal from the program. No such election shall be permitted after June 30, 2008.

C.52:14-17.46.1 Short title.

31. Sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11) shall be known and may be cited as the "School Employees' Health Benefits Program Act."

C.52:14-17.46.2 Definitions relative to school employees' health benefits program.

32. As used in the School Employees' Health Benefits Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11):

- a. The term "State" means the State of New Jersey.
- b. The term "commission" means the School Employees' Health Benefits Commission, created by section 33 of P.L.2007, c.103 (C.52:14-17.46.3).
- c. The term "employer" means local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, State-operated school district, charter school, county college, any officer, board, or commission under the authority of the Commissioner of Education or of the State Board of Education, and any other public entity which is established pursuant to authority provided by Title 18A of the New Jersey Statutes, but excluding the State public institutions of higher education and excluding those public entities where the employer is the State of New Jersey.
- d. The term "employee" means a person employed in any full time capacity by an employer, and shall include persons defined as a school employee by the regulations of the State Health Benefits Commission in effect on the effective date of the School Employees' Health Benefits Program Act. "Full-time" shall have the same meaning as in the regulation of the State Health Benefits Commission regarding local coverage in effect on the effective date of the School Employees' Health Benefits Program Act. The term "employee" shall not include persons employed on a short-term, seasonal, intermittent, or emergency basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties. An employee paid on a 10-month basis, pursuant to an annual contract, shall be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under the School Employees' Health Benefits Program but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B. A determination by the commission that a person is an eligible employee for the purposes of the School Employees' Health Benefits Program shall be final and binding on all parties.



e. The term “dependents” means an employee’s spouse, domestic partner, or partner in a civil union couple, and unmarried children under the age of 23 years who live in a regular parent/child relationship. “Children” shall include stepchildren, legally adopted children and children placed by the Division of Youth and Family Services in the Department of Children and Families, provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse, domestic partner, partner in a civil union couple, or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term “dependents” shall not include spouses, domestic partners, or partners in a civil union couple, of retired persons who are otherwise eligible for the benefits under the School Employees’ Health Benefits Program but who, although they meet the age or disability eligibility requirement of Medicare, are not covered by Medicare Hospital Insurance, also known as Medicare Part A, and Medicare Medical Insurance, also known as Medicare Part B.

f. The term “carrier” means a voluntary association, corporation or other organization, including but not limited to a health maintenance organization as defined in section 2 of the “Health Maintenance Organizations Act,” P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

g. The term “hospital” means:

(1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic and major surgical facilities for the care and treatment of sick and injured persons on an inpatient basis, and which provides such facilities under the supervision of a staff of physicians and with 24 hour a day nursing service by registered graduate nurses, or

(2) an institution not meeting all of the requirements of paragraph (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term “hospital” include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

h. The term “Medicare” means the program established by the “Health Insurance for the Aged Act,” Title XVIII of the “Social Security Act,” Pub.L.89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

i. The term “managed care plan” means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents: (1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

j. The term “successor plan” means a managed care plan that shall replace the “traditional plan,” as defined in section 2 of P.L.1961, c.49 (C.52:14-17.26), and that shall provide benefits as set forth in section 36 of P.L.2007, c.103 (C.52:14-17.46.6), and provide

out-of-network benefits to participants with a payment by the plan of 80% of reasonable and customary charges as set forth in section 37 of P.L.2007, c.103 (C.52:14-17.46.7) and as may be adjusted in accordance with section 40 of P.L.2007, c.103 (C.52:14-17.46.10).

C.52:14-17.46.3 School Employees' Health Benefits Commission.

33. a. There is hereby created a School Employees' Health Benefits Commission, consisting of nine members:

(1) the State Treasurer and the Commissioner of the Department of Banking and Insurance serving ex officio;

(2) a member appointed by the Governor who is a New Jersey resident and is qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers;

(3) a member appointed by the Governor from among three persons nominated by the New Jersey School Boards' Association, which member shall be qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers;

(4) three members appointed by the Governor from among five persons nominated by the New Jersey Education Association, of whom two shall be qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers;

(5) a member appointed by the Governor from among three persons nominated by the education section of the New Jersey State AFL-CIO, which member shall be qualified by experience, education, or training in the review, administration, or design of health insurance plans for self-insured employers; and

(6) a member appointed pursuant to subsection b. of this section who shall be the chairperson.

b. The Governor shall appoint the chairperson from among three persons nominated jointly by at least six of the eight members appointed pursuant to subsection a. of this section.

c. If the Governor declines to make an appointment from among the persons nominated for membership, the Governor shall request that a new list of nominees be provided in compliance with subsection a. of this section. If the Governor declines to make an appointment from the new list, the process set forth in this subsection shall be repeated until the Governor makes an appointment from a list of nominees. Except with respect to the appointment of the chairperson, if a new list of nominees is not submitted within 45 days of the Governor's request, the Governor shall make the appointment without the need to select from any list of nominees.

d. The initial terms of the members of the commission shall be as follows:

(1) the member appointed pursuant to paragraph (3) of subsection a. of this section and the two members appointed pursuant to paragraph (4) of subsection a. of this section who are required to be qualified by experience, education, or training shall serve for a term of three years;

(2) the member appointed pursuant to paragraph (2) of subsection a. of this section, the member appointed pursuant to paragraph (4) of subsection a. of this section who is not required to be qualified by experience, education, or training, and the member appointed pursuant to paragraph (5) of subsection a. of this section shall serve for a term of two years; and

(3) the chairperson shall serve for a term of six years.

All subsequent terms shall be for three years, except that the term of the chairperson shall be five years. A member of the commission may be reappointed to succeeding terms without limit in the same manner as the original appointment. A vacancy occurring on the commission shall be filled in the same manner as the original appointment and only for the unexpired term.

C.52:14-17.46.4 Administration of School Employees' Health Benefits Program.

34. The School Employees' Health Benefits Program, authorized by sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11), shall be administered in the Department of the Treasury. Administrative services required by the commission shall be provided through the Division of Pensions and Benefits, and the Director of the Division of Pensions and Benefits shall be the secretary of the commission. The commission shall establish a health benefits program for the school employees of the State, the cost of which shall be paid as specified in this act. The commission shall, by a majority vote of its full authorized membership, establish and change rules and regulations as may be deemed reasonable and necessary for the administration of this act. Until such rules and regulations are established, the rules and regulations of the State Health Benefits Commission shall be deemed to apply to the School Employees' Health Benefits Program.

The Attorney General shall be the legal advisor of the commission.

The members of the commission shall serve without compensation but shall be reimbursed for any necessary expenditure.

The commission shall ensure that audits and reviews are performed as required by section 40 of P.L.2007, c.103 (C.52:14-17.46.10). Actions of the commission related to such audits and reviews shall require a majority vote of the full authorized membership of the commission to be approved.

Except as otherwise specified in this act, actions of the commission shall require the affirmative vote of a majority of the members present at a meeting at which a majority of the full authorized membership is present.

C.52:14-17.46.5 Purchase of contracts providing benefits.

35. a. The commission shall negotiate with and arrange for the purchase, on such terms as it deems in the best interests of the State, participating employers and those persons covered hereunder from carriers licensed to operate in the State or in other jurisdictions, as appropriate, contracts providing benefits required by the School Employees' Health Benefits Program Act, as specified in section 36 of P.L.2007, c.103 (C.52:14-17.46.6), or such benefits as the commission may determine to provide, so long as such modification of benefits is in the best interests of the State, participating employers and those persons covered hereunder, and is consistent with the provisions of section 40 of that act. The commission shall have authority to execute all documents pertaining thereto for and on behalf of the State. The commission shall not enter into a contract under the School Employees' Health Benefits Program Act, unless the benefits provided thereunder are equal to or exceed the standards specified in section 36 of that act, or as such standards are modified pursuant to section 40 of that act (C.52:14-17.46.10).

b. The rates charged for any contract purchased under the authority of the School Employees' Health Benefits Program Act shall reasonably and equitably reflect the cost of the benefits provided based on principles which in the judgment of the commission are actuarially sound. The rates charged shall be determined based upon accepted group rating principles with due regard to the experience, both past and contemplated, under the contract.

The commission shall have the right to particularize subgroups for experience purposes and rates. No increase in rates shall be retroactive.

c. The commission shall be authorized to accept an assignment of contract rights from or enter into an agreement, contract, memorandum of understanding or other terms with the State Health Benefits Commission to ensure that coverage for eligible employees, retirees and dependents under the School Employees' Health Benefits Program whose benefits had been provided through the State Health Benefits Program is continued without interruption. The transition provided for in this subsection shall occur within one year of the effective date of the School Employees' Health Benefits Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11).

d. Benefits under the contract or contracts purchased as authorized by the School Employees' Health Benefits Program Act may be subject to such limitations, exclusions, or waiting periods as the commission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or benefits otherwise available, including coverage afforded under the laws of the United States, such as the federal Medicare program, or for other reasons.

e. The initial term of any contract purchased by the commission under the authority of the School Employees' Health Benefits Program Act shall be for such period to which the commission and the carrier may agree, but permission may be made for automatic renewal in the absence of notice of termination by the commission. Subsequent terms for which any contract may be renewed as herein provided shall each be limited to a period not to exceed one year.

C.52:14-17.46.6 Benefits required for coverage under contract; terms defined.

36. a. Notwithstanding the provisions of any other law to the contrary, the commission shall not enter into a contract under the School Employees' Health Benefits Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11), for the benefits provided pursuant to the act, unless the level of benefits provided under the contract entered into is equal to or exceeds the level of benefits provided in this section, or as modified pursuant to section 40 of that act. Only benefits for medically necessary services that are not deemed experimental, investigative or otherwise not eligible medical services shall be provided. The determination that services are not "eligible medical services" shall be made by the commission consistent with the best interests of the State, participating employers and those persons covered hereunder. Benefits for services provided pursuant to the School Employees' Health Benefits Act shall be subject to limits or exclusions consistent with those that apply to benefits provided pursuant to the New Jersey State Health Benefits Program Act. The services provided pursuant to this section shall include all services, subject to applicable limits and exclusions, provided through the State Health Benefits Program as of July 1, 2007. The list of services in subsection b. of this section is not intended to be exclusive or to require that any limits or exclusions be exceeded.

b. The services covered hereunder by the School Employees' Health Benefits Program shall include:

- (1) Physician services, including:
  - (a) Inpatient services, including:
    - (i) medical care including consultations;
    - (ii) surgical services and services related thereto; and
    - (iii) obstetrical services including normal delivery, cesarean section, and abortion.
  - (b) Outpatient/out-of-hospital services, including:

- (i) office visits for covered services and care;
- (ii) allergy testing and related diagnostic/therapy services;
- (iii) dialysis center care;
- (iv) maternity care;
- (v) well child care;
- (vi) child immunizations/lead screening;
- (vii) routine adult physicals including pap, mammography, and prostate examinations; and
- (viii) annual routine obstetrical/gynecological exam.
- (2) Hospital services, both inpatient and outpatient, including:
  - (a) room and board;
  - (b) intensive care and other required levels of care;
  - (c) semi-private room;
  - (d) therapy and diagnostic services;
  - (e) surgical services or facilities and treatment related thereto;
  - (f) nursing care;
  - (g) necessary supplies, medicines, and equipment for care; and
  - (h) maternity care and related services.
- (3) Other facility and services, including:
  - (a) approved treatment centers for medical emergency/accidental injury;
  - (b) approved surgical center;
  - (c) hospice;
  - (d) chemotherapy;
  - (e) diagnostic x-ray and lab tests;
  - (f) ambulance;
  - (g) durable medical equipment;
  - (h) prosthetic devices;
  - (i) foot orthotics;
  - (j) diabetic supplies and education; and
  - (k) oxygen and oxygen administration.

c. Benefits under the contract or contracts purchased as authorized by the School Employees' Health Benefits Program Act shall include those for the treatment of alcoholism where such treatment is prescribed by a physician and shall also include treatment while confined in or as an outpatient of a licensed hospital or residential treatment program which meets minimum standards of care equivalent to those prescribed by the Joint Commission on Hospital Accreditation. No benefits shall be provided beyond those stipulated in the contracts held by the School Employees' Health Benefits Commission.

d. Benefits under the contract or contracts purchased as authorized by the School Employees' Health Benefits Program Act shall include those for mental health services subject to limits and exclusions consistent with those that apply to benefits for such services pursuant to the New Jersey State Health Benefits Program Act. Coverage for biologically-based mental illness, as defined in section 1 of P.L.1999, c.441 (C.52:14-17.29d), shall be provided in accordance with section 2 of P.L.1999, c.441 (C.52:14-17.29e).

e. Coverage provided under the School Employees' Health Benefits Program Act shall include coverage for all services for which coverage is mandated in the State Health Benefits Program pursuant to P.L.1961, c.49 (C.52:14-17.25 et seq.).

f. (1) As used in this subsection:

(a) "brand name" means the proprietary or trade name assigned to a drug product by the manufacturer or distributor of the drug product.

(b) "carrier" means an insurance company, hospital, medical, or health service corporation, preferred provider organization, or health maintenance organization under agreement or contract with the commission to administer the School Employee Prescription Drug Plan.

(c) "School Employee Prescription Drug Plan" means the plan for providing payment for eligible prescription drug expenses of members of the School Employees' Health Benefits Program and their eligible dependents.

(d) "generic drug products" means prescription drug products and insulin approved and designated by the United States Food and Drug Administration as therapeutic equivalents for reference listed drug products. The term includes drug products listed in the New Jersey Generic Formulary by the Drug Utilization Review Council pursuant to P.L.1977, c.240 (C.24:6E-1 et al.).

(e) "mail-order pharmacy" means the mail order program available through the carrier.

(f) "preferred brands" means brand name prescription drug products and insulin determined by the carrier to be more cost effective alternative for prescription drug products and insulin with comparable therapeutic efficacy within a therapeutic class, as defined or recognized in the United States Pharmacopeia or the American Hospital Formulary Service Drug Information, or by the American Society of Health Systems Pharmacists. A drug product for which there is no other therapeutically equivalent drug product shall be a preferred brand. Determinations of preferred brands by the carrier shall be subject to review and modification by the commission.

(g) "retail pharmacy" means a pharmacy, drug store or other retail establishment in this State at which prescription drugs are dispensed by a registered pharmacist under the laws of this State, or a pharmacy, drug store or other retail establishment in another state at which prescription drug products are dispensed by a registered pharmacist under the laws of that state if expenses for prescription drug products dispensed at the pharmacy, drug store, or other retail establishment are eligible for payment under the School Employee Prescription Drug Plan.

(h) "other brands" means prescription drug products which are not preferred brands or generic drug products. A new drug product approved by the United States Food and Drug Administration which is not a generic drug product shall be included in this category until the carrier makes a determination concerning inclusion of the drug product in the list of preferred brands.

(2) (a) Employers that participate in the School Employees' Health Benefits Program may offer to their employees and eligible dependents:

- (i) enrollment in the School Employee Prescription Drug Plan, or
- (ii) enrollment in another free-standing prescription drug plan, or
- (iii) election of prescription drug coverage under their health care coverage through the School Employees' Health Benefits Program plan or as otherwise determined by the commission.

(b) A co-payment shall be required for each prescription drug expense if the employer chooses to participate in the School Employee Prescription Drug Plan. The initial amounts of the co-payments shall be the same as those in effect on July 1, 2007 for the employee prescription drug plan offered through the State Health Benefits Program.

(c) If the employer elects to offer a free-standing prescription drug plan, the employee's share of the cost for this prescription drug plan may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time the employer commences participation in the School Employees' Health Benefits Program.

(d) If an employee declines the employer's offering of a free-standing prescription drug plan, no reimbursement for prescription drugs shall be provided under the health care coverage through the School Employees' Health Benefits Program plan in which the employee is enrolled.

(e) Prescription drug classifications that are not eligible for coverage under the employer's prescription drug plan shall also not be eligible for coverage under the health care coverage through the School Employees' Health Benefits Program plan except as federally or State mandated.

(f) If the employer elects to not offer a free-standing prescription drug plan, then the employer shall offer prescription drug coverage under the health care coverage through the School Employees' Health Benefits Program plan or as determined by the commission. Any plan that has in-network and out-of-network coverage shall cover prescription drugs at 90% in-network and at the out-of-network rate applicable to health care coverage in the plan. The out-of-pocket amounts paid towards prescription drugs shall be combined with out-of-pocket medical payments to reach all out-of-pocket maximums.

(g) Health care coverages through the School Employees' Health Benefits Program that only have in-network benefits shall include a prescription card with co-payment amounts the same as those in effect on July 1, 2007 for such coverages offered through the State Health Benefits Program.

(h) In the fifth year following the initial appointment of all of its members, the commission shall, as part of the fifth year audit and review undertaken pursuant to section 40 of that act (C.52:14-17.46.10), review the prescription drug program established in this subsection and may make changes in the program pursuant to the terms of section 40 by majority vote of the full authorized membership of the commission.

#### C.52:14-17.46.7 Offer of managed care plan, terms.

37. Beginning with the initial year of the School Employees' Health Benefits Program, the commission shall offer to participating employers and to qualified employees, retirees and dependents a managed care plan in which the office co-payment amount shall be \$10 per visit with a maximum out-of-pocket of \$400 per individual and \$1,000 per family for in-network services for each calendar year. The out-of-network deductible shall be \$100 per individual and \$250 per family for each calendar year with the plan paying for 80% of reasonable and customary charges as defined herein up to an out-of-pocket maximum that shall not exceed \$2,000 per individual and \$5,000 per family for each calendar year.

In the successor plan, the in-network out-of-pocket payments shall count toward the out-of-network out-of-pocket maximums. Any lifetime maximum for out-of-network services shall not be less than any maximums in effect under the State Health Benefits Program as of July 1, 2007. There shall be no lifetime maximum for in-network services.

The carrier that administers the successor plan shall make available to the plan participants through in-network and out-of-network providers access to physicians and hospitals sufficient in geographic scope and number to provide access to health care services that is substantially equivalent to the access to health care services available through the State Health Benefits Program as of July 1, 2007.

Beginning with the initial year of the School Employees' Health Benefits Program, the commission shall be authorized to offer to participating employers and qualified employees, retirees and dependents managed care plans in which the in-network per visit charge shall not exceed \$15 per visit and the out of network reimbursement shall be 70% of reasonable and

customary charges as defined herein, provided the in-network and out-of-network maximums and deductibles do not exceed the limits set forth above.

The amounts of maximums, co-pays, deductibles, and other participant costs shall be reviewed, as part of the fifth year audit undertaken pursuant to section 40 of P.L.2007, c.103 (C.52:14-17.46.10). The commission shall make changes in such amounts pursuant to section 40 by majority vote of the full authorized membership of the commission.

“Reasonable and customary charges” means, for any out-of-network payment made by a carrier, charges based upon the 90th percentile of the usual, customary, and reasonable (UCR) fee schedule determined by the Health Insurance Association of America or a similar nationally recognized database of prevailing health care charges.

Beginning with the initial year of the School Employees’ Health Benefits Program, the commission shall offer to participating employers and qualified employees, retirees and dependents one or more health maintenance organization plans.

C.52:14-17.46.8 Participation in School Retiree Prescription Drug Plan, terms.

38. a. Retirees and eligible dependents who participate in the School Employees’ Health Benefits Program shall be eligible to participate in the School Retiree Prescription Drug Plan. The definitions in subsection f. of section 36 of P.L.2007, c.103 (C.52:14-17.46.6) shall apply to the School Retiree Prescription Drug Plan.

b. There shall be no annual deductible amount that retirees or their eligible dependents shall be required to satisfy before eligibility for payment of prescription drug expenses under the School Retiree Prescription Drug Plan.

c. Eligibility of prescription drug expenses for coverage under the School Retiree Prescription Drug Plan shall be determined on the same basis as reasonable and necessary medical expenses under the School Employees’ Health Benefits Program.

d. A co-payment shall be required for each prescription drug expense until a retiree or eligible dependent satisfies the maximum annual out-of-pocket expense for a calendar year prescribed in subsection f. of this section. The amounts of the co-payments shall be the same as those in effect as of July 1, 2007 for retiree prescription drug coverage under the State Health Benefits Program. The commission shall promulgate rules that shall establish a formula for a reasonable annual escalator to the amount of co-payment.

e. The supply of a drug product eligible for coverage under the School Retiree Prescription Drug Plan for each prescription drug expense shall be limited to 30 days if the prescription is filled at a retail pharmacy, and 90 days if the prescription is filled through the mail-order pharmacy.

f. The amount of out-of-pocket expense that a retiree or eligible dependent shall pay in a calendar year for eligible prescription drug expenses under the School Retiree Prescription Drug Plan shall be limited in the first year of the plan to the amount in effect on July 1, 2007 for retiree prescription drug coverage under the State Health Benefits Program. The commission shall promulgate rules that shall establish a formula for a reasonable annual escalator to the amount of out-of-pocket expense.

g. In the fifth year following the initial appointment of all of its members, the commission shall, as part of the fifth year audit and review undertaken pursuant to section 40 of P.L.2007, c.103 (C.52:14-17.46.10), review the amounts established in this section and make any changes that it deems appropriate pursuant to section 40 of P.L.2007, c.103 (C.52:14-17.46.10) by majority vote of the full authorized membership of the commission.



C.52:14-17.46.9 Obligations of employer for charges for benefits; School Employee Health Benefits Program fund.

39. a. For each active covered employee and for the eligible dependents the employee may have enrolled at the employee's option, from funds appropriated therefor, the employer shall pay to the commission the premium or periodic charges for the benefits provided under the contract in amounts equal to the premium or periodic charges for the benefits provided under such a contract covering the employee and the employee's enrolled dependents.

b. The obligations of any employer to pay the premium or periodic charges for health benefits coverage provided under the School Employees' Health Benefits Program Act, sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11), may be determined by means of a binding collective negotiations agreement, including any agreement in force at the time the employer commences participation in the School Employees' Health Benefits Program. With respect to employees for whom there is no majority representative for collective negotiations purposes, the employer may, in its sole discretion, modify the respective payment obligations set forth in law for the employer and such employees in a manner consistent with the terms of any collective negotiations agreement binding on the employer.

c. There is hereby established a School Employee Health Benefits Program fund consisting of all contributions to premiums and periodic charges remitted to the State treasury by participating employers for employee coverage. All such contributions shall be deposited in the fund and the fund shall be used to pay the portion of the premium and periodic charges attributable to employee and dependent coverage.

d. Notwithstanding any law to the contrary, the payment in full of premium or periodic charges for eligible retirees and their dependents pursuant to section 3 of P.L.1987, c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) shall be continued without alteration or interruption and there shall be no premium sharing or periodic charges for school employees in retirement once they have met the criteria for vesting for pension benefits, which criteria for purposes of this subsection only shall mean the criteria for vesting in the Teachers' Pension and Annuity Fund. For purposes of this subsection, "premium sharing or periodic charges" shall mean payments by eligible retirees based upon a proportion of the premiums for health care benefits.

C.52:14-17.46.10 Annual report, audit to Governor, Legislature.

40. a. The School Employees' Health Benefits Commission shall publish annually, at least 30 days prior to the commencement of the open enrollment period for that year, a report showing the fiscal transactions of the program for the preceding calendar year and stating other facts pertinent to the program and all participating employers.

b. At the same time as the annual report is published, the commission shall publish an audit report of the program's costs and the aggregate usage of plan participants during the preceding calendar year, which audit shall be prepared by a qualified independent auditor selected by the commission in accordance with applicable laws regarding selection of auditing services. The independent auditor shall include in its report specific recommendations that are projected to result in cost savings to the State and to participating employers.

The specific recommendations to be submitted in the annual audit report shall include, but not be limited to, savings achievable through disease management, prescription benefit management, and elimination of administrative and program inefficiencies. In addition, the

annual audit may recommend changes to the benefits provided under the School Employees' Health Benefits Program that improve the overall ability to retain and attract eligible employees.

c. The commission shall submit the annual report and annual audit report to the Governor and the Legislature, and shall make these reports available to every participating employer.

d. At the start of the fifth year following the initial appointment of all of its members, and at the start of every fifth year thereafter, the commission shall contract with an independent, qualified auditor, separate from the person performing the annual audit described in subsection b. of this section, for a comprehensive review and audit of all elements of the program, as well as the plan design and structure for each plan offered by the commission. The auditor shall be qualified by experience, training, resources, and education to perform intensive audits of public health insurance plans that are of a similar size and scope and shall be familiar with benefit designs of employers that are eligible but do not participate in the commission. The auditor shall be selected in accordance with applicable law.

e. Each fifth year review and audit shall be the annual audit for that year and the review shall include all of the elements contained in the annual audit plus the additional reviews set forth in this subsection. In addition to performing the tasks of the annual audit, the auditor selected for a fifth year review shall review the program costs, plan design, and plan structure and may issue recommendations for cost sharing measures, including modifications of co-payments, deductibles, out-of-pocket maximums, limits, exclusions, and other measures to be considered for implementation by the commission. The commission is authorized to implement such recommendations pursuant to majority vote of the full authorized membership of the commission.

The commission shall submit the five-year review and audit report to the Governor and the Legislature and shall make the report available to every participating employer.

#### C.52:14-17.46.11 Applicability of State Health Benefits Program Act.

41. All provisions of P.L.1961, c.49 (C.52:14-17.25 et seq.) applicable to the State Health Benefits Program shall, except as expressly stated in the School Employees' Health Benefits Program Act, be construed as applicable to participating employers and to their employees and to dependents of such employees, and to retirees and to dependents of such retirees, in the School Employees' Health Benefits Program.

42. Section 3 of P.L.1987, c.384 (C.52:14-17.32f) is amended to read as follows:

#### C.52:14-17.32f Retired teachers' eligibility, limitation.

3. A qualified retiree from the Teachers' Pension and Annuity Fund (N.J.S.18A:66-1 et seq.) and dependents of a qualified retiree, but not including survivors, are eligible to participate in the State Health Benefits Program until June 30, 2008, and beginning July 1, 2008, in the School Employees' Health Benefits Program, regardless of whether the retiree's employer participated in the program.

A qualified retiree is a retiree who:

- a. Retired on a benefit based on 25 or more years of service credit;
- b. Retired on a disability pension based on fewer years of service credit; or
- c. Elected deferred retirement based on 25 or more years of service credit and who receives a retirement allowance.

The program shall reimburse a qualified retiree who participates in the program for the premium charges under Part B of the federal Medicare program for the retiree and the retiree's spouse. A qualified retiree who retired under subsections a. and b. of this section prior to the effective date of this 1987 amendatory and supplementary act is eligible for the coverage if the retiree applies to the program for it within one year after the effective date, and a qualified retiree as defined under subsection c. of this section whose retirement allowance commenced prior to the effective date of this 1992 amendatory act is eligible for the coverage if the retiree applies to the program for it within one year after the effective date.

The premium or periodic charges for benefits provided to a qualified retiree and the dependents of the retiree, and the cost for reimbursement of Medicare premiums shall be paid by the State.

43. Section 2 of P.L.1987, c.385 (C.18A:66-18.1) is amended to read as follows:

C.18A:66-18.1 Payment of pension adjustment benefits.

2. Pension adjustment benefits for members and beneficiaries of the Teachers' Pension and Annuity Fund as provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.), shall be paid by the retirement system and shall be funded as employer obligations by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system.

44. Section 2 of P.L.1990, c.6 (C.43:15A-24.1) is amended to read as follows:

C.43:15A-24.1 Payment of pension adjustment benefits.

2. Pension adjustment benefits for members and beneficiaries of the Public Employees' Retirement System provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.), shall be paid by the retirement system and shall be funded as employer obligations by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system. Normal and accrued liability contributions for pension adjustment benefits for active employees of employers other than the State shall be determined for the 1992 valuation year and shall be phased in so that the level of recognition of the full normal and accrued liability contributions for the State and other employers shall be 20% for valuation year 1992 and 24% for valuation year 1993, and shall be increased by 2.24% for each valuation year thereafter until the full normal and accrued liability contributions are fully recognized.

45. Section 3 of P.L.1993, c.8 (C.52:14-17.38c) is amended to read as follows:

C.52:14-17.38c Company surcharge payable to State Health Benefits Program.

3. With respect to any policy or contract between a local board of education and an insurance company writing insurance pursuant to Title 17B of the New Jersey Statutes, hospital service corporation, medical service corporation, health service corporation, or health maintenance organization which provides hospital or medical expense benefits:

a. upon the commencement of any policy or contract entered into after the effective date of this amendatory and supplementary act, P.L.1993, c.8 (C.52:14-17.38b et al.); or

b. in the case of any policy or contract in effect as of the effective date of this act, no earlier than the second anniversary date after the effective date of this act of any such policy

or contract, the insurance company, hospital service corporation, medical service corporation, health service corporation, or health maintenance organization shall annually pay to the State Health Benefits Program a surcharge in the form of a percentage of the claims paid by the insurance company, hospital service corporation, medical service corporation, health service corporation, or health maintenance organization which are attributable to the coverage of the employees of the board and their dependents for the time period from July 1 through the following June 30, except that if the commencement or the second anniversary date of the policy or contract occurs after July 1, the initial surcharge shall be prorated for the remainder of that year from July 1 through the following June 30. The surcharge shall be paid on or before December 31 of the time period for which it is payable in the manner prescribed hereinafter, except that if the commencement or second anniversary date of the policy or contract occurs on or after November 1, an estimated initial surcharge shall be paid no later than the end of the sixth month following the commencement or anniversary date of the policy or contract or July 1 following the commencement or anniversary date of the policy or contract, whichever is earlier, and the actual surcharge payable for the initial time period shall be determined and adjustments, if any, shall be made to the surcharge payable for the succeeding time period in the manner prescribed hereinafter.

The initial surcharge percentage for the time period July 1, 1993 through June 30, 1994 shall be 3.25%. The State Treasurer shall thereafter annually redetermine the surcharge percentage, which shall be the percentage of total claims paid for active employees and for retired employees receiving health care coverage under the State Health Benefits Program pursuant to section 3 of P.L.1987, c.384 (C.52:14-17.32f) or subsection a. of section 2 of P.L.1992, c.126 (C.52:14-17.32f1) who are not eligible for Medicare which is reasonably attributable to the excess claim cost for these retired employees. The State Treasurer shall annually provide an estimated surcharge percentage based upon the claims paid for the 12 months immediately preceding the time period for which the surcharge is payable. Except as otherwise provided herein in the case of the initial surcharge, each organization shall pay to the State Health Benefits Program an estimated surcharge on or before December 31 of the time period for which the surcharge is payable, which shall be the amount determined by multiplying the total claims paid by the organization for the coverage for the 12 months immediately preceding the time period for which the surcharge is payable by the estimated surcharge percentage. Within three months after the time period for which the surcharge is payable, the State Treasurer shall determine the actual surcharge percentage for the time period based upon the actual claims experience for the period. The surcharge for the succeeding time period shall be increased or decreased, as appropriate, by the difference between the estimated surcharge paid and the surcharge due based upon the actual claims experience.

This section shall apply to any policy or contract in which the insurer has reserved the right to change the premium.

Beginning July 1, 2008, a reference to the State Health Benefits Program in this section shall mean the School Employees' Health Benefits Program, established pursuant to sections 31 through 41 of P.L.2007, c.103 (C.52:14-17.46.1 through C.52:14-17.46.11).

46. Section 8 of P.L.1961, c.49 (C.52:14-17.32) is amended to read as follows:

C.52:14-17.32 Health care benefits of retirees.

8. a. The health care benefits coverage of any employee, and the employee's dependents, if any, shall cease upon the discontinuance of the term of office or employment or upon

cessation of active full-time employment subject to such regulations as may be prescribed by the commission for limited continuance of coverage during disability, part-time employment, leave of absence or lay off, and for continuance of coverage after retirement, any such continuance after retirement to be provided at such rates and under such conditions as shall be prescribed by the commission, subject, however, to the requirements hereinafter set forth in this section. Notwithstanding the provisions of any law to the contrary, for law enforcement officers employed by the State for whom there is a majority representative for collective negotiation purposes, and for nonaligned sworn members of the Division of State Police who retire after July 1, 2005, the coverage options available to such employees in retirement shall be limited to those options that were available to the employee on the employee's last day of employment. The commission may also establish regulations prescribing an extension of coverage when an employee or dependent is totally disabled at termination of coverage.

b. Rates payable by retired employees for themselves and their dependents, by active employees for dependents covered by Medicare benefits, and by the State or other employer for an active employee alone covered by Medicare benefits, shall be determined on the basis of utilization experience according to classifications determined by the commission, provided, however, that the total rate payable by such retired employee for the employee and the employee's dependents, or by such active employee for the employee's dependents and the State or other employer for such active employee alone, for coverage hereunder and for Part B of Medicare, shall not exceed by more than 25%, as determined by the commission, the total amount which would have been required to have been paid by the employee and by the State or other employer for the coverage maintained had the employee continued in office or active employment and the employee and the employee's dependents were not eligible for Medicare benefits. "Medicare" as used in this act means the coverage provided under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

c. (1) From funds appropriated therefor, the State shall pay the premium or periodic charges for the benefits provided to a retired State employee and the employee's dependents covered under the program, but not including survivors, if such employee retired from one or more State or locally-administered retirement systems on a benefit or benefits based in the aggregate on 25 years or more of nonconcurrent service credited in the retirement systems, excluding service credited under the Defined Contribution Retirement Program established pursuant to P.L.2007, c.92 (C.43:15C-1 et al.), and excepting the employee who elected deferred retirement, but including the employee who retired on a disability pension based on fewer years of service credited in the retirement systems and shall also reimburse such retired employee for the premium charges under Part B of the federal Medicare program covering the retired employee and the employee's spouse. In the case of full-time employees of the Rutgers University Cooperative Extension Service, service credited in the federal Civil Service Retirement System (5 U.S.C.s.8331 et seq.) which was earned as a result of full-time employment at Rutgers University, may be considered alone or in combination with service credited in one or more State or locally-administered retirement systems for the purposes of establishing the minimum 25-year service requirement to qualify for the benefits provided in this section. Any full-time employee of the Rutgers University Cooperative Extension Service who meets the eligibility requirements set forth in this amendatory act shall be eligible for the benefits provided in this section, provided that at the time of retirement such employee was covered by the State Health Benefits Program and elected to continue such coverage into retirement.

(2) Notwithstanding the provisions of this section to the contrary, from funds appropriated therefor, the State shall pay the premium or periodic charges for the benefits provided to a retired State employee and the employee's dependents covered under the program, but not including survivors, if: (a) the employee retires on or after the effective date of this 1987 amendatory act; (b) the employee was employed by Rutgers University prior to January 2, 1955 and remained in continuous service with Rutgers University until retirement even though the employee (i) did not join a State-administered retirement system, or, (ii) became a member of a State-administered retirement system, but accumulated less than 25 years of credited service; and (c) the employee is covered by the program at the time of retirement.

(3) Notwithstanding the provisions of this section to the contrary, in the case of an employee of a State college, as described in chapter 64 of Title 18A of the New Jersey Statutes, or of a county college, as defined in N.J.S.18A:64A-1, service credited in a private defined contribution retirement plan which was earned as an employee of an auxiliary organization, as defined in section 2 of P.L.1982, c.16 (C.18A:64-27), at a State or county college shall be considered in combination with service credited in a State-administered retirement system for the purposes of establishing the minimum 25-year service requirement to qualify for the benefits provided in this section, provided that the employee is covered by the program at the time of retirement.

(4) Notwithstanding the provisions of this section to the contrary, from funds appropriated therefor, the State shall pay the premium or periodic charges for the benefits provided to a retired State employee and any dependents covered under the program, but not including survivors, if the employee: (a) retired prior to the effective date of P.L.1997, c.335 (C.52:14-17.32), under the State Police Retirement System, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.), with more than 20 but less than 25 years of service credit in the retirement system; (b) was subsequently employed by the State in another position or positions not covered by the State Police Retirement System; (c) has, in the aggregate, at least 30 years of full-time employment with the State; and (d) is covered by the program at the time of terminating full-time employment with the State.

47. Section 1 of P.L.1989, c.127 (C.52:14-17.32g) is amended to read as follows:

C.52:14-17.32g Benefits program continued.

1. Notwithstanding any other provisions of P.L.1961, c.49 (C.52:14-17.25 et seq.) to the contrary, the health care benefits of any employee of an employer with at least three years of service under a permanent appointment with that employer and any dependent of the employee may be continued and the premiums for the coverage may be paid by the employer during any approved leave of absence of the employee with or without pay, for a period of up to two years.

For the purposes of this section "employer" means a local board of education, regional board of education, county college, educational services commission, jointure commission, county special services school district, county vocational-technical school district, or any board or commission under the authority of the Commissioner of Education, or State Board of Education, as the case may be.

C.52:14-17.32a1 Funding of health care benefits for retired State employees under C.52:14-17.25 et seq.

48. Effective July 1, 2007, health care benefits for retired State employees and their dependents for which the State is required to pay the premiums or periodic charges under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), shall be funded and paid by the State through a separate fund established in the Department of the Treasury. Beginning with the valuation period ending June 30, 2007, the Director of the Division of Pensions and Benefits shall annually compute a contribution to fund these health care benefits which shall be the amount necessary to pay the anticipated premiums or periodic charges for the benefits for the following valuation period and to provide that the balance in the fund as of the end of the following valuation period shall be increased by  $\frac{3}{5}$  of 1% of the salary of the active members for the valuation period. If the assets in the fund are insufficient to pay the premiums or periodic charges for the benefits, they shall be paid directly by the State. Nothing herein above shall alter health care benefits for qualified retirees and their dependents or relieve the State from its acknowledged obligation to fund the benefits.

C.52:14-17.46a Funding of health care benefits for retirees from certain educational employment.

49. Effective July 1, 2007, health care benefits for qualified retirees and their dependents as provided by section 3 of P.L.1987, c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-17.32f1) and section 1 of P.L.1995, c.357 (C.52:14-17.32f2) shall be funded and paid by the State through a separate fund established in the Department of the Treasury. Beginning with the valuation period ending June 30, 2007, the Director of the Division of Pensions and Benefits shall annually compute a contribution to fund these health care benefits which shall be the amount necessary to pay the anticipated premiums or periodic charges for the benefits for the following valuation period and to provide that the balance in the fund as of the end of the following valuation period shall be increased by  $\frac{3}{5}$  of 1% of the salary of the active members for the valuation period. If the assets in the fund are insufficient to pay the premiums or periodic charges for the benefits, such premiums or periodic charges shall be paid directly by the State. Nothing hereinabove shall alter health care benefits for qualified retirees and their dependents or relieve the State from its acknowledged obligation to fund the benefits.

50. Section 5 of P.L.1950, c.270 (C.52:18A-83) is amended to read as follows:

C.52:18A-83 State Investment Council established; membership; terms.

5. a. There is hereby established in the Division of Investment a State Investment Council which shall consist of 13 members.

(1) Each of the following agencies, namely, the Board of Trustees of the Public Employees' Retirement System, the Board of Trustees of the State Police Retirement System, the Board of Trustees of the Teachers' Pension and Annuity Fund, and the Board of Trustees of the Police and Firemen's Retirement System of New Jersey, shall elect one of the active members of its retirement system, or one of the retirees of its retirement system who is receiving a retirement allowance, to serve as a member of the State Investment Council herein established. The four members of the council so elected shall serve as such for a period of three years from the date of their election and until their respective successors are in like manner elected.

(2) Six of the members of the State Investment Council shall be appointed by the Governor, with the advice and consent of the Senate, for a term of five years and shall serve until the member's successor is appointed and has qualified.

(3) One member of the State Investment Council shall be appointed by the Governor from among three persons nominated jointly by the President of the Senate and the Speaker of the General Assembly and shall serve for a term of five years and until the member's successor is appointed and has qualified.

(4) One member of the State Investment Council shall be appointed by the Governor from among three persons nominated by the Public Employee Committee of the New Jersey State AFL-CIO and shall serve for a term of three years and until the member's successor is appointed and has qualified. If the persons nominated are not acceptable to the Governor for appointment, the Governor may request submission of new nominees.

(5) One member of the State Investment Council shall be appointed by the Governor from among three persons nominated by the New Jersey Education Association and shall serve for a term of three years and until the member's successor is appointed and has qualified. If the persons nominated are not acceptable to the Governor for appointment, the Governor may request submission of new nominees.

The two members appointed pursuant to paragraphs (4) and (5) of this subsection by the Governor to the council shall be qualified by training, experience or long-term interest in the direct management, analysis, supervision or investment of assets, and this training, experience or long-term interest shall have been supplemented by academic training in the fields of economics, business, law, finance or actuarial science or by actual employment in those fields.

At least five of the seven members appointed pursuant to paragraphs (2) and (3) of this subsection by the Governor to the council shall be qualified by training and experience in the direct management, analysis, supervision or investment of assets, which training and experience shall have been acquired through academic training or through actual employment in those fields.

b. No member of the State Investment Council shall hold any office, position or employment in any political party nor shall any such member benefit directly or indirectly from any transaction made by the Director of the Division of Investment provided for herein.

The members of the council shall elect annually from their number a chairman of such council. Any member of the council so elected shall serve as such chairman for a term of one year and until a successor is, in like manner, elected. The chairman of the council shall be its presiding officer.

The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties as approved by the chairman of the council. The members of the council shall be required to file the same annual financial disclosure statements as those required to be filed by members of other State boards and commissions who are not compensated for their services, as such statements shall be required by law or executive order of the Governor. The financial disclosure statements of council members shall be made available to the public in the same manner as the statements of members of other State boards and commissions are made available to the public.

Each member of the council, except the member appointed from among persons nominated by the President of the Senate and the Speaker of the General Assembly, may be removed from office by the Governor, for cause, upon notice and opportunity to be heard at a public hearing. Any vacancy in the membership of the council occurring other than by



expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

c. The terms of the members of the council serving on the effective date specified for this section of P.L.2007, c.103, other than the five members appointed by the Governor with the advice and consent of the Senate to serve for terms of five years and the one member appointed by the Governor from persons nominated jointly by the President of the Senate and the Speaker of the General Assembly to serve for a term of five years, are terminated as of that effective date. A member terminated pursuant to this subsection shall be eligible for reappointment.

51. Section 13 of P.L.1950, c.270 (C.52:18A-91) is amended to read as follows:

C.52:18A-91 Powers and duties of State Investment Council.

13. a. The State Investment Council shall consult with the Director of the Division of Investment from time to time with respect to the work of the division. It shall have access to all files and records of the division and may require any officer or employee therein to provide such information as it may deem necessary in the performance of its functions. The council shall have authority to inspect and audit the respective accounts and funds administered through the Division of Investment. It shall formulate and establish, and may from time to time amend, modify or repeal, such policies as it may deem necessary or proper, which shall govern the methods, practices or procedures for investment, reinvestment, purchase, sale or exchange transactions to be followed by the Director of the Division of Investment established hereunder.

b. On or before January first of each year, and at such other times as it may deem in the public interest, the council shall report to the Governor, the Legislature, and the State Treasurer with respect to its work and the work of the Division of Investment. In addition to the reports specified above and in section 14 of P.L.1950, c.270 (C.52:18A-92), the council shall issue a report by March 1 of each year on the investment activities for the prior calendar year, which shall include a summary of the current investment policies and strategies of the council and those in effect during the prior calendar year, a detailed summary for each financial product of the amount invested, whether the investments were made by employees of the Division of Investment or by external managers, performance benchmarks, and actual performance during the calendar year. The report shall be submitted to the Governor, the Legislature, and the State Treasurer, and shall be made available to the public through the official Internet site of the State.

c. The council shall hold a meeting each year that shall be open to the public, and shall accept comments from the public at such meeting. The matters that shall be open to discussion and public comment during this annual meeting shall include the investment policies and strategies of the council, the investment activities of the council, the financial disclosure statements filed by council members, and the certification of contributions filed by external managers, as well as other appropriate matters concerning the operations, activities and reports of the council.

d. An external manager shall be required to file a certification before being retained, and annually thereafter, that discloses the political contributions made, during the 12 months preceding the certification, by the manager or the manager's firm, or a political committee in which the manager or firm was active. The certification shall specify the political contributions made to candidates for elective public office in this State and any political committee established for the support of such candidates, and contributions made for the

transition and inaugural expenses of any candidate who is elected to public office. As used in this subsection, “contribution” and “political committee” shall have the meaning set forth in “The New Jersey Campaign Contributions and Expenditures Reporting Act,” P.L.1973, c.83 (C.19:44A-1 et al.). This certification shall be in addition to any other such disclosure required by law or executive order of the Governor.

52. This act shall take effect immediately, except that sections 12 through 16, inclusive, shall take effect July 1, 2007, and sections 27 through 29, inclusive, shall take effect July 1, 2008, and sections 31 through 41, inclusive, shall take effect immediately and shall be implemented as soon as practicable as determined by the School Employees’ Health Benefits Commission so that the School Employees’ Health Benefits Program shall be operational as of July 1, 2008, and sections 50 and 51 shall take effect on the 30th day after enactment but such anticipatory action may be taken in advance thereof as shall be necessary for the implementation of the sections.

Approved June 28, 2007.