



COMMONWEALTH OF PENNSYLVANIA  
PUBLIC EMPLOYEE RETIREMENT COMMISSION  
P. O. BOX 1429, HARRISBURG, PA 17105-1429

September 11, 2015

The Honorable Bernard T. O'Neill  
Majority Chairman  
House Finance Committee  
House of Representatives  
Room 47 East Wing  
Harrisburg, PA 17120

Re: House Bill Number 1332, Printer's Number 1814

Dear Representative O'Neill:

I am writing in response to your request concerning an actuarial note for the above referenced bill. House Bill Number 1332, Printer's Number 1814, would amend Titles 24 (Public School Employees' Retirement Code) and 71 (State Employees' Retirement Code) to address significant federal tax-qualification issues affecting the administration of the Public School Employees' Retirement System and the State Employees' Retirement System.

Under the Public Employee Retirement Commission Act (Act 66 of 1981), the Commission has a mandated responsibility to review any legislative changes that affect public employee retirement systems. At my direction, the Commission staff has reviewed the provisions of House Bill Number 1332, Printer's Number 1814, and determined that because the provisions in the bill are technical or administrative in nature, the bill will have no actuarial cost impact upon the Public School Employees' Retirement System or the State Employees' Retirement System.

Based upon the determination that House Bill Number 1332, Printer's Number 1814, will have no actuarial cost impact, I am informing you, on behalf of the Commission, that the bill will not require an actuarial note prior to further consideration by the General Assembly.

I trust this letter adequately responds to your request. If I may be of any further assistance, please feel free to contact me by telephoning (717) 783-6100.

Sincerely,

A handwritten signature in black ink that reads "John T. Durbin".

John T. Durbin  
Chairman

The Honorable Bernard T. O'Neill  
September 11, 2015

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Enclosure

cc:

The Honorable Mike Turzai	The Honorable Stan Saylor
The Honorable David Reed	The Honorable James R. Roebuck, Jr.
The Honorable Frank Dermody	The Honorable Daryl D. Metcalfe
The Honorable Bryan Cutler	The Honorable Mark B. Cohen
The Honorable Michael K. Hanna	The Honorable Robert W. Godshall
The Honorable Sandra Major	Ms. Karen Coates
The Honorable Dan Frankel	Mr. Clancy Myer
The Honorable William F. Adolph, Jr.	Mr. Anthony F. Barbush
The Honorable Joseph F. Markosek	Mr. Bernard Gallagher
The Honorable Michael Tobash	Ms. Lisa Taglang
The Honorable R. Ted Harhai	Ms. Kim Hileman
The Honorable Jake Wheatley, Jr	Ms. Susan Boyle

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1332 Session of 2015

INTRODUCED BY GODSHALL, FRANKEL, BLOOM, MARKOSEK, QUIGLEY, BROWNLEE, MURT, IRVIN, MILLARD, DRISCOLL, McNEILL, GREINER, MCGINNIS, O'BRIEN, JAMES, GROVE, CUTLER, EVERETT, KINSEY, KOTIK, READSHAW, SAYLOR, HARPER, W. KELLER, RADER, YOUNGBLOOD, QUINN, D. COSTA, KORTZ, TAYLOR, MILNE, PASHINSKI, A. HARRIS, HARHAI, COHEN AND MENTZER, JUNE 16, 2015

REFERRED TO COMMITTEE ON FINANCE, JUNE 16, 2015

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the  
 2 Pennsylvania Consolidated Statutes, in retirement for school  
 3 employees, further providing for definitions and for  
 4 construction of part; providing for notice to members;  
 5 further providing for credited school service, for creditable  
 6 nonschool service, for eligibility for annuities, for  
 7 eligibility for vesting, for eligibility for refunds, for  
 8 regular member contributions for current service, for pickup  
 9 contributions, for return of accumulated contributions, for  
 10 maximum single life annuity, for disability annuities, for  
 11 member's options, for termination of annuities, for death  
 12 benefits, for payment of benefits, for duties of board  
 13 regarding applications and elections of members, for duties  
 14 of employers, and for rights and duties of school employees  
 15 and members; in retirement for State employees and officers,  
 16 further providing for definitions, for credited State  
 17 service, for creditable nonstate service, for Social Security  
 18 integration credits, for eligibility for annuities, for  
 19 eligibility for vesting, for eligibility for special vesting,  
 20 for eligibility for refunds, for regular member contributions  
 21 for current service, for Social Security integration member  
 22 contributions, for waiver of regular member contributions and  
 23 Social Security integration member contributions, for member  
 24 contributions for the purchase of credit for previous State  
 25 service or to become a full coverage member, for  
 26 contributions for the purchase of credit for creditable  
 27 nonstate service, for incomplete payments, for return of  
 28 total accumulated deductions, for maximum single life  
 29 annuity, for disability annuities, for member's options, for  
 30 termination of annuities, for death benefits, for payment of

1 benefits, for duties of board to advise and report to heads  
2 of departments and members, for duties of the board regarding  
3 application and elections of members, for duties of heads of  
4 departments, for rights and duties of State employees and  
5 members, and for taxation, attachment and assignment of  
6 funds; and providing for construction of part with respect to  
7 the Internal Revenue Code.

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

10 Section 1. The definitions of "active member," "credited  
11 service" and "inactive member" in section 8102 of Title 24 of  
12 the Pennsylvania Consolidated Statutes are amended and the  
13 section is amended by adding definitions to read:

14 § 8102. Definitions.

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

18 \* \* \*

19 "Active member." A school employee for whom pickup  
20 contributions are being made to the fund or for whom such  
21 contributions otherwise required for current school service are  
22 not being made solely by reason of any provision of this part  
23 relating to the limitations under section 401(a)(17) or [415(b)]  
24 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26  
25 U.S.C. § 401(a)(17) or [415(b))] 415).

26 \* \* \*

27 "Credited service." School or creditable nonschool service  
28 for which the required contributions have been made, or for  
29 which the contributions otherwise required for such service were  
30 not made solely by reason of any provision of this part relating  
31 to the limitations under section 401(a)(17) or [415(b)] 415 of  
32 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
33 § 401(a)(17) or [415(b))] 415), or for which salary deductions

1 or lump sum payments have been agreed upon in writing.

2 \* \* \*

3 "Inactive member." A member for whom no pickup contributions  
4 are being made, except in the case of an active member for whom  
5 such contributions otherwise required for current school service  
6 are not being made solely by reason of any provision of this  
7 part relating to the limitations under section 401(a)(17) or  
8 [415(b)] 415 of the Internal Revenue Code of 1986 (Public Law  
9 99-514, 26 U.S.C. § 401(a)(17) or [415(b)] 415) or because the  
10 member is on USERRA leave, who has accumulated deductions  
11 standing to his credit in the fund and for whom contributions  
12 have been made within the last two school years or a multiple  
13 service member who is active in the State Employees' Retirement  
14 System.

15 \* \* \*

16 "Normal retirement age." The age set forth in section 401(a)  
17 (36) of the Internal Revenue Code of 1986 (Public Law 99-514, 26  
18 U.S.C. § 401(a)(36)) and in 26 C.F.R. § 1.401(a)-1(b)(2)  
19 (relating to post-ERISA qualified plans and qualified trusts; in  
20 general).

21 \* \* \*

22 "Required beginning date." The beginning date by which  
23 distributions of a member's interest must commence under section  
24 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-  
25 514, 26 U.S.C. § 401(a)(9)).

26 \* \* \*

27 Section 2. Section 8103 of Title 24 is amended by adding  
28 subsections to read:

29 § 8103. Construction of part.

30 \* \* \*

1 (c) Vesting in the event of plan termination.--In the event  
2 of termination of the Public School Employees' Retirement System  
3 or upon complete discontinuance of contributions under this  
4 part, the rights of all members of the system to benefits  
5 accrued under this part to the date of such termination or  
6 discontinuance, to the extent then funded, are vested and  
7 nonforfeitable, except as forfeiture is required by the act of  
8 July 8, 1978 (P.L.752, No.140), known as the Public Employee  
9 Pension Forfeiture Act. Forfeitures under this subsection or  
10 under any other provision of law may not be applied to increase  
11 the benefits that any member would otherwise receive under this  
12 part.

13 (d) Construction of part with respect to the IRC.

14 (1) (i) Notwithstanding any provisions of this part to  
15 the contrary, no benefit shall be payable to the extent that  
16 such benefit exceeds any limitation under IRC § 415 as in  
17 effect with respect to governmental plans as such term is  
18 defined in IRC § 414(d) on the date the benefit payment  
19 becomes effective, provided, however, that any increase in  
20 any limitation under IRC § 415 shall be applicable to all  
21 current and future annuitants. No act of the General Assembly  
22 enacted after the effective date of this subsection that  
23 increases benefits either for active members, inactive  
24 members, vestees or annuitants shall be deemed by the rules  
25 of statutory construction or otherwise to provide for  
26 benefits in excess of any limitation provided for under IRC §  
27 415, as adjusted or subsequently increased, unless  
28 specifically so provided by legislation.

29 (ii) Notwithstanding subparagraph (i), any future  
30 increase in benefits for any member is intended to be

1 applicable to the fullest extent allowed by law and this  
2 section is authorization for all such situations where  
3 authorization is required to apply any such increase in  
4 limitations or allowable benefits.

5 (2) In the event that annuities payable to a member from  
6 both the system and the State Employees' Retirement System  
7 are combined for purposes of determining whether annuities  
8 from the system and the State Employees' Retirement System  
9 are in excess of the limitations under IRC § 415(b), then:

10 (i) to the extent that the combined benefits exceed  
11 such limitations, but neither of the annuities from  
12 either retirement system would individually exceed such  
13 limitations or the annuities payable under this part  
14 individually exceed such limitations and the annuity  
15 payable from the State Employees' Retirement System does  
16 not, then the limitations shall be applied to the  
17 annuities payable under the State Employees' Retirement  
18 System to the extent required for such combined benefits  
19 to be within the limitations; or

20 (ii) to the extent that the combined benefits exceed  
21 such limitations and the annuity payable under this part  
22 individually exceeds such limitations and the annuity  
23 from the State Employees' Retirement System does not  
24 individually exceed such limitations or the annuities  
25 payable from each retirement system both individually  
26 exceed the limitations, then the limitations shall be  
27 applied first to the annuity payable under this part so  
28 that the annuity under this part is not in excess of such  
29 limitations and any remaining limitation shall be applied  
30 to the benefits payable under the State Employees'

1           Retirement System.

2           (3) No payments for service shall be allowed for which  
3 the required contributions would cause a violation of the  
4 limitations related to contributions applicable to  
5 governmental plans contained in IRC § 415. In the event that  
6 any service credit based on such disallowed contributions is  
7 granted after the effective date of this subsection, then  
8 such service credit shall be canceled and benefits calculated  
9 without regard to such service or contributions and any  
10 member contributions in excess of the limitations and  
11 statutory interest credited on those contributions shall be  
12 refunded to the member by the board.

13       (e) Permissive service credit.--

14           (1) Nothing in this part shall be construed or deemed to  
15 imply that any member of the system shall be required to make  
16 contributions to the system for the purchase of school or  
17 nonschool permissive service credit in excess of the limits  
18 established by IRC § 415(n) (3) (A) (iii).

19           (2) Any contributions made by a member of the system for  
20 the purchase of school or nonschool service credit that are  
21 determined to be in excess of those limits shall be refunded  
22 to the member in a lump sum subject to withholding for all  
23 applicable taxes and penalties as soon as administratively  
24 possible after such determination is made.

25           (3) Any refund of excess contributions made under this  
26 section shall not affect the benefit payable to the member  
27 and shall not be treated as, or deemed to be, a withdrawal of  
28 the member's accumulated deductions.

29       Section 3. Title 24 is amended by adding a section to read:  
30 § 8103.1. Notice to members.



1 Notice by publication, including, but not limited to,  
2 newsletters, newspapers, forms, first class mail, letters,  
3 manuals and electronic notice, including, but not limited to, e-  
4 mail or publicly accessible Internet websites, distributed or  
5 made available to members in a manner reasonably calculated to  
6 give actual notice of the provisions of this part that require  
7 notice to members shall be deemed sufficient notice for all  
8 purposes.

9 Section 4. Sections 8302(a), 8304(c), 8307(a), 8308, 8310,  
10 8321(a), 8322.1(a), 8341, 8342(c), 8344(e) and 8345(a) of Title  
11 24 are amended to read:

12 § 8302. Credited school service.

13 (a) Computation of credited service.--In computing credited  
14 school service of a member for the determination of benefits, a  
15 full-time salaried school employee shall receive one year of  
16 credit for each school year or the corresponding fraction  
17 thereof, in accordance with the proportion of the full school  
18 year for which the required regular member contributions have  
19 been made, or for which such contributions otherwise required  
20 for such service were not made solely by reason of any provision  
21 of this part relating to the limitations under IRC § 401(a)(17)  
22 or [415(b)] 415. A per diem or hourly school employee shall  
23 receive one year of credited service for each nonoverlapping  
24 period of 12 consecutive months in which he is employed and for  
25 which contributions are made, or would have been made but for  
26 such limitations under the IRC, for at least 180 full-day  
27 sessions or 1,100 hours of employment. If such member was  
28 employed and contributions were made for less than 180 full-day  
29 sessions or 1,100 hours, he shall be credited with a fractional  
30 portion of a year determined by the ratio of the number of full-

1 day sessions or hours of service actually rendered to 180 full-  
2 day sessions or 1,100 hours, as the case may be. A part-time  
3 salaried employee shall be credited with the fractional portion  
4 of the year which corresponds to the service actually rendered  
5 in relation to the service required as a comparable full-time  
6 salaried employee. In no case shall a member receive more than  
7 one year of credited service for any 12 consecutive months or a  
8 member who has elected multiple service receive an aggregate in  
9 the two systems of more than one year of credited service for  
10 any 12 consecutive months.

11 \* \* \*

12 § 8304. Creditable nonschool service.

13 \* \* \*

14 (c) Limitations on years of credit.--Service listed in  
15 subsection (b) (3) and (4) must have been for a period of at  
16 least one school year and credit for such service shall be  
17 limited to the lesser of 12 years or the number of years of  
18 school service credited in the system. In no case shall the  
19 total credit for nonschool service other than that listed in  
20 subsection (b) (5) exceed the number of years of school service  
21 credited in the system, plus, in the case of a multiple service  
22 member, any additional years of State service credited in the  
23 State Employees' Retirement System. In no case shall a member be  
24 permitted to purchase any service in violation of the  
25 limitations of IRC § 415(n).

26 § 8307. Eligibility for annuities.

27 (a) Superannuation annuity.--An active or an inactive member  
28 who attains superannuation age shall be entitled to receive a  
29 superannuation annuity upon termination of service and filing of  
30 a proper application. All members must begin receiving a

1 superannuation annuity by the member's required beginning date.

2 \* \* \*

3 § 8308. Eligibility for vesting.

4 Any Class T-C or Class T-D member who terminates school  
5 service with five or more eligibility points shall be entitled  
6 to vest his retirement benefits until [attainment of

7 superannuation age] the member's required beginning date. Any

8 Class T-E or Class T-F member who terminates school service with

9 ten or more eligibility points shall be entitled to vest his

10 retirement benefits until [attainment of superannuation age] his

11 required beginning date.

12 § 8310. Eligibility for refunds.

13 Upon termination of service any active member, regardless of  
14 eligibility for benefits, may elect to receive his accumulated  
15 deductions by his required beginning date in lieu of any benefit  
16 to which he is entitled.

17 § 8321. Regular member contributions for current service.

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

24 \* \* \*

25 § 8322.1. Pickup contributions.

26 (a) Treatment for purposes of IRC § 414(h).--All  
27 contributions required to be made under sections 8321 (relating  
28 to regular member contributions for current service) [and], 8322  
29 (relating to joint coverage member contributions), and 8305  
30 (relating to member class contributions) with respect to current

1 school service rendered by an active member on or after January  
2 1, 1983, shall be picked up by the employer and shall be treated  
3 as the employer's contribution for purposes of IRC § 414(h).

4 \* \* \*

5 § 8341. Return of accumulated deductions.

6 Any member upon termination of service may, in lieu of all  
7 benefits payable under this chapter to which he may be entitled,  
8 elect to receive his accumulated deductions by his required  
9 beginning date.

10 § 8342. Maximum single life annuity.

11 \* \* \*

12 (c) Limitation regarding annual benefit under IRC §  
13 415(b).--Notwithstanding any provision of this part to the  
14 contrary, no benefit shall be payable to the extent that such  
15 benefit exceeds any limitation under IRC § 415(b) in effect with  
16 respect to governmental plans, as such term is defined in IRC §  
17 414(d), on the date the benefit payment becomes effective,  
18 provided that any increase in any limitation under IRC § 415  
19 shall be applicable to all current and future annuitants and  
20 survivor annuitants.

21 § 8344. Disability annuities.

22 \* \* \*

23 (e) Limitation regarding annual benefit under IRC §  
24 415(b).--Notwithstanding any provision of this part to the  
25 contrary, no benefit shall be payable to the extent that such  
26 benefit exceeds any limitation under IRC § 415(b) in effect with  
27 respect to governmental plans, as such term is defined in IRC §  
28 414(d), on the date the benefit payment becomes effective,  
29 provided that any increase in any limitation under IRC § 415  
30 shall be applicable to all current and future annuitants and

1 survivor annuitants.

2 § 8345. Member's options.

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

27 (1) Option 1.--A life annuity to the member with a  
28 guaranteed total payment equal to the present value of the  
29 maximum single life annuity on the effective date of  
30 retirement with the provision that, if, at his death, he has

1 received less than such present value, the unpaid balance  
2 shall be payable to his beneficiary.

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

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

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

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

17 (ii) The sum of all annuities payable to the  
18 designated survivor annuitants shall not be greater than  
19 [one and one-half times] the annuity payable to the  
20 member.

21 (iii) A portion of the benefit may be payable as a  
22 lump sum, except that such lump sum payment shall not  
23 exceed an amount equal to the accumulated deductions  
24 standing to the credit of the member. The balance of the  
25 present value of the maximum single life annuity adjusted  
26 in accordance with section 8342(b) shall be paid in the  
27 form of an annuity with a guaranteed total payment, a  
28 single life annuity, or a joint and survivor annuity or  
29 any combination thereof but subject to the restrictions  
30 of subparagraphs (i) and (ii) of this paragraph. This

1           subparagraph shall not apply to a Class T-E or Class T-F  
2           member.

3           \* \* \*

4           Section 5. Section 8346(b) and (b.1)(1) of Title 24 are  
5 amended and the section is amended by adding a subsection to  
6 read:

7 § 8346. Termination of annuities.

8           \* \* \*

9           (b) Return to school service during emergency.--When, in the  
10 judgment of the employer, an emergency creates an increase in  
11 the work load such that there is serious impairment of service  
12 to the public or in the event of a shortage of appropriate  
13 subject certified teachers or other personnel, an annuitant may  
14 be returned to school service for a period not to extend beyond  
15 the school year during which the emergency or shortage occurs,  
16 without loss of his annuity, provided that the annuitant meets  
17 the conditions set forth in subsection (b.2). The annuitant  
18 shall not be entitled to earn any credited service, and no  
19 contributions may be made by the annuitant, the employer or the  
20 Commonwealth on account of such employment.

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

23           (1) An annuitant may be employed under separate contract  
24 by a public school or charter school in an extracurricular  
25 position performed primarily outside regular instructional  
26 hours and not part of mandated curriculum without loss of  
27 annuity, provided that the annuitant meets the conditions set  
28 for in subsection (b.2). Neither the annuitant nor the  
29 employer shall make contributions to the member's savings  
30 account or State accumulation account respectively for such

1 service. Further, such contract shall contain a waiver  
2 whereby the annuitant waives any potential retirement  
3 benefits that could arise from the contract and releases the  
4 employer and the board from any liability for such benefits.

5 \* \* \*

6 (b.2) Limitation on return to school service by an annuitant  
7 during emergency or in an extracurricular position.--

8 (1) An annuitant may return to school service under  
9 subsection (b) or (b.1), provided the annuitant otherwise  
10 meets the requirements of subsection (b) or (b.1) and has  
11 attained the age set forth in § 401(a)(36) or the applicable  
12 "normal retirement age" in 26 C.F.R. § 1.401(a)-1(b)(2)  
13 (relating to post-ERISA qualified plans and qualified trusts;  
14 in general).

15 (2) An annuitant who has not reached the age as set  
16 forth in IRC § 401(a)(36), or the applicable "normal  
17 retirement age" under 26 C.F.R. § 1.401(a)-1(b)(2), may  
18 return to service under subsection (b) or (b.1) provided the  
19 annuitant otherwise meets the requirements of subsection (b)  
20 or (b.1) and has had a break in service, as set forth in  
21 paragraph (3).

22 (3) For purposes of this subsection, a break in service  
23 occurs when a member has a bona fide termination of service.  
24 The following factors will be considered in determining  
25 whether there had been a bona fide termination of service:

26 (i) whether the change in the employment  
27 relationship is more than a formal or technical change,  
28 requiring the severing of the employment connection with  
29 the employer;

30 (ii) whether there has been a reasonable



1 anticipation or prearranged agreement between the member  
2 and the employer that a return to school service under  
3 this section shall take place;

4 (iii) the amount of time that has elapsed from the  
5 date the member becomes an annuitant and the return to  
6 school service;

7 (iv) whether the services are a continuation of the  
8 annuitant's previous service with the same employer; and

9 (v) such other factors as the board may deem  
10 appropriate.

11 \* \* \*

12 Section 6. Section 8347 of Title 24 is amended by adding a  
13 subsection to read:

14 § 8347. Death benefits.

15 \* \* \*

16 (e) Required distributions.--All payments pursuant to this  
17 section shall start and be made in compliance with the minimum  
18 distribution requirements and the incidental death benefit rules  
19 of IRC § 401(a)(9).

20 Section 7. Section 8349(a) of Title 24 is amended and the  
21 section is amended by adding a subsection to read:

22 § 8349. Payment of benefits.

23 (a) Annuities.--Any annuity granted under the provisions of  
24 this part shall be paid in equal monthly installments commencing  
25 by the required beginning date.

26 \* \* \*

27 (d) Required distributions.--All payments pursuant to this  
28 section shall start and be made in compliance with the required  
29 beginning date, minimum distribution requirements and incidental  
30 death benefit rules of IRC § 401(a)(9).

1 Section 8. Sections 8503(a) and (b), 8505(e), (f), (g) and  
2 (h), 8506(c) and 8507(d), (g), (h) and (i) of Title 24 are  
3 amended to read:

4 § 8503. Duties of board to advise and report to employers and  
5 members.

6 (a) Manual of regulations.--The board shall, with the advice  
7 of the Attorney General and the actuary, prepare, within 90 days  
8 of the effective date of this part, a manual incorporating rules  
9 and regulations consistent with the provisions of this part for  
10 the employers who shall make information contained therein  
11 available to the general membership. The board shall thereafter  
12 advise the employers within 90 days of any changes in such rules  
13 and regulations due to changes in the law or due to changes in  
14 administrative policies. As soon as practicable after the  
15 commissioner's publication with respect thereto, the board shall  
16 also advise the employers as to any cost-of-living adjustment  
17 for the succeeding calendar year in the amount of the limitation  
18 under IRC § 401(a)(17) and the dollar amounts of the limitations  
19 under IRC § [415(b)] 415.

20 (b) Member status statements.--The board shall furnish  
21 annually on or before December 31, a statement to each member  
22 showing the accumulated deductions standing to the credit of the  
23 member and the number of years and fractional part of a year of  
24 service credited in each class of service as of June 30 of that  
25 year. Each member's statement shall [be mailed to his home  
26 address and shall] include a request that the member make any  
27 necessary corrections or revisions regarding his designated  
28 beneficiary, whose name at the request of the member shall  
29 remain confidential and not appear on this statement.

30 \* \* \*

1 § 8505. Duties of board regarding applications and elections of  
2 members.

3 \* \* \*

4 (e) Certification to vestees terminating service.--The board  
5 shall certify to a vestee within one year of termination of  
6 service of such member:

7 (1) The accumulated deductions standing to his credit at  
8 the date of termination of service.

9 (2) The number of years and fractional part of a year of  
10 credit in each class of service.

11 (3) The maximum single life annuity to which the vestee  
12 shall become entitled upon the attainment of superannuation  
13 age and the filing of an application for such annuity.

14 (4) The obligation of the member to commence  
15 distributions by the member's required beginning date.

16 (f) Notification to vestees approaching superannuation  
17 age.--The board shall notify each vestee in writing 90 days  
18 prior to his attainment of superannuation age that he shall  
19 apply for his annuity within 90 days of attainment of  
20 superannuation age; that, if he does so apply, his effective  
21 date of retirement will be the date of attainment of  
22 superannuation age; that, if he does not so apply but defers his  
23 application to a later date, his effective date of retirement  
24 will be the date of filing the application or the date specified  
25 on the application, whichever is later; [and that, if he does  
26 not file an application within seven years after attaining  
27 superannuation age, he shall be deemed to have elected to  
28 receive his accumulated deductions upon attainment of  
29 superannuation age] provided that in no event shall a member  
30 begin receiving benefits on a date later than the required

1 beginning date.

2 (g) Initial annuity payment and certification.--The board  
3 shall make the first monthly payment to a member who is eligible  
4 for an annuity within 60 days of the filing of his application  
5 for an annuity or, in the case of a vestee who has deferred the  
6 filing of his application to a date later than 90 days following  
7 attainment of superannuation age, within 60 days of his  
8 effective date of retirement, and receipt of the required data  
9 from the employer of the member, provided that in no event shall  
10 a member begin receiving benefits on a date later than the  
11 required beginning date. Concurrently the board shall certify to  
12 such member:

13 (1) The accumulated deductions standing to his credit  
14 showing separately the amount contributed by the member, the  
15 pickup contribution and the interest credited to the date of  
16 termination of service.

17 (2) The number of years and fractional part of a year  
18 credited in each class of service.

19 (3) The final average salary on which his annuity is  
20 based as well as any applicable reduction factors due to age  
21 or election of an option or both.

22 (4) The total annuity payable under the option elected  
23 and the amount and effective date of any future reduction on  
24 account of social security old-age insurance benefits.

25 (h) Death benefits.--Upon receipt of notification of the  
26 death of a member or former member on USERRA leave, the board  
27 shall notify the designated beneficiary or survivor annuitant of  
28 the benefits to which he is entitled and shall make the first  
29 payment to the beneficiary under the plan elected by the  
30 beneficiary within 60 days of receipt of certification of death

1 and other necessary data. If no beneficiary designation is in  
2 effect at the date of the member's death or no notice has been  
3 filed with the board to pay the amount of such benefits to the  
4 member's estate, the board is authorized to pay such benefits to  
5 the executor, administrator, surviving spouse or next-of-kin of  
6 the deceased member, and payment pursuant hereto shall fully  
7 discharge the fund from any further liability to make payment of  
8 such benefits to any other person. [If the surviving spouse or  
9 next-of-kin of the deceased member cannot be found for the  
10 purpose of paying such benefits for a period of seven years from  
11 the date of death of the member, then such benefits shall be  
12 escheated to the Commonwealth for the benefit of the fund.]

13 \* \* \*

14 § 8506. Duties of employers.

15 \* \* \*

16 (c) Member and employer contributions.--The employer shall  
17 certify to its treasurer the required member contributions  
18 picked up and any other contributions, including, but not  
19 limited to, amounts collected for the State Employees'  
20 Retirement Board for the reinstatement of previous State service  
21 or creditable nonstate service and amounts paid to return  
22 benefits paid after the date of return to State service or  
23 entering school service, deducted from each payroll. On July 1,  
24 1996, and upon any later effective date of employment of any  
25 noneligible member to whom limitations under IRC § 401(a)(17) or  
26 [415(b)] 415 applies or is expected to apply, the employer shall  
27 identify to its treasurer or other payroll administrator the  
28 member or members to whom such limit applies or may apply and  
29 shall cause any such member's contributions deducted from  
30 payroll and the employer's contribution on his behalf to cease

1 at the limitations under IRC § 401(a)(17) or [415(b)] 415 on the  
2 payroll date if and when such limit shall be reached. The  
3 treasurer shall remit to the secretary of the board each month  
4 the total of the member contributions and the amount due from  
5 the employer determined in accordance with section 8327  
6 (relating to payments by employers). If, upon crediting the  
7 remittance of a noneligible member's contributions to the  
8 member's savings account, the board shall determine that such  
9 account shall have been credited with pickup contributions  
10 attributable to compensation which is in excess of the annual  
11 compensation limit under IRC § 401(a)(17) or [415(b)] 415, or  
12 with total member contributions for such member which would  
13 cause such member's contributions or benefits to exceed any  
14 applicable limitation on contributions or benefits under IRC §  
15 401(a)(17) or [415(b)] 415, the board shall as soon as  
16 practicable refund to the member from his individual member  
17 account such amount, together with the statutory interest  
18 thereon, as will cause the member's total member contributions  
19 not to exceed the applicable limit. The payment of any such  
20 refund to the member shall be charged to the member's savings  
21 account.

22 \* \* \*

23 § 8507. Rights and duties of school employees and members.

24 \* \* \*

25 (d) Credit for previous service or change in membership  
26 status.--Any active member or multiple service member who is a  
27 State employee who desires to receive credit for his previous  
28 school service or creditable nonschool service to which he is  
29 entitled, or a member of Class T-A or Class T-B who desires to  
30 become a member of Class T-C, or a joint coverage member who

1 desires to become a full coverage member shall so notify the  
2 board. Upon written agreement by the member and the board as to  
3 the manner of payment of the amount due, the member shall  
4 receive credit for such service as of the date of such agreement  
5 subject to the provisions of section 8325 (relating to  
6 incomplete payments) and subject to the provisions in this part  
7 relating to limitations under IRC § 415.

8 \* \* \*

9 (g) Vesting of retirement rights.--If a member elects to  
10 vest his retirement rights, he shall nominate a beneficiary by  
11 written designation filed with the board and he may anytime  
12 thereafter withdraw the accumulated deductions standing to his  
13 credit or apply for an annuity if eligible as provided in  
14 section 8307(a) or (b) (relating to eligibility for annuitants),  
15 provided that in no event shall a member begin receiving  
16 benefits on a date later than the required beginning date.

17 (h) Vestees attaining superannuation age.--Upon attainment  
18 of superannuation age a vestee shall execute and file within 90  
19 days an application for an annuity. Any application filed after  
20 such 90 day period shall be effective as of the date it is filed  
21 with the board, subject to the provisions of section 8505(g)  
22 (relating to duties of board regarding applications and  
23 elections of members), provided that in no event shall a member  
24 begin receiving benefits on a date later than the required  
25 beginning date. If a vestee does not file an application within  
26 seven years after attaining superannuation age, he shall be  
27 deemed to have elected to receive his accumulated deductions  
28 upon attainment of superannuation age.

29 (i) Failure to apply for annuity.--If a member is eligible  
30 to receive an annuity and does not file a proper application

1 within 90 days of termination of service, he shall be deemed to  
2 have elected to vest, and his annuity will become effective as  
3 of the date an application is filed with the board or the date  
4 designated on the application whichever is later, provided that  
5 in no event shall a member begin receiving benefits on a date  
6 later than the required beginning date.

7 \* \* \*

8 Section 9. The definitions of "active member," "credited  
9 service," "inactive member" and "special vestee" in section 5102  
10 of Title 71 are amended and the section is amended by adding  
11 definitions to read:

12 § 5102. Definitions.

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

16 \* \* \*

17 "Active member." A State employee, or a member on leave  
18 without pay, for whom pickup contributions are being made to the  
19 fund or for whom such contributions otherwise required for  
20 current State service are not being made solely by reason of  
21 section 5502.1 (relating to waiver of regular member  
22 contributions and Social Security integration member  
23 contributions) or any provision of this part relating to the  
24 limitations under section 401(a)(17) or section [415(b)] 415 of  
25 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
26 § 401(a)(17) or [415(b)] 415).

27 \* \* \*

28 "Credited service." State or creditable nonstate service for  
29 which the required contributions have been made or for which the  
30 contributions otherwise required for such service were not made



1 solely by reason of section 5502.1 (relating to waiver of  
2 regular member contributions and Social Security integration  
3 member contributions) or any provision of this part relating to  
4 the limitations under section 401(a)(17) or [415(b)] 415 of the  
5 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
6 401(a)(17) or [415(b)] 415) except as otherwise provided in  
7 this part, or for which salary deductions or lump sum payments  
8 have been agreed upon in writing.

9 \* \* \*

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

22 \* \* \*

23 "Normal retirement age." The normal retirement age of a  
24 member is the age set forth in section 401(a)(36) of the  
25 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
26 401(a)(36)) and in 26 C.F.R. § 1.401(a)-1(b)(2) (relating to  
27 post-ERISA qualified plans and qualified trusts; in general).

28 \* \* \*

29 "Required beginning date." The latest date by which  
30 distributions of a member's interest must commence under section

1 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-  
2 514, 26 U.S.C. § 401(a)(9)).

3 \* \* \*

4 "Special vestee." An employee of The Pennsylvania State  
5 University who is a member of the State Employees' Retirement  
6 System with five or more but less than ten eligibility points  
7 and who has a date of termination of service from The  
8 Pennsylvania State University of June 30, 1997, because of the  
9 transfer of his job position or duties to a controlled  
10 organization of the Penn State Geisinger Health System or  
11 because of the elimination of his job position or duties due to  
12 the transfer of other job positions or duties to a controlled  
13 organization of the Penn State Geisinger Health System, provided  
14 that:

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

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

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

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

29 \* \* \*

30 Section 10. Section 5302(a) of Title 71 is amended to read:

1 § 5302. Credited State service.

2 (a) Computation of credited service.--In computing credited  
3 State service of a member for the determination of benefits, a  
4 full-time salaried State employee, including any member of the  
5 General Assembly, shall receive credit for service in each  
6 period for which contributions as required are made, or for  
7 which contributions otherwise required for such service were not  
8 made solely by reason of section 5502.1 (relating to waiver of  
9 regular member contributions and Social Security integration  
10 member contributions) or any provision of this part relating to  
11 the limitations under IRC § 401(a)(17) or [415(b)] 415, except  
12 as otherwise provided in this part, but in no case shall he  
13 receive more than one year's credit for any 12 consecutive  
14 months or 26 consecutive biweekly pay periods. A per diem or  
15 hourly State employee shall receive one year of credited service  
16 for each nonoverlapping period of 12 consecutive months or 26  
17 consecutive biweekly pay periods in which he is employed and for  
18 which contributions are made or would have been made but for  
19 such waiver under section 5502.1 or limitations under the IRC  
20 for at least 220 days or 1,650 hours of employment. If the  
21 member was employed and contributions were made for less than  
22 220 days or 1,650 hours, he shall be credited with a fractional  
23 portion of a year determined by the ratio of the number of days  
24 or hours of service actually rendered to 220 days or 1,650  
25 hours, as the case may be. A part-time salaried employee shall  
26 be credited with the fractional portion of the year which  
27 corresponds to the number of hours or days of service actually  
28 rendered in relation to 1,650 hours or 220 days, as the case may  
29 be. In no case shall a member who has elected multiple service  
30 receive an aggregate in the two systems of more than one year of

1 credited service for any 12 consecutive months.

2 \* \* \*

3 Section 11. Section 5304 of Title 71 is amended by adding a  
4 subsection to read:

5 § 5304. Creditable nonstate service.

6 \* \* \*

7 (c.2) Additional limitation on nonstate service.--No credit  
8 for nonstate service shall be granted for the portion of such  
9 service for which the required contributions would cause a  
10 violation of the limitations applicable to governmental plans  
11 contained in IRC § 415. In the event that such nonstate service  
12 credit is granted after the effective date of this subsection,  
13 then such service credit shall be canceled and benefits  
14 calculated without regard to such service or contributions and  
15 any member contributions in excess of the limitations and  
16 statutory interest credited on those contributions shall be  
17 refunded to the member by the board.

18 \* \* \*

19 Section 12. Section 5305(b) of Title 71 is amended to read:  
20 § 5305. Social security integration credits.

21 \* \* \*

22 (b) Accrual of subsequent credits.--Any member who has  
23 social security integration accumulated deductions to his credit  
24 or is receiving a benefit on account of social security  
25 integration credits may accrue one social security integration  
26 credit for each year of service as a State employee on or  
27 subsequent to March 1, 1974 and a fractional credit for a  
28 corresponding fractional year of service provided that  
29 contributions are made, or would have been made but for section  
30 5502.1 (relating to waiver of regular member contributions and

1 Social Security integration member contributions) or the  
2 limitations under IRC § 401(a)(17) or [415(b)] 415, except as  
3 otherwise provided in this part, in accordance with section 5502  
4 (relating to Social Security integration member contributions),  
5 and he:

6 (1) continues subsequent to March 1, 1974 as an active  
7 member in either the State or school system;

8 (2) terminates such continuous service in the State or  
9 school system and returns to active membership in the State  
10 system within six months; or

11 (3) terminates his status as a vestee or an annuitant  
12 and returns to State service.

13 \* \* \*

14 Section 13. Section 5308 of Title 71 is amended by adding a  
15 subsection to read:

16 § 5308. Eligibility for annuities.

17 \* \* \*

18 (d) Required beginning date.--Members eligible for an  
19 annuity must commence receiving the annuity by the member's  
20 required beginning date.

21 Section 14. Sections 5309, 5309.1, 5311, 5501 and 5502 of  
22 Title 71 are amended to read:

23 § 5309. Eligibility for vesting.

24 Any member who:

25 (1) Does not have Class A-3 or Class A-4 service credit  
26 or Class T-E or Class T-F service credit in the Public School  
27 Employees' Retirement System and terminates State service  
28 with five or more eligibility points, or any member with  
29 Class G, Class H, Class I, Class J, Class K, Class L, Class M  
30 or Class N service with five or more eligibility points,

1 shall be eligible until [attainment of superannuation age]  
2 his required beginning date to vest his retirement benefits.

3 (2) Has Class A-3 or Class A-4 service credit or Class  
4 T-E or Class T-F service credit in the Public School  
5 Employees' Retirement System and terminates State service  
6 with ten or more eligibility points shall be eligible until  
7 [attainment of superannuation age] his required beginning  
8 date to vest his retirement benefits.

9 (3) Has either Class A-3 or Class A-4 service credit or  
10 Class T-E or Class T-F service credit in the Public School  
11 Employees' Retirement System, also has service credited in  
12 the system in one or more other classes of service and has  
13 five or more, but fewer than ten, eligibility points shall be  
14 eligible until [the attainment of superannuation age] his  
15 required beginning date to vest his retirement benefits  
16 calculated on his service credited in classes of service  
17 other than Class A-3 or Class A-4 and to be credited with  
18 statutory interest on total accumulated deductions,  
19 regardless of whether or not any part of his accumulated  
20 deductions are a result of Class A-3 or Class A-4 service  
21 credit.

22 § 5309.1. Eligibility for special vesting.

23 Any employee of The Pennsylvania State University who is a  
24 member of the system with five or more but less than ten  
25 eligibility points and who has a date of termination of service  
26 from The Pennsylvania State University of June 30, 1997, because  
27 of the transfer of his job position or duties to a controlled  
28 organization of the Penn State Geisinger Health System or  
29 because of the elimination of his job position or duties due to  
30 the transfer of other job positions or duties to a controlled

1 organization of the Penn State Geisinger Health System shall be  
2 eligible until the attainment of superannuation age or his  
3 required beginning date to vest his retirement benefits  
4 according to the terms and conditions of this part.

5 § 5311. Eligibility for refunds.

6 (a) Total accumulated deductions.--Any active member,  
7 regardless of eligibility for benefits, may elect to receive his  
8 total accumulated deductions by his required beginning date upon  
9 termination of service in lieu of any benefit to which he is  
10 entitled.

11 (b) Social security integration accumulated deductions.--Any  
12 active member at any time after the attainment of normal  
13 retirement age may elect to receive his social security  
14 integration accumulated deductions and thereby to have all his  
15 social security integration credits and benefits therefor  
16 cancelled, and shall not be entitled to accrue any further  
17 social security integration credits or benefits; except that a  
18 disability annuitant who returns to State service shall have the  
19 right to reinstate his social security integration accumulated  
20 deductions and credits therefor.

21 § 5501. Regular member contributions for current service.

22 Regular member contributions shall be made to the fund on  
23 behalf of each active member for current service except for any  
24 period of current service in which the making of such  
25 contributions has ceased solely by reason of section 5502.1  
26 (relating to waiver of regular member contributions and Social  
27 Security integration member contributions) or any provision of  
28 this part relating to the limitations under IRC § 401(a)(17) or  
29 [415(b)] 415.

30 § 5502. Social Security integration member contributions.

1 Except for any period of current service in which the making  
2 of regular member contributions has ceased solely by reason of  
3 section 5502.1 (relating to waiver of regular member  
4 contributions and Social Security integration member  
5 contributions) or any provision of this part relating to  
6 limitations under IRC § 401(a)(17) or [415(b)] 415,  
7 contributions shall be made on behalf of a member of any class  
8 who prior to March 1, 1974, has elected Social Security  
9 integration coverage. The amount of such contributions shall be  
10 6 1/4% of that portion of his compensation in excess of the  
11 maximum wages taxable under the provisions of the Social  
12 Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), in  
13 addition to the regular member contributions which, after such  
14 election, shall be determined on the basis of the basic  
15 contribution rate of 5% and the additional member contribution  
16 of 1 1/4%: Provided, That a member may elect to discontinue  
17 Social Security integration coverage and shall thereafter be  
18 ineligible to accrue any further Social Security integration  
19 credits or any additional benefits on account of Social Security  
20 integration membership.

21 Section 15. Section 5502.1 of Title 71 is amended by adding  
22 a subsection to read:

23 § 5502.1. Waiver of regular member contributions and Social  
24 Security integration member contributions.

25 \* \* \*

26 (c) Expiration.--This section shall expire December 31 of  
27 the year coincident with or next following the effective date of  
28 this subsection.

29 Section 16. Section 5504(b) of Title 71 is amended to read:

30 § 5504. Member contributions for the purchase of credit for



1 previous State service or to become a full coverage  
2 member.

3 \* \* \*

4 (b) Certification and method of payment.--

5 (1) The amount payable shall be certified in each case  
6 by the board in accordance with methods approved by the  
7 actuary and shall be paid in a lump sum within 30 days or in  
8 the case of an active member or eligible school employee who  
9 is an active member of the Public School Employees'  
10 Retirement System may be amortized with statutory interest  
11 through salary deductions in amounts agreed upon by the  
12 member and the board. The salary deduction amortization plans  
13 agreed to by members and the board may include a deferral of  
14 payment amounts and statutory interest until the termination  
15 of school service or State service as the board in its sole  
16 discretion decides to allow. The board may limit the salary  
17 deduction amortization plans to such terms as the board in  
18 its sole discretion determines. In the case of an eligible  
19 school employee who is an active member of the Public School  
20 Employees' Retirement System, the agreed upon salary  
21 deductions shall be remitted to the Public School Employees'  
22 Retirement Board, which shall certify and transfer to the  
23 board the amounts paid.

24 (2) No payments for service or coverage shall be allowed  
25 for which the required contributions would cause a violation  
26 of the limitation related to contributions applicable to  
27 governmental plans contained in IRC § 415. In the event that  
28 any service credit or coverage based on such disallowed  
29 contributions is granted after the effective date of this  
30 paragraph, then such service credit shall be canceled and

1 benefits calculated without regard to such service or  
2 contributions and any member contributions in excess of the  
3 limitations and statutory interest credited on those  
4 contributions shall be refunded to the member by the board.

5 Section 17. Section 5505 of Title 71 is amended by adding a  
6 subsection to read:

7 § 5505. Contributions for the purchase of credit for creditable  
8 nonstate service.

9 \* \* \*

10 (j) Disallowed contributions.--No payments for service shall  
11 be allowed for which the required contributions would cause a  
12 violation of the limitation related to contributions applicable  
13 to governmental plans contained in IRC § 415. In the event that  
14 any service credit based on such disallowed contributions is  
15 granted after the effective date of this subsection, then such  
16 service credit shall be canceled and benefits calculated without  
17 regard to such service or contributions and any member  
18 contributions in excess of the limitations and statutory  
19 interest credited on those contributions shall be refunded to  
20 the member by the board.

21 Section 18. Sections 5506, 5701, 5702(d), 5704(g) and  
22 5705(a) of Title 71 are amended to read:

23 § 5506. Incomplete payments.

24 (a) General rule.--In the event that a member terminates  
25 State service or a multiple service member who is an active  
26 member of the Public School Employees' Retirement System  
27 terminates school service before the agreed upon payments for  
28 credit for previous State service, USERRA leave, creditable  
29 nonstate service, social security integration, full coverage  
30 membership or return of benefits on account of returning to

1 State service or entering school service and electing multiple  
2 service have been completed, the member or multiple service  
3 member who is an active member of the Public School Employees'  
4 Retirement System shall have the right to pay within 30 days of  
5 termination of State service or school service the balance due,  
6 including interest, in a lump sum and the annuity shall be  
7 calculated including full credit for the previous State service,  
8 creditable nonstate service, social security integration, or  
9 full coverage membership. In the event a member does not pay the  
10 balance due within 30 days of termination of State service or in  
11 the event a member dies in State service or within 30 days of  
12 termination of State service or in the case of a multiple  
13 service member who is an active member of the Public School  
14 Employees' Retirement System does not pay the balance due within  
15 30 days of termination of school service or dies in school  
16 service or within 30 days of termination of school service and  
17 before the agreed upon payments have been completed, the present  
18 value of the benefit otherwise payable shall be reduced by the  
19 balance due, including interest, and the benefit payable shall  
20 be calculated as the actuarial equivalent of such reduced  
21 present value.

22 (b) Disallowed contributions.--No payments for service or  
23 coverage shall be allowed for which the required contributions  
24 would cause a violation of the limitation related to  
25 contributions applicable to governmental plans contained in IRC  
26 § 415. In the event that any service credit or coverage based on  
27 such disallowed contributions is granted after the effective  
28 date of this subsection, then such service credit or coverage  
29 shall be canceled and benefits calculated without regard to such  
30 service, coverage or contributions and any member contributions

1 in excess of the limitations and statutory interest credited on  
2 those contributions shall be refunded to the member by the  
3 board.

4 § 5701. Return of total accumulated deductions.

5 Any member upon termination of service may, in lieu of all  
6 benefits payable under this chapter to which he may be entitled,  
7 elect to receive his total accumulated deductions by his  
8 required beginning date.

9 § 5702. Maximum single life annuity.

10 \* \* \*

11 (d) Limitation regarding annual benefit under IRC § 415.--  
12 Notwithstanding any provision of this part to the contrary,  
13 including, but not limited to, subsection (c), no benefit shall  
14 be payable to the extent that such benefit exceeds any  
15 limitations under IRC § [415(b)] 415 in effect with respect to  
16 governmental plans as such term is defined in IRC § 414(d) on  
17 the date the benefit payment becomes effective[.], provided  
18 however, that any increase in any limitation under IRC § 415  
19 shall be applicable to all current and future annuitants and  
20 survivor annuitants.

21 § 5704. Disability annuities.

22 \* \* \*

23 (g) Limitation regarding annual benefit under IRC § 415.--  
24 Notwithstanding any provisions of this part to the contrary, no  
25 benefit shall be payable to the extent that such benefit exceeds  
26 any limitation under IRC § [415(b)] 415 as in effect with  
27 respect to governmental plans as such term is defined in IRC §  
28 414(d) on the date the benefit payment becomes effective[.],  
29 provided however, that any increase in any limitation under IRC  
30 § 415 shall be applicable to all current and future annuitants

1 and survivor annuitants.

2 § 5705. Member's options.

3 (a) General rule.--Any special vestee who has attained  
4 superannuation age, any vestee who does not have Class A-3 or  
5 Class A-4 service credit having five or more eligibility points  
6 for service other than Class T-E or Class T-F service in the  
7 Public School Employees' Retirement System, or vestee who has  
8 Class A-3 or Class A-4 service credit having ten or more  
9 eligibility points, any member with Class G, Class H, Class I,  
10 Class J, Class K, Class L, Class M or Class N service having  
11 five or more eligibility points or any other eligible member  
12 upon termination of State service who has not withdrawn his  
13 total accumulated deductions as provided in section 5701  
14 (relating to return of total accumulated deductions) may apply  
15 for and elect to receive either a maximum single life annuity,  
16 as calculated in accordance with the provisions of section 5702  
17 (relating to maximum single life annuity), or a reduced annuity  
18 certified by the actuary to be actuarially equivalent to the  
19 maximum single life annuity and in accordance with one of the  
20 following options; except that no member shall elect an annuity  
21 payable to one or more survivor annuitants other than his spouse  
22 or alternate payee of such a magnitude that the present value of  
23 the annuity payable to him for life plus any lump sum payment he  
24 may have elected to receive is less than 50% of the present  
25 value of his maximum single life annuity[:] and no member may  
26 elect a payment option that would provide benefits that do not  
27 satisfy the minimum distribution requirements or would violate  
28 the incidental death benefit rules of IRC § 401(a)(9):

29 (1) Option 1.--A life annuity to the member with a  
30 guaranteed total payment equal to the present value of the

1 maximum single life annuity on the effective date of  
2 retirement with the provision that, if, at his death, he has  
3 received less than such present value, the unpaid balance  
4 shall be payable to his beneficiary.

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

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

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

17 (i) any annuity shall be payable without reduction  
18 during the lifetime of the member;

19 (ii) the sum of all annuities payable to the  
20 designated survivor annuitants shall not be greater than  
21 one and one-half times the annuity payable to the member;  
22 and

23 (iii) a portion of the benefit may be payable as a  
24 lump sum, except that such lump sum payment shall not  
25 exceed an amount equal to the total accumulated  
26 deductions standing to the credit of the member that are  
27 not the result of contributions and statutory interest  
28 made or credited as a result of Class A-3 or Class A-4  
29 service. The balance of the present value of the maximum  
30 single life annuity adjusted in accordance with section

1           5702(b) shall be paid in the form of an annuity with a  
2           guaranteed total payment, a single life annuity, or a  
3           joint and survivor annuity or any combination thereof but  
4           subject to the restrictions of subparagraphs (i) and (ii)  
5           under this option.

6           \* \* \*

7           Section 19. Section 5706(a) and (a.1) of Title 71 are  
8           amended and the section is amended by adding subsections to  
9           read:

10          § 5706. Termination of annuities.

11          (a) General rule.--

12           (1) If the annuitant returns to State service or enters  
13           or has entered school service and elects multiple service  
14           membership, any annuity payable to him under this part shall  
15           cease effective upon the date of his return to State service  
16           or entering school service and in the case of an annuity  
17           other than a disability annuity the present value of such  
18           annuity, adjusted for full coverage in the case of a joint  
19           coverage member who makes the appropriate back contributions  
20           for full coverage, shall be frozen as of the date such  
21           annuity ceases. An annuitant who is credited with an  
22           additional 10% of Class A and Class C service as provided in  
23           section 5302(c) (relating to credited State service) and who  
24           returns to State service shall forfeit such credited service  
25           and shall have his frozen present value adjusted as if his  
26           10% retirement incentive had not been applied to his account.  
27           In the event that the cost-of-living increase enacted  
28           December 18, 1979 occurred during the period of such State or  
29           school employment, the frozen present value shall be  
30           increased, on or after the member attains superannuation age,

1 by the percent applicable had he not returned to service.

2 (2) This subsection shall not apply in the case of any  
3 annuitant who:

4 (i) may render services to the Commonwealth in the  
5 capacity of an independent contractor; or

6 (ii) is over normal retirement age or who has been  
7 an annuitant for more than one year and who may render  
8 service to the Commonwealth:

9 (A) as a member of an independent board or  
10 commission or as a member of a departmental  
11 administrative or advisory board or commission when  
12 such members of independent or departmental boards or  
13 commissions are compensated on a per diem basis for  
14 not more than 150 days per calendar year; or

15 (B) as a member of an independent board or  
16 commission requiring appointment by the Governor,  
17 with advice and consent of the Senate, where the  
18 annual salary payable to the member does not exceed  
19 \$35,000 and where the member has been an annuitant  
20 for at least six months immediately preceding the  
21 appointment.

22 [Such service shall not be subject to member contributions or be  
23 eligible for qualification as creditable State service.]

24 (a.1) Return to State service during emergency.--When, in  
25 the judgment of the employer, an emergency creates an increase  
26 in the work load such that there is serious impairment of  
27 service to the public, an annuitant who is over normal  
28 retirement age or who has been an annuitant for more than one  
29 year may be returned to State service for a period not to exceed  
30 95 days in any calendar year without loss of his annuity. In



1 computing the number of days an annuitant has returned to State  
2 service, any amount of time less than one-half of a day shall be  
3 counted as one-half of a day. For agencies, boards and  
4 commissions under the Governor's jurisdiction, the approval of  
5 the Governor that an emergency exists shall be required before  
6 an annuitant may be returned to State service.

7 \* \* \*

8 (a.4) Return to service as a senior judge or senior  
9 magisterial district judge.--Notwithstanding the provisions of  
10 the act of September 30, 1983 (P.L.160, No.39), known as the  
11 Public Official Compensation Law, 42 Pa.C.S. (relating to  
12 judiciary and judicial procedure) or any other provision of law  
13 or rule of court providing for or allowing a member of the  
14 judiciary to return to service as a senior judge, senior  
15 justice, senior magisterial district judge or in any  
16 administrative, fact finding, adjudicative, appellate or other  
17 capacity with any court or tribunal or in any other capacity for  
18 which compensation is received and to receive such compensation,  
19 whether paid on a per diem, hourly, salaried or other basis, in  
20 addition to any annuity payable under this part, any such member  
21 of the judiciary who returns to State service shall be subject  
22 to the provision of this section and section 5301 (relating to  
23 mandatory and optional membership) unless that member of the  
24 judiciary is over normal retirement age or has been an annuitant  
25 for more than one year.

26 (a.5) No contributions or credited service.--The service of  
27 an annuitant whose annuity does not cease upon his return to  
28 State or school service shall not be subject to member  
29 contributions or eligible for qualification as creditable State  
30 service.

1 \* \* \*

2 Section 20. Sections 5707 and 5709 of Title 71 are amended  
3 by adding subsections to read:

4 § 5707. Death benefits.

5 \* \* \*

6 (g) Required distributions.--All payments pursuant to this  
7 section shall start and be made in compliance with the minimum  
8 distribution requirements and incidental death benefit rules of  
9 IRC § 401(a)(9).

10 § 5709. Payment of benefits.

11 \* \* \*

12 (d) Required distributions.--All payments pursuant to this  
13 section shall start and be made in compliance with the required  
14 beginning date, minimum distribution requirements and incidental  
15 death benefit rules of IRC § 401(a)(9).

16 Section 21. Sections 5903(a), 5905(e), (e.1) and (g),  
17 5906(c), 5907(d), (g), (h) and (i) and 5953 of Title 71 are  
18 amended to read:

19 § 5903. Duties of the board to advise and report to heads of  
20 departments and members.

21 (a) Manual of regulations.--The board shall, with the advice  
22 of the Attorney General and the actuary, prepare and provide,  
23 within 90 days of the effective date of this part, a manual  
24 incorporating rules and regulations consistent with the  
25 provisions of this part to the heads of departments who shall  
26 make the information contained therein available to the general  
27 membership. The board shall thereafter advise the heads of  
28 departments within 90 days of any changes in such rules and  
29 regulations due to changes in the law or due to changes in  
30 administrative policies. As soon as practicable after the

1 commissioner's announcement with respect thereto, the board  
2 shall also advise the heads of departments as to any cost-of-  
3 living adjustment for the succeeding calendar year in the amount  
4 of the limitation under IRC § 401(a)(17) and the dollar amounts  
5 of the limitations under IRC § [415(b)]. As soon as practicable  
6 after January 1 of each year, the board shall also advise the  
7 heads of departments of the employees for whom, pursuant to  
8 section 5502.1 (relating to waiver of regular member  
9 contributions and Social Security integration member  
10 contributions), pickup contributions are not to be made.] 415.

11 \* \* \*

12 § 5905. Duties of the board regarding applications and  
13 elections of members.

14 \* \* \*

15 (e) Certification to vestees and special vestees terminating  
16 service.--The board shall certify to a vestee or to a special  
17 vestee within one year of termination of State service of such  
18 member:

19 (1) the total accumulated deductions standing to his  
20 credit at the date of termination of service;

21 (2) the number of years and fractional part of a year of  
22 credit in each class of service; [and]

23 (3) the maximum single life annuity to which the vestee  
24 or special vestee shall become entitled upon the attainment  
25 of superannuation age and the filing of an application for  
26 such annuity[.]; and

27 (4) the obligation of the member to commence  
28 distributions by the member's required beginning date.

29 (e.1) Notification to vestees and special vestees  
30 approaching superannuation age.--The board shall notify each

1 vestee and special vestee in writing 90 days prior to his  
2 attainment of superannuation age that he shall apply for his  
3 annuity within 90 days of attainment of superannuation age;  
4 that, if he does so apply, his effective date of retirement will  
5 be the date of attainment of superannuation age; that, if he  
6 does not so apply but defers his application to a later date,  
7 then he has an obligation to apply by his required beginning  
8 date and that his effective date of retirement will be the later  
9 of the date of filing such application or the date specified on  
10 the application, [whichever is later; and that, if he does not  
11 file an application within seven years after attaining  
12 superannuation age, he shall be deemed to have elected to  
13 receive his total accumulated deductions upon attainment of  
14 superannuation age] which shall not be later than his required  
15 beginning date.

16 \* \* \*

17 (g) Death benefits.--Upon receipt of notification from the  
18 head of a department of the death of an active member, a member  
19 performing USERRA leave or a member on leave without pay, the  
20 board shall advise the designated beneficiary of the benefits to  
21 which he is entitled, and shall make the first payment to the  
22 beneficiary within 60 days of receipt of certification of death  
23 and other necessary data. If no beneficiary designation is in  
24 effect at the date of the member's death or no notice has been  
25 filed with the board to pay the amount of the benefits to the  
26 member's estate, the board is authorized to pay the benefits to  
27 the executor, administrator, surviving spouse or next of kin of  
28 the deceased member, and payment pursuant hereto shall fully  
29 discharge the fund from any further liability to make payment of  
30 such benefits to any other person. [If the surviving spouse or

1 next of kin of the deceased member cannot be found for the  
2 purpose of paying the benefits for a period of seven years from  
3 the date of death of the member, then the benefits shall be  
4 escheated to the Commonwealth for the benefit of the fund.]

5 \* \* \*

6 § 5906. Duties of heads of departments.

7 \* \* \*

8 (c) Member contributions.--The head of department shall  
9 cause the required pickup contributions for current service to  
10 be made and shall cause to be deducted any other required member  
11 contributions, including, but not limited to, contributions owed  
12 by an active member with multiple service membership for school  
13 service and creditable nonschool service in the Public School  
14 Employees' Retirement System and amounts certified by the Public  
15 School Employees' Retirement Board as due and owing on account  
16 of termination of annuities, from each payroll. The head of  
17 department shall notify the board at times and in a manner  
18 prescribed by the board of the compensation of any noneligible  
19 member to whom the limitation under IRC § 401(a)(17) either  
20 applies or is expected to apply and shall cause such member's  
21 contributions deducted from payroll to cease at the limitation  
22 under IRC § 401(a)(17) on the payroll date if and when such  
23 limit shall be reached. The head of department shall certify to  
24 the State Treasurer the amounts picked up and deducted and shall  
25 send the total amount picked up and deducted together with a  
26 duplicate of such voucher to the secretary of the board every  
27 pay period. The head of department shall pay pickup  
28 contributions from the same source of funds which is used to pay  
29 other compensation to the employee. On or before January 31,  
30 1997, and on or before January 31 of each year thereafter, the

1 head of department shall, at the time when the income and  
2 withholding information required by law is furnished to each  
3 member, also furnish the amount of pickup contributions made on  
4 his behalf and notify the board, if it has not been previously  
5 notified, of any noneligible member whose compensation in the  
6 preceding year exceeded the annual compensation limit under IRC  
7 § 401(a)(17). If the board shall determine that the member's  
8 savings account shall have been credited with pickup  
9 contributions for a noneligible member in the preceding year  
10 which are attributable to compensation in excess of the  
11 limitation under IRC § 401(a)(17), or with total member  
12 contributions for such member which would cause such member's  
13 contributions or benefits to exceed any applicable limitation  
14 under IRC § 401(a)(17) or [415(b)] 415, the board shall as soon  
15 as practicable refund to the member from his individual member  
16 account such amount, together with the statutory interest  
17 thereon, as will cause the member's total member contributions  
18 in the preceding year not to exceed the applicable limit. The  
19 payment of any such refund to the member shall be charged to the  
20 member's savings account.

21 \* \* \*

22 § 5907. Rights and duties of State employees and members.

23 \* \* \*

24 (d) Credit for previous service or change in membership  
25 status.--Any active member or eligible school employee who  
26 desires to receive credit for his total previous State service  
27 or creditable nonstate service to which he is entitled, or a  
28 joint coverage member who desires to become a full coverage  
29 member, shall so notify the board and upon written agreement by  
30 the member and the board as to the manner of payment of the

1 amount due, the member shall receive credit for such service as  
2 of the date of such agreement subject to the provisions in this  
3 part relating to the limitations under IRC § 415.

4 \* \* \*

5 (g) Vesting of retirement rights.--If a member elects to  
6 vest his retirement rights he shall nominate a beneficiary by  
7 written designation filed with the board and he may anytime  
8 thereafter, but no later than his required beginning date,  
9 withdraw the total accumulated deductions standing to his credit  
10 or apply for an annuity.

11 (h) Vestees and special vestees attaining superannuation  
12 age.--Upon attainment of superannuation age a vestee or special  
13 vestee shall execute and file an application for an annuity. Any  
14 such application filed within 90 days after attaining  
15 superannuation age shall be effective as of the date of  
16 attainment of superannuation age. Any application filed after  
17 such period shall be filed by the member's required beginning  
18 date and shall be effective as of the date it is filed with the  
19 board, subject to the provisions of section 5905(f) (relating to  
20 duties of the board regarding applications and elections of  
21 members). [If a vestee or special vestee does not file an  
22 application within seven years after attaining superannuation  
23 age, he shall be deemed to have elected to receive his total  
24 accumulated deductions upon attainment of superannuation age.]

25 (i) Failure to apply for annuity.--If a member is eligible  
26 to receive an annuity and does not file a proper application  
27 within 90 days of termination of service, his annuity will  
28 become effective as of the later of the date the application is  
29 filed with the board or the date designated on the application  
30 [whichever is later] which shall not be later than his required

1 beginning date.

2 \* \* \*

3 § 5953. Taxation, attachment and assignment of funds.

4 (a) General rule.--

5 (1) Except as provided in paragraphs (2), (3) and (4),  
6 the right of a person to any benefit or right accrued or  
7 accruing under the provisions of this part and the moneys in  
8 the fund are hereby exempt from any State or municipal tax,  
9 levy and sale, garnishment, attachment, spouse's election,  
10 the provisions of Article XIII.1 of the act of April 9, 1929  
11 (P.L.343, No.176), known as The Fiscal Code, or any other  
12 process whatsoever except for a set-off by the Commonwealth  
13 in the case provided in [subparagraph (i)] this paragraph,  
14 and shall be unassignable except[:

15 (i) To] to the Commonwealth in the case of a member  
16 who is terminating State service and has been determined  
17 to be obligated to the Commonwealth for the repayment of  
18 money owed on account of his employment [or to the fund  
19 on account of a loan from a credit union which has been  
20 satisfied by the board from the fund.

21 (ii) To a credit union as security for a loan not to  
22 exceed \$750 and interest not to exceed 6% per annum  
23 discounted and/or fines thereon if the credit union is  
24 now or hereafter organized and incorporated under the  
25 laws of this Commonwealth and the membership of such  
26 credit union is limited solely to officials and employees  
27 of the Commonwealth and if such credit union has paid to  
28 the fund \$3 for each such assignment].

29 (2) Rights under this part shall be subject to  
30 forfeiture as provided by the act of July 8, 1978 (P.L.752,



1 No.140), known as the Public Employee Pension Forfeiture Act,  
2 and by or pursuant to section 16(b) of Article V of the  
3 Constitution of Pennsylvania. Forfeitures under this  
4 subsection or under any other provision of law may not be  
5 applied to increase the benefits that any member would  
6 otherwise receive under this part.

7 (3) Rights under this part shall be subject to  
8 attachment in favor of an alternate payee as set forth in an  
9 approved domestic relations order.

10 (4) Effective with distributions made on or after  
11 January 1, 1993, and notwithstanding any other provision of  
12 this part to the contrary, a distributee may elect, at the  
13 time and in the manner prescribed by the board, to have any  
14 portion of an eligible rollover distribution paid directly to  
15 an eligible retirement plan by way of a direct rollover. For  
16 purposes of this paragraph, a "distributee" includes a member  
17 and a member's surviving spouse and a member's former spouse  
18 who is an alternate payee under an approved domestic  
19 relations order. For purposes of this paragraph, the term  
20 "eligible rollover distribution" has the meaning given such  
21 term by IRC § 402(f)(2)(A), and "eligible retirement plan"  
22 has the meaning given such term by IRC § 402(c)(8)(B), except  
23 that a qualified trust shall be considered an eligible  
24 retirement plan only if it accepts the distributee's eligible  
25 rollover distribution; however, in the case of an eligible  
26 rollover distribution to a surviving spouse, an eligible  
27 retirement plan is an "individual retirement account" or an  
28 "individual retirement annuity" as those terms are defined in  
29 IRC § 408(a) and (b).

30 (b) Authorized payments from fund.--The board shall be

1 authorized to pay from the fund[:

2 (1) In] in the case of a member who is terminating  
3 service, the amount determined after certification by the  
4 head of the department that the member is so obligated, and  
5 after review and approval by the department or agency's legal  
6 representative or upon receipt of an assignment from the  
7 member in the amount so certified.

8 [(2) In the case of a loan the amount of the loan and  
9 any fine or interest due thereon to the credit union except  
10 5% of the total amount due which is to be retained in the  
11 fund as a collection fee:

12 (i) if the member obtaining the loan shall have been  
13 in default in required payments for a period of not less  
14 than two years; or

15 (ii) at such time as the Department of Banking shall  
16 require the credit union to charge the amount of the loan  
17 against the reserve fund of such credit union.

18 Any member who shall have pledged such rights as  
19 security for a loan from a credit union and, on whose  
20 behalf the board shall have made any payment by reason of  
21 that member's default, may not thereafter pledge or  
22 assign such rights to a credit union.]

23 Section 22. Title 71 is amended by adding a section to read:

24 § 5955.2. Construction of part with respect to the Internal  
25 Revenue Code.

26 (a) Limitation regarding annual benefit under IRC § 415.--

27 (1) (i) Notwithstanding any provisions of this part to  
28 the contrary, no benefit shall be payable to the extent that  
29 such benefit exceeds any limitation under IRC § 415 in effect  
30 with respect to governmental plans as the term is defined in

1 IRC § 414(d) on the date the benefit payment becomes  
2 effective, provided, however, that any increase in any  
3 limitation under IRC § 415 shall be applicable to all current  
4 and future annuitants. No act of the General Assembly enacted  
5 after the effective date of this section that increases  
6 benefits under this part either for active members, inactive  
7 members, vestees or annuitants shall be deemed by the rules  
8 of statutory construction or otherwise to provide for  
9 benefits in excess of any limitation, as adjusted or  
10 subsequently increased, provided for under IRC § 415 unless  
11 specifically so provided by act of the General Assembly.

12 (ii) Notwithstanding subparagraph (i), any increase  
13 in benefits for any members of the system after the  
14 effective date of this section are intended to be  
15 applicable to the fullest extent allowed by law and this  
16 section authorizes any such increases in limitations or  
17 allowable benefits.

18 (2) In the event that annuities payable to a member from  
19 both the system and the Public School Employees' Retirement  
20 System are combined for purposes of determining whether  
21 annuities from the system and the Public School Employees'  
22 Retirement System are in excess of the limitations under IRC  
23 § 415(b), then:

24 (i) to the extent that the combined benefits exceed  
25 such limitations, but neither of the annuities from  
26 either the system or the Public School Employees'  
27 Retirement System would individually exceed such  
28 limitations, or the annuities payable under this part  
29 individually exceed such limitations and the annuity  
30 payable from the Public School Employees' Retirement

1 System does not, then the limitations shall be applied to  
2 the annuities payable under this part to the extent  
3 required for such combined benefits to be within the  
4 limitations; or

5 (ii) to the extent that the annuity payable from the  
6 Public School Employees' Retirement System exceeds such  
7 limitation and the annuity from this part does not, or  
8 the annuities payable from the system and the Public  
9 School Employees' Retirement System individually exceed  
10 the limitations, then the limitation shall be applied  
11 first to the annuity payable from the Public School  
12 Employees' Retirement System so that the annuity from the  
13 Public School Employees' Retirement System is not in  
14 excess of such limitations and any remaining limitation  
15 will be applied to the benefits payable under this part.

16 (b) Vesting in event of plan termination.--

17 (1) In the event of termination of the system or upon  
18 complete discontinuance of contributions under this part, the  
19 rights of all members of the system to benefits accrued under  
20 this part to the date of such termination or discontinuance,  
21 to the extent then funded, and the amounts credited to the  
22 members' savings account are vested and nonforfeitable,  
23 except as allowed under the act of July 8, 1978 (P.L.752,  
24 No.140), known as the Public Employee Pension Forfeiture Act,  
25 and by or pursuant to section 16(b) of Article V of the  
26 Constitution of Pennsylvania or any provision of this part  
27 and any such member shall be eligible to be a vestee under  
28 section 5309 (relating to eligibility for vesting) or receive  
29 an annuity under section 5308(a) or (b) (relating to  
30 eligibility for annuities) without regard to any requirement

1 that the member needs a specified number of eligibility  
2 points or years of credited service to be eligible to be a  
3 vestee or receive an annuity.

4 (2) This subsection shall not apply to benefits or  
5 contributions which, pursuant to the regulations prescribed  
6 by the Secretary of the Treasury or his delegate to preclude  
7 the discrimination prohibited by IRC § 401(a)(4) as in effect  
8 on September 1, 1974, may not be used for such designated  
9 employees in the event of early termination of the system.

10 (c) Permissive service credit.--Nothing in this part shall  
11 be construed or deemed to imply that any member of the system  
12 shall be required to make contributions to the system for the  
13 purchase of State or nonstate permissive service credit in  
14 excess of the limits established by IRC § 415(n)(3)(A)(iii). Any  
15 contributions made by a member of the system for the purchase of  
16 State or nonstate service credit which are determined to be in  
17 excess of those limits shall be refunded to the member in a lump  
18 sum subject to withholding for all applicable taxes and  
19 penalties as soon as administratively possible after the  
20 determination is made. Any refund of excess contributions made  
21 under this section shall not affect the benefit payable to the  
22 member and shall not be treated as or deemed to be a withdrawal  
23 of the member's accumulated deductions.

24 (d) References to Internal Revenue Code of 1986.--References  
25 in this part to provisions of the Internal Revenue Code of 1986  
26 (Public Law 99-514, 26 U.S.C. § 1 et seq.), including for this  
27 purpose administrative regulations promulgated under that act,  
28 are intended to include such laws and regulations as are in  
29 effect on the effective date of this section and as they may be  
30 amended or supplemented or supplanted by successor provisions

1 after the effective date of this section.

2 (e) Construction and administration of part.--This part  
3 shall be construed and administered in such a manner that the  
4 system shall satisfy the requirements necessary to qualify as a  
5 qualified pension plan under IRC § 401(a) and other applicable  
6 provisions of the IRC. The rules, regulations and procedures  
7 adopted and promulgated by the board under section 5902(h)  
8 (relating to administrative duties of the board) may include  
9 those necessary to accomplish the purpose of this section.

10 Section 23. Repeals are as follows:

11 (1) The General Assembly finds that the repeal under  
12 paragraph (2) is necessary to effectuate this act.

13 (2) Section 23 of the act of May 17, 2001 (P.L.26,  
14 No.9), entitled "An act amending Titles 24 (Education) and 71  
15 (State Government) of the Pennsylvania Consolidated Statutes,  
16 further providing for public school employees' retirement and  
17 State employees' retirement; defining terms; providing for  
18 additional optional classifications for existing members, for  
19 new classifications for prospective members and for health  
20 insurance for retired school employees; and further providing  
21 for creditable school and State service, for creditable  
22 nonschool and nonstate service, for eligibility, for vesting,  
23 for regular member contributions, for return to service, for  
24 payments by employers and the Commonwealth, for termination  
25 of annuities, for actuarial cost methods, for member options,  
26 for funding of supplemental annuities, for administration,  
27 for reports to agencies and members, for applications and  
28 elections, for the composition of the Public School  
29 Employees' Retirement Board and of the State Employees'  
30 Retirement Board, for investment powers of the boards, for

1 management of funds and accounts and for enforcement  
2 officers' benefit and supplemental annuity accounts," is  
3 repealed.

4 Section 24. References in this act to provisions of the  
5 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1  
6 et seq.), including for this purpose administrative regulations  
7 promulgated thereunder, are intended to include such laws and  
8 regulations as are in effect on the effective date of this  
9 section and as they may be amended or supplemented or supplanted  
10 by successor provisions after the effective date of this  
11 section.

12 Section 25. Nothing in this act that amends or supplements  
13 provisions of 24 Pa.C.S. Pt. IV in relation to requirements for  
14 qualification of the Public School Employees' Retirement System  
15 as a qualified pension plan under sections 401(a) and 415(b) of  
16 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
17 §§ 401(a) and 415(b)) nor any construction of 24 Pa.C.S. Pt. IV,  
18 as so amended or supplemented, or any rules or regulations  
19 adopted under 24 Pa.C.S. Pt. IV shall create in any member of  
20 the system or in any other person claiming an interest in the  
21 account of any such member a contractual right, either express  
22 or implied nor in any construction of 24 Pa.C.S. Pt. IV, as so  
23 amended or supplemented, or any rules or regulations adopted  
24 under 24 Pa.C.S. Pt. IV. The provisions of 24 Pa.C.S. Pt. IV  
25 shall remain subject to the Internal Revenue Code of 1986, as  
26 amended, and regulations thereunder as the same may hereafter be  
27 amended, and the General Assembly reserves to itself such  
28 further exercise of its legislative power to amend or supplement  
29 such provisions as may from time to time be required in order to  
30 maintain the qualification of such system as a qualified pension

1 plan under section 401(a) and other applicable provisions of the  
2 Internal Revenue Code of 1986.

3 Section 26. Nothing in this act shall be construed or deemed  
4 to imply that:

5 (1) But for the expressed applications of the  
6 limitations on benefits or other requirements under section  
7 401(a) or applicable provisions of the Internal Revenue Code  
8 of 1986 (Public Law 99-514, 26 U.S.C. § 401), those  
9 limitations would not otherwise apply to members of the  
10 Public School Employees' Retirement System and the benefits  
11 payable pursuant to 24 Pa.C.S. Pt. IV.

12 (2) Any interpretation or application of the provisions  
13 of 24 Pa.C.S. Pt. IV or benefits available to members of the  
14 Public School Employees' Retirement System was not in  
15 accordance with the provisions of 24 Pa.C.S. Pt. IV or other  
16 applicable law prior to the effective date of this section.

17 Section 27. In addition to any other member of the Public  
18 School Employees' Retirement System to which this act shall  
19 apply, it is the expressed intention of the General Assembly  
20 that this act shall apply to all members of the Public School  
21 Employees' Retirement System who are active members and inactive  
22 members of the Public School Employees' Retirement System, and  
23 to any former school employee who is a multiple service member,  
24 is a State employee and is a member of the State Employees'  
25 Retirement System, without regard to class of service, State  
26 office or employment position or effective date of commencing  
27 State service or membership in the State Employees' Retirement  
28 System. Notwithstanding this section, the amendments to 24  
29 Pa.C.S. § 8346(b.1) shall not apply to annuitants whose most  
30 recent return to school service occurred before the effective



1 date of this section.

2 Section 28. Nothing in this act which amends or supplements  
3 provisions of 71 Pa.C.S. Pt. XXV in relation to requirements for  
4 qualification of State Employees' Retirement System as a  
5 qualified pension plan under sections 401(a) and 415(b) of the  
6 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§  
7 401(a) and 415(b)) nor any construction of 71 Pa.C.S. Pt. XXV,  
8 as so amended or supplemented, or any rules or regulations  
9 adopted under 71 Pa.C.S. Pt. XXV shall create in any member of  
10 the State Employees' Retirement System or in any other person  
11 claiming an interest in the account of any such member a  
12 contractual right, either express or implied nor in any  
13 construction of 71 Pa.C.S. Pt. XXV, as so amended or  
14 supplemented, or any rules or regulations adopted under 71  
15 Pa.C.S. Pt. XXV. The provisions of 71 Pa.C.S. Pt. XXV shall  
16 remain subject to the Internal Revenue Code of 1986, and  
17 regulations thereunder as the same may be amended after the  
18 effective date of this section, and the General Assembly  
19 reserves to itself such further exercise of its legislative  
20 power to amend or supplement such provisions as may from time to  
21 time be required in order to maintain the qualifications of the  
22 State Employees' Retirement System as a qualified pension plan  
23 under section 401(a) and other applicable provisions of the  
24 Internal Revenue Code of 1986.

25 Section 29. Nothing in this act shall be construed or deemed  
26 to imply that:

27 (1) But for the expressed applications of the  
28 limitations on benefits or other requirements under section  
29 401(a) or applicable provisions of the Internal Revenue Code  
30 of 1986 (Public Law 99-514, 26 U.S.C. § 401), those

1 limitations would not otherwise apply to members of the State  
2 Employees' Retirement System and the benefits payable under  
3 71 Pa.C.S. Pt. XXV.

4 (2) Any interpretation or application of the provisions  
5 of 71 Pa.C.S. Pt. XXV or benefits available to members of the  
6 State Employees' Retirement System was not in accordance with  
7 the provisions of 71 Pa.C.S. Pt. XXV or other applicable law  
8 prior to the effective date of this section.

9 Section 30. In addition to any other member of the State  
10 Employees' Retirement System to which this act applies, the  
11 General Assembly intends that this act apply to all members of  
12 the State Employees' Retirement System who are active members  
13 and inactive members on leave without pay of the State  
14 Employees' Retirement System, and to any former State employee  
15 who is a multiple service member, is a school employee and is a  
16 member of the Public School Employees' Retirement System,  
17 without regard to class of service, State office or employment  
18 position or effective date of commencing State service or  
19 membership in the Public School Employees' Retirement System.  
20 Notwithstanding this section, the addition or amendment of 71  
21 Pa.C.S. § 5706(a), (a.1) and (a.4) shall not apply to annuitants  
22 whose most recent return to State service or most recent  
23 appointment or commission to any position otherwise covered by  
24 71 Pa.C.S. § 5706(a.4) occurred before the effective date of  
25 this section.

26 Section 31. This act shall take effect immediately.