

# **Chapter 19, P.L. 2009**

(Approved March 17, 2009)

## **SENATE, No. 21**

# **STATE OF NEW JERSEY**

## **213th LEGISLATURE**

INTRODUCED MARCH 10, 2009

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex)**

**Assemblyman JOSEPH J. ROBERTS, JR.**

**District 5 (Camden and Gloucester)**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

### **SYNOPSIS**

Adjusts required local employer contributions to PERS and PFRS for State fiscal year 2009.

**(Sponsorship Updated As Of: 3/17/2009)**

**CURRENT VERSION OF TEXT**

As introduced.

**Chapter 19, P.L. 2009**

1 **AN ACT** concerning employer contributions to the Public Employees'  
2 Retirement System and the Police and Firemen's Retirement  
3 System, amending various parts of the statutory law and  
4 supplementing P.L.1976, c.68 (C.40A:4-45.1 et seq.).  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

9 1. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to  
10 read as follows:

11 24. The contingent reserve fund shall be the fund in which shall  
12 be credited contributions made by the State and other employers.

13 a. Upon the basis of the tables recommended by the actuary  
14 which the board adopts and regular interest, the actuary shall  
15 compute annually, beginning as of March 31, 1992, the amount of  
16 contribution which shall be the normal cost as computed under the  
17 projected unit credit method attributable to service rendered under  
18 the retirement system for the year beginning on July 1 immediately  
19 succeeding the date of the computation. This shall be known as the  
20 "normal contribution."

21 b. With respect to employers other than the State, upon the  
22 basis of the tables recommended by the actuary which the board  
23 adopts and regular interest, the actuary shall compute the amount of  
24 the accrued liability of the retirement system as of March 31, 1992  
25 under the projected unit credit method, excluding the liability for  
26 pension adjustment benefits for active employees funded pursuant  
27 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already  
28 covered by the assets of the retirement system, valued in accordance  
29 with the asset valuation method established in this section. Using  
30 the total amount of this unfunded accrued liability, the actuary shall  
31 compute the initial amount of contribution which, if the  
32 contribution is increased at a specific rate and paid annually for a

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 specific period of time, will amortize this liability. The State  
2 Treasurer shall determine, upon the advice of the Director of the  
3 Division of Pensions and Benefits, the board of trustees and the  
4 actuary, the rate of increase for the contribution and the time period  
5 for full funding of this liability, which shall not exceed 40 years on  
6 initial application of this section as amended by this act, P.L.1994,  
7 c.62. This shall be known as the "accrued liability contribution."  
8 Any increase or decrease in the unfunded accrued liability as a  
9 result of actuarial losses or gains for the 10 valuation years  
10 following valuation year 1992 shall serve to increase or decrease,  
11 respectively, the unfunded accrued liability contribution.  
12 Thereafter, any increase or decrease in the unfunded accrued  
13 liability as a result of actuarial losses or gains for subsequent  
14 valuation years shall serve to increase or decrease, respectively, the  
15 amortization period for the unfunded accrued liability, unless an  
16 increase in the amortization period will cause it to exceed 30 years.  
17 If an increase in the amortization period as a result of actuarial  
18 losses for a valuation year would exceed 30 years, the accrued  
19 liability contribution shall be computed for the valuation year in the  
20 same manner provided for the computation of the initial accrued  
21 liability contribution under this section.

22 With respect to the State, upon the basis of the tables  
23 recommended by the actuary which the commission adopts and  
24 regular interest, the actuary shall annually determine if there is an  
25 amount of the accrued liability of the retirement system, computed  
26 under the projected unit credit method, which is not already covered  
27 by the assets of the retirement system, valued in accordance with  
28 the asset valuation method established in this section. This shall be  
29 known as the "unfunded accrued liability." If there was no  
30 unfunded accrued liability for the valuation period immediately  
31 preceding the current valuation period, the actuary, using the total  
32 amount of this unfunded accrued liability, shall compute the initial  
33 amount of contribution which, if the contribution is increased at a  
34 specific rate and paid annually for a specific period of time, will  
35 amortize this liability. The State Treasurer shall determine, upon

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1 the advice of the Director of the Division of Pensions and Benefits,  
2 the commission and the actuary, the rate of increase for the  
3 contribution and the time period for full funding of this liability,  
4 which shall not exceed 30 years. This shall be known as the  
5 "accrued liability contribution." Thereafter, any increase or  
6 decrease in the unfunded accrued liability as a result of actuarial  
7 losses or gains for subsequent valuation years shall serve to increase  
8 or decrease, respectively, the amortization period for the unfunded  
9 accrued liability, unless an increase in the amortization period will  
10 cause it to exceed 30 years. If an increase in the amortization  
11 period as a result of actuarial losses for a valuation year would  
12 exceed 30 years, the accrued liability contribution shall be  
13 computed for the valuation year in the same manner provided for  
14 the computation of the initial accrued liability contribution under  
15 this section. The State may pay all or any portion of its unfunded  
16 accrued liability under the retirement system from any source of  
17 funds legally available for the purpose, including, without  
18 limitation, the proceeds of bonds authorized by law for this purpose.

19 The value of the assets to be used in the computation of the  
20 contributions provided for under this section for valuation periods  
21 shall be the value of the assets for the preceding valuation period  
22 increased by the regular interest rate, plus the net cash flow for the  
23 valuation period (the difference between the benefits and expenses  
24 paid by the system and the contributions to the system) increased by  
25 one half of the regular interest rate, plus 20% of the difference  
26 between this expected value and the full market value of the assets  
27 as of the end of the valuation period. This shall be known as the  
28 "valuation assets." Notwithstanding the first sentence of this  
29 paragraph, the valuation assets for the valuation period ending  
30 March 31, 1996 shall be the full market value of the assets as of that  
31 date and, with respect to the valuation assets allocated to the State,  
32 shall include the proceeds from the bonds issued pursuant to the  
33 "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-  
34 7.45 et seq.), paid to the system by the New Jersey Economic  
35 Development Authority to fund the unfunded accrued liability of

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1 the system. Notwithstanding the first sentence of this paragraph,  
2 the valuation assets for the valuation period ending June 30, 1999  
3 shall be the full market value of the assets as of that date.

4 "Excess valuation assets" for a valuation period means, with  
5 respect to the valuation assets allocated to the State:

6 (1) the valuation assets allocated to the State; less

7 (2) the actuarial accrued liability of the State for basic benefits  
8 and pension adjustment benefits under the retirement system; less

9 (3) the contributory group insurance premium fund, created by  
10 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section  
11 4 of P.L.1960, c.79; less

12 (4) the post retirement medical premium fund, created pursuant  
13 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by  
14 section 8 of P.L.1994, c.62; less

15 (5) the present value of the projected total normal cost for  
16 pension adjustment benefits in excess of the projected total phased-  
17 in normal cost for pension adjustment benefits for the State  
18 authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the  
19 full phase-in period, determined in the manner prescribed for the  
20 determination and amortization of the unfunded accrued liability of  
21 the system, if the sum of the foregoing items is greater than zero.

22 "Excess valuation assets" for a valuation period means, with  
23 respect to the valuation assets allocated to other employers:

24 (1) the valuation assets allocated to the other employers; less

25 (2) the actuarial accrued liability of the other employers for  
26 basic benefits and pension adjustment benefits under the retirement  
27 system, excluding the unfunded accrued liability for early  
28 retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991,  
29 c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other  
30 than the State; less

31 (3) the contributory group insurance premium fund, created by  
32 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section  
33 4 of P.L.1960, c.79; less

34 (4) the present value of the projected total normal cost for  
35 pension adjustment benefits in excess of the projected total phased-

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1 in normal cost for pension adjustment benefits for the other  
2 employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1)  
3 over the full phase-in period, determined in the manner prescribed  
4 for the determination and amortization of the unfunded accrued  
5 liability of the system, if the sum of the foregoing items is greater  
6 than zero.

7 If there are excess valuation assets allocated to the State or to the  
8 other employers for the valuation period ending March 31, 1996,  
9 the normal contributions payable by the State or by the other  
10 employers for the valuation periods ending March 31, 1996 and  
11 March 31, 1997 which have not yet been paid to the retirement  
12 system shall be reduced to the extent possible by the excess  
13 valuation assets allocated to the State or to the other employers,  
14 respectively, provided that with respect to the excess valuation  
15 assets allocated to the State, the General Fund balances that would  
16 have been paid to the retirement system except for this provision  
17 shall first be allocated as State aid to public schools to the extent  
18 that additional sums are required to comply with the May 14, 1997  
19 decision of the New Jersey Supreme Court in *Abbott v. Burke*. If  
20 there are excess valuation assets allocated to the State or to the  
21 other employers for a valuation period ending after March 31, 1996,  
22 the State Treasurer may reduce the normal contribution payable by  
23 the State or by the other employers for the next valuation period as  
24 follows:

25 (1) for valuation periods ending March 31, 1997 through March  
26 31, 2001, to the extent possible by up to 100% of the excess  
27 valuation assets allocated to the State or to the other employers,  
28 respectively;

29 (2) for the valuation period ending March 31, 2002, to the extent  
30 possible by up to 84% of the excess valuation assets allocated to the  
31 State or to the other employers, respectively;

32 (3) for the valuation period ending March 31, 2003, to the extent  
33 possible by up to 68% of the excess valuation assets allocated to the  
34 State or to the other employers, respectively; and

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1 (4) for valuation periods ending March 31, 2004 through June  
2 30, 2007, to the extent possible by up to 50% of the excess  
3 valuation assets allocated to the State or to the other employers,  
4 respectively.

5 For calendar years 1998 and 1999, the rate of contribution of  
6 members of the retirement system under section 25 of P.L.1954,  
7 c.84 (C.43:15A-25) shall be reduced by 1/2 of 1% from excess  
8 valuation assets and for calendar years 2000 and 2001, the rate of  
9 contribution shall be reduced by 2% from excess valuation assets.  
10 Thereafter, through calendar year 2007, the rate of contribution of  
11 members of the retirement system under that section for a calendar  
12 year shall be reduced equally with normal contributions to the  
13 extent possible, but not by more than 2%, from excess valuation  
14 assets if the State Treasurer determines that excess valuation assets  
15 shall be used to reduce normal contributions by the State and local  
16 employers for the fiscal year beginning immediately prior to the  
17 calendar year, or for the calendar year for local employers whose  
18 fiscal year is the calendar year, and excess valuation assets above  
19 the amount necessary to fund the reduction for that calendar year in  
20 the member contribution rate plus an equal reduction in the normal  
21 contribution shall be available for the further reduction of normal  
22 contributions, subject to the limitations prescribed by this  
23 subsection.

24 If there are excess valuation assets after reductions in normal  
25 contributions and member contributions as authorized in the  
26 preceding paragraphs for a valuation period beginning with the  
27 valuation period ending June 30, 1999, an amount of excess  
28 valuation assets not to exceed the amount of the member  
29 contributions for the fiscal year in which the normal contributions  
30 are payable shall be credited to the benefit enhancement fund. The  
31 amount of excess valuation assets credited to the benefit  
32 enhancement fund shall not exceed the present value of the  
33 expected additional normal contributions attributable to the  
34 provisions of P.L.2001, c.133 payable on behalf of the active  
35 members over the expected working lives of the active members in

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1 accordance with the tables of actuarial assumptions for the  
2 valuation period. No additional excess valuation assets shall be  
3 credited to the benefit enhancement fund after the maximum  
4 amount is attained. Interest shall be credited to the benefit  
5 enhancement fund as provided under section 33 of P.L.1954, c.84  
6 (C.43:15A-33).

7 The normal contribution for the increased benefits for active  
8 employees under P.L.2001, c.133 shall be paid from the benefit  
9 enhancement fund. If assets in the benefit enhancement fund are  
10 insufficient to pay the normal contribution for the increased benefits  
11 for a valuation period, the State shall pay the amount of normal  
12 contribution for the increased benefits not covered by assets from  
13 the benefit enhancement fund.

14 c. The retirement system shall certify annually the aggregate  
15 amount payable to the contingent reserve fund in the ensuing year,  
16 which amount shall be equal to the sum of the amounts described in  
17 this section.

18 The State Treasurer shall reduce the normal and accrued liability  
19 contributions payable by employers other than the State, excluding  
20 the contribution payable from the benefit enhancement fund, to a  
21 percentage of the amount certified annually by the retirement  
22 system, which percentage shall be: for payments due in the State  
23 fiscal year ending June 30, 2005, 20%; for payments due in the  
24 State fiscal year ending June 30, 2006, not more than 40%; for  
25 payments due in the State fiscal year ending June 30, 2007, not  
26 more than 60%; and for payments due in the State fiscal year ending  
27 June 30, 2008, not more than 80%.

28 The State Treasurer shall reduce the normal and accrued liability  
29 contributions payable by employers other than the State, excluding  
30 the contribution payable from the benefit enhancement fund, to 50  
31 percent of the amount certified annually by the retirement system,  
32 for payments due in the State fiscal year ending June 30, 2009. An  
33 employer that elects to pay the reduced normal and accrued liability  
34 contribution shall adopt a resolution, separate and apart from other  
35 budget resolutions, stating that the employer needs to pay the

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1 reduced contribution and providing an explanation of that need  
2 which shall include (1) a description of its inability to meet the levy  
3 cap without jeopardizing public safety, health, and welfare or  
4 without jeopardizing the fiscal stability of the employer, or (2) a  
5 description of another condition that offsets the long term fiscal  
6 impact of the payment of the reduced contribution. An employer  
7 also shall document those actions it has taken to reduce its  
8 operating costs, or provide a description of relevant anticipated  
9 circumstances that could have an impact on revenues or  
10 expenditures. This resolution shall be submitted to and approved by  
11 the Local Finance Board after making a finding that these fiscal  
12 conditions are valid and affirming the findings contained in the  
13 employer resolution.

14 An employer that elects to pay 100 percent of the amount  
15 certified by the retirement system for State fiscal year ending June  
16 30, 2009 shall be credited with such payment and any such amounts  
17 shall not be included in the employer's unfunded liability.

18 The actuaries for the retirement system shall determine the  
19 unfunded liability of the retirement system, by employer, for the  
20 reduced normal and accrued liability contributions provided under  
21 P.L. , c. (pending before the Legislature as this bill). This  
22 unfunded liability shall be paid by the employer in level annual  
23 payments over a period of 15 years beginning with the payments  
24 due in the State fiscal year ending June 30, 2012 and shall be  
25 adjusted by the rate of return on the actuarial value of assets.

26 The retirement system shall annually certify to each employer the  
27 contributions due to the contingent reserve fund for the liability  
28 under P.L. , c. (pending before the Legislature as this bill). The  
29 contributions certified by the retirement system shall be paid by the  
30 employer to the retirement system on or before the date prescribed  
31 by law for payment of employer contributions for basic retirement  
32 benefits. If payment of the full amount of the contribution certified  
33 is not made within 30 days after the last date for payment of  
34 employer contributions for basic retirement benefits, interest at the  
35 rate of 10% per year shall be assessed against the unpaid balance on

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1 the first day after the thirtieth day.

2 The State shall pay into the contingent reserve fund during the  
3 ensuing year the amount so determined. The death benefits,  
4 payable as a result of contribution by the State under the provisions  
5 of this chapter upon the death of an active or retired member, shall  
6 be paid from the contingent reserve fund.

7 d. The disbursements for benefits not covered by reserves in  
8 the system on account of veterans shall be met by direct

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1 contributions of the State and other employers.

2 (cf: P.L.2007, c.92, s.26)

3

4 2. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to  
5 read as follows:

6 15. (1) The contributions required for the support of the  
7 retirement system shall be made by members and their employers.

8 (2) The uniform percentage contribution rate for members shall  
9 be 8.5% of compensation.

10 (3) (Deleted by amendment, P.L.1989, c.204).

11 (4) Upon the basis of the tables recommended by the actuary  
12 which the board adopts and regular interest, the actuary shall  
13 compute annually, beginning as of June 30, 1991, the amount of  
14 contribution which shall be the normal cost as computed under the  
15 projected unit credit method attributable to service rendered under  
16 the retirement system for the year beginning on July 1 immediately  
17 succeeding the date of the computation. This shall be known as the  
18 "normal contribution."

19 (5) (Deleted by amendment, P.L.1989, c.204).

20 (6) (Deleted by amendment, P.L.1994, c.62.)

21 (7) Each employer shall cause to be deducted from the salary of  
22 each member the percentage of earnable compensation prescribed in  
23 subsection (2) of this section. To facilitate the making of  
24 deductions, the retirement system may modify the amount of  
25 deduction required of any member by an amount not to exceed 1/10  
26 of 1% of the compensation upon which the deduction is based.

27 (8) The deductions provided for herein shall be made  
28 notwithstanding that the minimum salary provided for by law for  
29 any member shall be reduced thereby. Every member shall be  
30 deemed to consent and agree to the deductions made and provided  
31 for herein, and payment of salary or compensation less said  
32 deduction shall be a full and complete discharge and acquittance of  
33 all claims and demands whatsoever for the service rendered by such  
34 person during the period covered by such payment, except as to the  
35 benefits provided under this act. The chief fiscal officer of each

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1 employer shall certify to the retirement system in such manner as  
2 the retirement system may prescribe, the amounts deducted; and  
3 when deducted shall be paid into said annuity savings fund, and  
4 shall be credited to the individual account of the member from  
5 whose salary said deduction was made.

6 (9) With respect to employers other than the State, upon the  
7 basis of the tables recommended by the actuary which the board  
8 adopts and regular interest, the actuary shall compute the amount of  
9 the accrued liability as of June 30, 1991 under the projected unit  
10 credit method, which is not already covered by the assets of the  
11 retirement system, valued in accordance with the asset valuation  
12 method established in this section. Using the total amount of this  
13 unfunded accrued liability, the actuary shall compute the initial  
14 amount of contribution which, if the contribution is increased at a  
15 specific rate and paid annually for a specific period of time, will  
16 amortize this liability. The State Treasurer shall determine, upon  
17 the advice of the Director of the Division of Pensions and Benefits,  
18 the board of trustees and the actuary, the rate of increase for the  
19 contribution and the time period for full funding of this liability,  
20 which shall not exceed 40 years on initial application of this section  
21 as amended by this act, P.L.1994, c.62. This shall be known as the  
22 "accrued liability contribution." Any increase or decrease in the  
23 unfunded accrued liability as a result of actuarial losses or gains for  
24 the 10 valuation years following valuation year 1991 shall serve to  
25 increase or decrease, respectively, the unfunded accrued liability  
26 contribution. Thereafter, any increase or decrease in the unfunded  
27 accrued liability as a result of actuarial losses or gains for  
28 subsequent valuation years shall serve to increase or decrease,  
29 respectively, the amortization period for the unfunded accrued  
30 liability, unless an increase in the amortization period will cause it  
31 to exceed 30 years. If an increase in the amortization period as a  
32 result of actuarial losses for a valuation year would exceed 30 years,  
33 the accrued liability contribution shall be computed for the  
34 valuation year in the same manner provided for the computation of  
35 the initial accrued liability contribution under this section.

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1 With respect to the State, upon the basis of the tables  
2 recommended by the actuary which the board adopts and regular  
3 interest, the actuary shall annually determine if there is an amount  
4 of the accrued liability, computed under the projected unit credit  
5 method, which is not already covered by the assets of the retirement  
6 system, valued in accordance with the asset valuation method  
7 established in this section. This shall be known as the "unfunded  
8 accrued liability." If there was no unfunded accrued liability for the  
9 valuation period immediately preceding the current valuation  
10 period, the actuary, using the total amount of this unfunded accrued  
11 liability, shall compute the initial amount of contribution which, if  
12 the contribution is increased at a specific rate and paid annually for  
13 a specific period of time, will amortize this liability. The State  
14 Treasurer shall determine, upon the advice of the Director of the  
15 Division of Pensions and Benefits, the board of trustees and the  
16 actuary, the rate of increase for the contribution and the time period  
17 for full funding of this liability, which shall not exceed 30 years.  
18 This shall be known as the "accrued liability contribution."  
19 Thereafter, any increase or decrease in the unfunded accrued  
20 liability as a result of actuarial losses or gains for subsequent  
21 valuation years shall serve to increase or decrease, respectively, the  
22 amortization period for the unfunded accrued liability, unless an  
23 increase in the amortization period will cause it to exceed 30 years.  
24 If an increase in the amortization period as a result of actuarial  
25 losses for a valuation year would exceed 30 years, the accrued  
26 liability contribution shall be computed for the valuation year in the  
27 same manner provided for the computation of the initial accrued  
28 liability contribution under this section. The State may pay all or  
29 any portion of its unfunded accrued liability under the retirement  
30 system from any source of funds legally available for the purpose,  
31 including, without limitation, the proceeds of bonds authorized by  
32 law for this purpose.

33 The value of the assets to be used in the computation of the  
34 contributions provided for under this section for valuation periods  
35 shall be the value of the assets for the preceding valuation period

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1 increased by the regular interest rate, plus the net cash flow for the  
2 valuation period (the difference between the benefits and expenses  
3 paid by the system and the contributions to the system) increased by  
4 one half of the regular interest rate, plus 20% of the difference  
5 between this expected value and the full market value of the assets  
6 as of the end of the valuation period. This shall be known as the  
7 "valuation assets." Notwithstanding the first sentence of this  
8 paragraph, the valuation assets for the valuation period ending June  
9 30, 1995 shall be the full market value of the assets as of that date  
10 and, with respect to the valuation assets allocated to the State, shall  
11 include the proceeds from the bonds issued pursuant to the "Pension  
12 Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et  
13 seq.), paid to the system by the New Jersey Economic Development  
14 Authority to fund the unfunded accrued liability of the system.  
15 Notwithstanding the first sentence of this paragraph, the percentage  
16 of the difference between the expected value and the full market  
17 value of the assets to be added to the expected value of the assets  
18 for the valuation period ending June 30, 1998 for the State shall be  
19 100% and for other employers shall be 57% plus such additional  
20 percentage as is equivalent to \$150,000,000. Notwithstanding the  
21 first sentence of this paragraph, the amount of the difference  
22 between the expected value and the full market value of the assets  
23 to be added to the expected value of the assets for the valuation  
24 period ending June 30, 1999 shall include an additional amount of  
25 the market value of the assets sufficient to fund (1) the unfunded  
26 accrued liability for the supplementary "special retirement"  
27 allowances provided under subsection b. of section 16 of P.L.1964,  
28 c.241 (C.43:16A-11.1) and (2) the unfunded accrued liability for the  
29 full credit toward benefits under the retirement system for service  
30 credited in the Public Employees' Retirement System and  
31 transferred pursuant to section 1 of P.L.1993, c.247 (C.43:16A-3.8)  
32 and the reimbursement of the cost of any credit purchase pursuant  
33 to section 3 of P.L.1993, c.247 (C.43:16A-3.10) provided under  
34 section 1 of P.L.2001, c.201 (C.43:16A-3.14).

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1 "Excess valuation assets" means, with respect to the valuation  
2 assets allocated to the State, the valuation assets allocated to the  
3 State for a valuation period less the actuarial accrued liability of the  
4 State for the valuation period, and beginning with the valuation  
5 period ending June 30, 1998, less the present value of the expected  
6 additional normal cost contributions attributable to the provisions of  
7 P.L.1999, c.428 (C.43:16A-15.8 et al.) payable on behalf of the  
8 active members employed by the State as of the valuation period  
9 over the expected working lives of the active members in  
10 accordance with the tables of actuarial assumptions applicable to  
11 the valuation period, and less the present value of the expected  
12 additional normal cost contributions attributable to the provisions of  
13 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241  
14 (C.43:16A-11.1) payable on behalf of the active members employed  
15 by the State as of the valuation period over the expected working  
16 lives of the active members in accordance with the tables of  
17 actuarial assumptions applicable to the valuation period, if the sum  
18 is greater than zero. "Excess valuation assets" means, with respect  
19 to the valuation assets allocated to other employers, the valuation  
20 assets allocated to the other employers for a valuation period less  
21 the actuarial accrued liability of the other employers for the  
22 valuation period, excluding the unfunded accrued liability for early  
23 retirement incentive benefits pursuant to P.L.1993, c.99 for the  
24 other employers, and beginning with the valuation period ending  
25 June 30, 1998, less the present value of the expected additional  
26 normal cost contributions attributable to the provisions of P.L.1999,  
27 c.428 (C.43:16A-15.8 et al.) payable on behalf of the active  
28 members employed by other employers as of the valuation period  
29 over the expected working lives of the active members in  
30 accordance with the tables of actuarial assumptions applicable to  
31 the valuation period, and less the present value of the expected  
32 additional normal cost contributions attributable to the provisions of  
33 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241  
34 (C.43:16A-11.1) payable on behalf of the active members employed  
35 by other employers as of the valuation period over the expected

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1 working lives of the active members in accordance with the tables  
2 of actuarial assumptions applicable to the valuation period, if the  
3 sum is greater than zero.

4 If there are excess valuation assets allocated to the State or to  
5 the other employers for the valuation period ending June 30, 1995,  
6 the normal contributions payable by the State or by the other  
7 employers for the valuation periods ending June 30, 1995, and June  
8 30, 1996 which have not yet been paid to the retirement system  
9 shall be reduced to the extent possible by the excess valuation  
10 assets allocated to the State or to the other employers, respectively,  
11 provided that with respect to the excess valuation assets allocated to  
12 the State, the General Fund balances that would have been paid to  
13 the retirement system except for this provision shall first be  
14 allocated as State aid to public schools to the extent that additional  
15 sums are required to comply with the May 14, 1997 decision of the  
16 New Jersey Supreme Court in *Abbott v. Burke*.

17 If there are excess valuation assets allocated to the other  
18 employers for the valuation period ending June 30, 1998, the  
19 accrued liability contributions payable by the other employers for  
20 the valuation period ending June 30, 1997 shall be reduced to the  
21 extent possible by the excess valuation assets allocated to the other  
22 employers.

23 If there are excess valuation assets allocated to the State or to the  
24 other employers for a valuation period ending after June 30, 1998,  
25 the State Treasurer may reduce the normal contribution payable by  
26 the State or by other employers for the next valuation period as  
27 follows:

28 (1) for valuation periods ending June 30, 1996 through June 30,  
29 2000, to the extent possible by up to 100% of the excess valuation  
30 assets allocated to the State or to the other employers, respectively;

31 (2) for the valuation period ending June 30, 2001, to the extent  
32 possible by up to 84% of the excess valuation assets allocated to the  
33 State or to the other employers, respectively;

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1 (3) for the valuation period ending June 30, 2002, to the extent  
2 possible by up to 68% of the excess valuation assets allocated to the  
3 State or to the other employers, respectively; and

4 (4) for valuation periods ending June 30, 2003 through June 30,  
5 2007, to the extent possible by up to 50% of the excess valuation  
6 assets allocated to the State or to the other employers, respectively.

7 Notwithstanding the discretion provided to the State Treasurer in  
8 the previous paragraph to reduce the amount of the normal  
9 contribution payable by employers other than the State, the State  
10 Treasurer shall reduce the amount of the normal contribution  
11 payable by employers other than the State by \$150,000,000 in the  
12 aggregate for the valuation period ending June 30, 1998, and then  
13 the State Treasurer may reduce further pursuant to the provisions of  
14 the previous paragraph the normal contribution payable by such  
15 employers for that valuation period.

16 As of the valuation report in which the funded level is in excess  
17 of 104%, an amount equal to the present value of the future normal  
18 contributions for the benefits provided by P.L.2003, c.108 as  
19 amending section 16 of P.L.1964, c.241 (C.43:16A-11.1), shall be  
20 credited to the benefit enhancement fund. If there are excess  
21 valuation assets after reductions in normal contributions as  
22 authorized in the preceding paragraphs, for a valuation period  
23 beginning with the valuation period in which the benefits provided  
24 by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by  
25 P.L.2003, c.108 apply, an amount of excess valuation assets not to  
26 exceed the amount of the member contributions for the fiscal year  
27 in which the normal contributions are payable shall be credited to  
28 the benefit enhancement fund. The amount of excess valuation  
29 assets credited to the benefit enhancement fund shall not exceed the  
30 present value of the expected additional normal and accrued  
31 liability contributions attributable to the provisions of section 16 of  
32 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.2003, c.108,  
33 payable on behalf of the active members over the expected working  
34 lives of the active members in accordance with the tables of  
35 actuarial assumptions for the valuation period. No additional

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1 excess valuation assets shall be credited to the benefit enhancement  
2 fund after the maximum amount is attained. Interest shall be  
3 credited to the benefit enhancement fund.

4 The normal and accrued liability contributions for the increased  
5 benefits for active employees under section 16 of P.L.1964, c.241  
6 (C.43:16A-11.1), as amended by P.L.2003, c.108, shall be paid  
7 from the benefit enhancement fund. If assets in the benefit  
8 enhancement fund are insufficient to pay the normal and accrued  
9 liability contributions for the increased benefits for a valuation  
10 period, the retirement system shall pay the amount of normal and  
11 accrued liability contributions for the increased benefits not covered  
12 by assets from the benefit enhancement fund.

13 The normal and accrued liability contributions shall be certified  
14 annually by the retirement system and shall be included in the  
15 budget of the employer and levied and collected in the same manner  
16 as any other taxes are levied and collected for the payment of the  
17 salaries of members.

18 Notwithstanding the preceding sentence, the normal and accrued  
19 liability contributions to be included in the budget of and paid by  
20 the employer other than the State shall be as follows: for the  
21 payment due in the State fiscal year ending on June 30, 2004, 20%  
22 of the amount certified by the retirement system; for the payment  
23 due in the State fiscal year ending on June 30, 2005, a percentage of  
24 the amount certified by the retirement system as the State Treasurer  
25 shall determine but not more than 40%; for the payment due in the  
26 State fiscal year ending on June 30, 2006, a percentage of the  
27 amount certified by the retirement system as the State Treasurer  
28 shall determine but not more than 60%; and for the payment due in  
29 the State fiscal year ending on June 30, 2007, a percentage of the  
30 amount certified by the retirement system as the State Treasurer  
31 shall determine but not more than 80%.

32 The State Treasurer shall reduce the normal and accrued liability  
33 contributions payable by employers other than the State to 50  
34 percent of the amount certified annually by the retirement system  
35 for payments due in the State fiscal year ending June 30, 2009. An

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1 employer that elects to pay the reduced normal and accrued liability  
2 contribution shall adopt a resolution, separate and apart from other  
3 budget resolutions, stating that the employer needs to pay the  
4 reduced contribution and providing an explanation of that need  
5 which shall include (1) a description of its inability to meet the levy  
6 cap without jeopardizing public safety, health, and welfare or  
7 without jeopardizing the fiscal stability of the employer, or (2) a  
8 description of another condition that offsets the long term fiscal  
9 impact of the payment of the reduced contribution. An employer  
10 also shall document those actions it has taken to reduce its  
11 operating costs, or provide a description of relevant anticipated  
12 circumstances that could have an impact on revenues or  
13 expenditures. This resolution shall be submitted to and approved by  
14 the Local Finance Board after making a finding that these fiscal  
15 conditions are valid and affirming the findings contained in the  
16 employer resolution.

17 An employer that elects to pay 100 percent of the amount  
18 certified by the retirement system for State fiscal year ending June  
19 30, 2009 shall be credited with such payment and any such amounts  
20 shall not be included in the employer's unfunded liability.

21 The actuaries for the retirement system shall determine the  
22 unfunded liability of the retirement system, by employer, for the  
23 reduced normal and accrued liability contributions provided under  
24 P.L. , c. (pending before the Legislature as this bill). This  
25 unfunded liability shall be paid by the employer in level annual  
26 payments over a period of 15 years beginning with the payments  
27 due in the State fiscal year ending June 30, 2012 and shall be  
28 adjusted by the rate of return on the actuarial value of assets.

29 The retirement system shall annually certify to each employer the  
30 contributions due to the contingent reserve fund for the liability  
31 under P.L. , c. (pending before the Legislature as this bill). The  
32 contributions certified by the retirement system shall be paid by the  
33 employer to the retirement system on or before the date prescribed  
34 by law for payment of employer contributions for basic retirement  
35 benefits. If payment of the full amount of the contribution certified

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1 is not made within 30 days after the last date for payment of  
2 employer contributions for basic retirement benefits, interest at the  
3 rate of 10% per year shall be assessed against the unpaid balance on  
4 the first day after the thirtieth day.

5 (10) The treasurer or corresponding officer of the employer shall  
6 pay to the State Treasurer no later than April 1 of the State's fiscal  
7 year in which payment is due the amount so certified as payable by  
8 the employer, and shall pay monthly to the State Treasurer the  
9 amount of the deductions from the salary of the members in the  
10 employ of the employer, and the State Treasurer shall credit such  
11 amount to the appropriate fund or funds, of the retirement system.

12 If payment of the full amount of the employer's obligation is not  
13 made within 30 days of the due date established by this act, interest  
14 at the rate of 10% per annum shall commence to run against the  
15 unpaid balance thereof on the first day after such 30th day.

16 If payment in full, representing the monthly transmittal and  
17 report of salary deductions, is not made within 15 days of the due  
18 date established by the retirement system, interest at the rate of 10%  
19 per annum shall commence to run against the total transmittal of  
20 salary deductions for the period on the first day after such 15th day.

21 (11) The expenses of administration of the retirement system  
22 shall be paid by the State of New Jersey. Each employer shall  
23 reimburse the State for a proportionate share of the amount paid by  
24 the State for administrative expense. This proportion shall be  
25 computed as the number of members under the jurisdiction of such  
26 employer bears to the total number of members in the system. The  
27 pro rata share of the cost of administrative expense shall be  
28 included with the certification by the retirement system of the  
29 employer's contribution to the system.

30 (12) Notwithstanding anything to the contrary, the retirement  
31 system shall not be liable for the payment of any pension or other  
32 benefits on account of the employees or beneficiaries of any  
33 employer participating in the retirement system, for which reserves  
34 have not been previously created from funds, contributed by such  
35 employer or its employees for such benefits.

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1 (13) (Deleted by amendment, P.L.1992, c.125.)

2 (14) Commencing with valuation year 1991, with payment to be  
3 made in Fiscal Year 1994, the Legislature shall annually  
4 appropriate and the State Treasurer shall pay into the pension  
5 accumulation fund of the retirement system an amount equal to  
6 1.1% of the compensation of the members of the system for the  
7 valuation year to fund the benefits provided by section 16 of  
8 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

9 (15) If the valuation assets are insufficient to fund the normal  
10 and accrued liability costs attributable to P.L.1999, c.428  
11 (C.43:16A-15.8 et al.) as provided hereinabove, the normal and  
12 unfunded accrued liability contributions required to fund these costs  
13 for the State and other employers shall be paid by the State.

14 (16) The savings realized as a result of the amendments to this  
15 section by P.L.2001, c.44 in the payment of normal contributions  
16 computed by the actuary for the valuation periods ending June 30,  
17 1998 for employers other than the State shall be used solely and  
18 exclusively by a county or municipality for the purpose of reducing  
19 the amount that is required to be raised by the local property tax  
20 levy by the county for county purposes or by the municipality for  
21 municipal purposes, as appropriate. The Director of the Division of  
22 Local Government Services in the Department of Community  
23 Affairs shall certify for each year that each county or municipality  
24 has complied with the requirements set forth herein. If the director  
25 finds that a county or municipality has not used the savings solely  
26 and exclusively for the purpose of reducing the amount that is  
27 required to be raised by the local property tax levy by the county for  
28 county purposes or by the municipality for municipal purposes, as  
29 appropriate, the director shall direct the county or municipal  
30 governing body, as appropriate, to make corrections to its budget.  
31 (cf: P.L.2007, c.92, s.23)

32

33 3. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to  
34 read as follows:

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1           3. a. (1) Notwithstanding the provisions of any other law to the  
2 contrary, a school district shall not adopt a budget pursuant to  
3 sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6)  
4 with an increase in its adjusted tax levy that exceeds the tax levy  
5 growth limitation calculated as follows: the sum of the prebudget  
6 year adjusted tax levy and the adjustment for increases in  
7 enrollment multiplied by four percent, and adjustments for a  
8 reduction in total unrestricted State aid from the prebudget year, an  
9 increase in health care costs, [and] beginning in the 2008-2009  
10 school year, amounts approved by a waiver granted by the  
11 commissioner pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-  
12 39), and, for the 2010-2011 school year, increases in amounts for  
13 certain normal and accrued liability pension contributions set forth  
14 in sections 1 and 2 of P.L. , c. (pending before the Legislature as  
15 this bill) amending section 24 of P.L.1954, c.84 (C.43:15A-24) and  
16 section 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth  
17 in those sections.

18           (2) Notwithstanding any provision of paragraph (1) of this  
19 subsection to the contrary, beginning in the 2008-2009 school year  
20 the tax levy growth limitation for a district which is spending above  
21 adequacy as determined pursuant to subsection d. of section 5 of  
22 P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general  
23 fund tax levy greater than its local share as calculated pursuant to  
24 section 10 of that act and which receives an increase in State aid  
25 between the prebudget and budget years that is greater than 2% or  
26 the CPI, whichever is greater, shall be reduced by the amount of the  
27 State aid increase that exceeds 2% or the CPI, whichever is greater.  
28 For the purposes of this paragraph, the CPI shall not exceed 4%.  
29 The reduction shall be made following the calculation of any  
30 adjustments for increases in enrollment, a reduction in total  
31 unrestricted State aid, [and] an increase in health care costs, and an  
32 increase in the amount of the normal and accrued liability pension  
33 contributions calculated pursuant to subsections b., c., and d. of this  
34 section and prior to the request or approval of waivers pursuant to  
35 section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the

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1 reduction would bring the district's spending below adequacy,  
2 notwithstanding the requirements of this paragraph to the contrary  
3 the amount of the reduction made to the district's tax levy growth  
4 limitation shall not be greater than the amount that brings the  
5 district's spending to adequacy.

6 b. (1) The allowable adjustment for increases in enrollment  
7 authorized pursuant to subsection a. of this section shall equal the  
8 per pupil prebudget year adjusted tax levy multiplied by EP, where  
9 EP equals the sum of:

10 (a) 0.50 for each unit of weighted resident enrollment that  
11 constitutes an increase from the prebudget year over 1%, but not  
12 more than 2.5%;

13 (b) 0.75 for each unit of weighted resident enrollment that  
14 constitutes an increase from the prebudget year over 2.5%, but not  
15 more than 4%; and

16 (c) 1.00 for each unit of weighted resident enrollment that  
17 constitutes an increase from the prebudget year over 4%.

18 (2) A school district may request approval from the  
19 commissioner to calculate EP equal to 1.00 for any increase in  
20 weighted resident enrollment if it can demonstrate that the  
21 calculation pursuant to paragraph (1) of this subsection would result  
22 in an average class size that exceeds 10% above the facilities  
23 efficiency standards established pursuant to P.L.2000, c.72  
24 (C.18A:7G-1 et al.).

25 c. The allowable adjustment for a reduction in total  
26 unrestricted State aid authorized pursuant to subsection a. of this  
27 section shall equal any reduction in total unrestricted State aid from  
28 the prebudget to the budget year.

29 d. (1) The allowable adjustment for increases in health care  
30 costs authorized pursuant to subsection a. of this section shall equal  
31 that portion of the actual increase in total health care costs for the  
32 budget year, less any withdrawals from the current expense  
33 emergency reserve account for increases in total health care costs,  
34 that exceeds four percent of the total health care costs in the  
35 prebudget year, but that is not in excess of the product of the total

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1 health care costs in the prebudget year multiplied by the average  
2 percentage increase of the State Health Benefits Program, P.L.1961,  
3 c.49 (C.52:14-17.25 et seq.), as annually determined by the  
4 Division of Pensions and Benefits in the Department of the  
5 Treasury.

6 (2) The allowable adjustment for increases in the amount of  
7 normal and accrued liability pension contributions authorized  
8 pursuant to subsection a. of this section shall equal that portion of  
9 the actual increase in total normal and accrued liability pension  
10 contributions for the budget year that exceeds four percent of the  
11 total normal and accrued liability pension contributions in the  
12 prebudget year.

13 e. In addition to the adjustments authorized pursuant to  
14 subsection a. of this section, for the purpose of determining a school  
15 district's allowable tax levy growth limitation for the 2007-2008  
16 school year, a school district may apply to the commissioner for an  
17 adjustment for increases in special education costs over \$40,000 per  
18 pupil, increases in tuition, capital outlay increases, and incremental  
19 increases in costs for opening a new school facility in the budget  
20 year.

21 (1) The allowable adjustment for increases in special education  
22 costs over \$40,000 per pupil shall equal any increase in the sum of  
23 per pupil amounts in excess of \$40,000 for the budget year less the  
24 sum of per pupil amounts in excess of \$40,000 for the prebudget  
25 year indexed by four percent.

26 (2) The allowable adjustment for increases in tuition shall equal  
27 any increase in the tuition for the budget year charged to a sending  
28 district by the receiving district pursuant to the provisions of  
29 N.J.S.18A:38-19 or charged by a county vocational school district  
30 pursuant to the provisions of section 71 of P.L.1990, c.52  
31 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget  
32 year charged to a sending district by the receiving district pursuant  
33 to the provisions of N.J.S.18A:38-19 or charged by a county  
34 vocational school district pursuant to the provisions of section 71 of  
35 P.L.1990, c.52 (C.18A:54-20.1).

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1 (3) The allowable adjustment for increases in capital outlay  
2 shall equal any increase in capital outlay, less any withdrawals from  
3 the capital reserve account, over the prebudget year in excess of  
4 four percent.

5 f. The adjusted tax levy shall be increased or decreased  
6 accordingly whenever the responsibility and associated cost of a  
7 school district activity is transferred to another school district or  
8 governmental entity.  
9 (cf: P.L.2007, c.260, s.37)

10

11 4. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to  
12 read as follows:

13 10. a. In the preparation of its budget the amount to be raised by  
14 taxation by a local unit shall not exceed the sum of new ratables, the  
15 adjusted tax levy, and the total of waivers approved pursuant to  
16 section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided, however,  
17 that in the case of a county, the amount to be raised by taxation  
18 shall not exceed the amount permitted by section 4 of P.L.1976,  
19 c.68 (C.40A:4-45.4).

20 b. The following exclusions shall be added to the calculation of  
21 the adjusted tax levy:

22 (1) increases in amounts required to be raised for (a) all debt  
23 service and (b) lease payments with county improvement authorities  
24 pursuant to leases in effect on the effective date of P.L.2007, c.62  
25 (C.18A:7F-37 et al.);

26 (2) increases in amounts required to be raised to replace State  
27 formula aid due to a reduction in State formula aid from the  
28 previous local budget year;

29 (3) increases in amounts for certain pension contributions set  
30 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years  
31 set forth in that section;

32 (4) with respect to municipalities, any increase, greater than four  
33 percent, in the reserve for uncollected taxes that is required by law;

34 (5) increases in health care costs equal to that portion of the  
35 actual increase in total health care costs for the budget year that is

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1 in excess of four percent of the total health care costs in the prior  
2 year, but is not in excess of the product of the total health care costs  
3 in the prior year and the average percentage increase of the State  
4 Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as  
5 annually determined by the Division of Pensions and Benefits in the  
6 Department of the Treasury;

7 (6) increases in amounts for certain normal and accrued liability  
8 pension contributions set forth in sections 1 and 2 of P.L. \_\_\_\_\_,  
9 c. (pending before the Legislature as this bill) amending section 24  
10 of P.L.1954, c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255  
11 (C.43:16A-15) equal to that portion of the actual increase in normal  
12 and accrued liability pension contributions for the budget year that  
13 is in excess of four percent of the normal and accrued liability  
14 pension contributions in the prior year.

15 [(6)] Notwithstanding the other provisions of this subsection,  
16 when the appropriation for all debt service is less than the amount  
17 appropriated for all debt service in the prior fiscal year, the amount  
18 of the difference shall be deducted from the sum of the exclusions  
19 listed in paragraphs (1) through [(5)] (6) of this subsection. If there  
20 are no exclusions, then the amount of the difference shall reduce the  
21 adjusted tax levy by that amount. Any cancelled or unexpended  
22 appropriation for any exclusion pursuant to this subsection or  
23 waiver pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46),  
24 also shall be deducted from the sum of the exclusions listed in  
25 paragraphs (1) through [(5)] (6) or directly reduce the adjusted tax  
26 levy if there are no exclusions.

27 (cf: P.L.2007, c.62, s.10)

28

29 5. (New section) In addition to the exceptions to the limits on  
30 increases to municipal appropriations set forth in section 3 of  
31 P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth  
32 in section 4 of P.L.1976, c.68 (C.40A:4-45.4), appropriations that  
33 represent expenditures made by a municipality or county for the  
34 purpose of funding certain normal and accrued liability  
35 contributions set forth in sections 1 and 2 of P.L. \_\_\_\_\_, c. (pending

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1 before the Legislature as this bill) amending section 24 of P.L.1954,  
2 c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255 (C.43:16A-  
3 15) due in the State fiscal year 2009-2010 shall be exempt from the  
4 limits on increases to municipal appropriations and from the limits  
5 on increases to the county tax levy in county budgets, respectively,  
6 for the local budget year in which those contributions are due,  
7 except that for local fiscal year 2009 the full normal and accrued  
8 liability contributions to the Public Employees' Retirement System  
9 shall be added to the allowable operating appropriations before  
10 exceptions.

11

12 6. Within 180 days after the effective date of P.L. ,  
13 c. (pending before the Legislature as this bill), the Director of the  
14 Division of Pensions and Benefits in the Department of the  
15 Treasury shall report to the Governor and, pursuant to section 2 of  
16 P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the feasibility  
17 and consequences of creating individual employer accounts within  
18 the State-administered retirement systems.

19

20 7. This act shall take effect immediately.