

UC Regents Defy Wilson, OK Gay Partner Benefits

■ **Policy:** Measure passes 13-12 even though governor appointed three new board members in effort to block it. Backers say change is needed to recruit, retain faculty.

By KENNETH R. WEISS and DAVE LESHER, TIMES STAFF WRITERS

The University of California Board of Regents handed Gov. Pete Wilson a major political defeat Friday with a cliffhanger vote extending health benefits to the partners of gay employees—an action the governor made an all-out attempt to block.

Wilson went so far as to hastily appoint three new regents this week—two on Friday—to shore up the number of opponents to the benefits proposal, which he condemned on legal and moral grounds, saying it “will devalue the institution of marriage.”

But in the end, Wilson fell one vote short and was undone by one of his own appointees, Regent Velma Montoya, whom he named to the board in 1994. Clearly conflicted over the issue, she hemmed and hawed and then decided to abstain from voting, thus allowing the proposal to pass 13-12. Without commenting, she quickly left the UCLA conference room where the regents were meeting.

Wilson was visibly upset after the vote. “I don’t think we’ve heard the last of this at all,” he vowed, though not specifying what moves he might take.

He also took on critics who have accused him of using the university for political gain. “I’m always accused of playing politics,” the governor said, angrily dismissing the idea. “Cynicism is one of the smaller problems you encounter in public life.”

The board’s decision was met with sustained applause from gay and lesbian UC employees and student activists who had jammed into meetings over the past two days of debate. University faculty and staff have been pushing for such extended benefits since 1981, arguing that it is only fair to give same-sex couples the same health coverage as married ones, because gay couples cannot legally marry—which until now has been a requirement to win coverage for a partner.

For some, it was a bittersweet victory.

“My partner of 11 years died of breast cancer last year,” said Dr. Rose Maly, an assistant professor of family medicine at UCLA. “She spent the last year of her life commuting an hour in traffic [to her own job] to keep her health benefits. She wouldn’t have had to do that if we had domestic benefits. It didn’t work out for her, but I’m hoping that it will be different for others.”

Friday’s vote means that by the middle of next year, an unknown number of university employees who live with same-sex partners will be able to obtain medical, dental and vision care at an estimated cost of \$1.9 million to \$5.6 million a year—on top of the \$400 million the university now spends on employee health care.

The new policy, UC officials said, will help them recruit and retain faculty that they were losing to Stanford University, Harvard University, MIT, the University of Michigan and other schools that offer such benefits to same-sex partners.

The regents decided to order further study of a related proposal to open married student housing to gay and lesbian couples.

For the governor, the vote on benefits was a setback made all the more significant by his aggressive and bare-knuckles attempt to defeat the measure. Wilson bent some legislative rules, his critics said, and applied all of the force he could muster from his office Friday.

Opponents said the fact that he came up short will open him up to charges that he is losing power as a lame duck and that he is once again attempting to gain a boost in his popularity by using the university as a high-profile political platform, as he did in 1995 in pushing for an end to affirmative action in admissions.

The governor also used up some valuable goodwill with Democrats in the Legislature, who had urged him not to seat the three new regents before legislators had more time to consider the selections.

Senate President Pro Tem Bill Lockyer (D-Hayward) said he views Wilson’s action as an attempt to seek favor with conservative Republicans for a possible presidential race in 2000. But he predicted that the governor will pay a price when his new appointments come before the Senate for confirmation. The appointees are allowed to sit as voting regents for as long as a year without approval of the Legislature.

“The single most important characteristic we look for when evaluating appointees to the Board of Regents is independence from political pressure,” Lockyer said. “All three of the members hastily appointed by the governor this week promptly failed to demonstrate any. So I am very skeptical about their chances of winning Senate confirmation.”

In Republican circles, some conservatives downplayed the governor’s loss and said he will still achieve a political boost by having taken a strong stand for family values. “Pete Wilson’s colors shone brilliantly,” said the Rev. Louis P. Sheldon, leader of the Orange County-based Traditional Values Coalition.

UC: Wilson Defeated on Benefits for Gays

"He has drawn a line in the sand and defined the issue in a moral way like nobody else."

Friday's meeting opened with the surprise announcement that Wilson had made two appointments to the 26-member board that oversees the nine-campus UC system: John Hotchkis, a 65-year-old Republican and mutual fund manager from Pasadena who has contributed handsomely to Wilson's political campaigns over the years, and Carol Chandler, a 52-year-old former schoolteacher and farmer from Selma, who served as a delegate to the Republican National Convention.

Earlier in the week, he appointed Ralph Ochoa, a Sacramento lobbyist who in 1994 headed a group of Democrats supporting Wilson for governor.

Wilson's last-minute appointees, who filled the only vacancies on the board, all voted against extending benefits to gay partners.

Highlighting the escalating fight over the issue, every regent showed up for Friday's vote, including three statewide Democratic leaders who automatically sit on the board: Lt. Gov. Gray Davis, Assembly Speaker Cruz Bustamante and Supt. of Public Instruction Delaine Eastin. All three voted in favor of the benefits.

Much of Friday's discussion focused on the potential legal fallout from extending health benefits to same-sex couples but not to unmarried heterosexual couples.

Wilson and other conservatives argued that the policy invited costly lawsuits because it violates state law that prohibits discrimination on the basis of sexual preference. Although unmarried homosexual couples would qualify, they noted, their heterosexual counterparts would not.

They pointed to a recent decision by the state labor commissioner, who sided with a heterosexual couple's complaint that the city of Oakland's health coverage for same-sex couples should be expanded to include them.

The New Regents

Just before the University of California Board of Regents considered a controversial measure to extend health benefits to gay partners, Gov. Pete Wilson announced the appointment of two new regents. Although they still must go before the state Senate for confirmation, they have full voting power.

Carol Chandler

■ **Age:** 52

■ **Residence:** Selma

■ **Party affiliation:** Republican

■ **Background:** Co-owner of Chandler Farms; past president of the Central Valley chapter of the California Women for Agriculture; member of the Fresno County 4-H Sponsoring Committee.

■ **Education:** Bachelor's degree in physical education from UC Davis and a master's degree in physical education from Fresno State.

John Hotchkis

■ **Age:** 65

■ **Residence:** Pasadena

■ **Party affiliation:** Republican

■ **Background:** Chairman of Hotchkis & Wiley in Los Angeles, which manages portfolios of pension, profit sharing and endowment funds for tax exempt institutions, such as colleges and universities; previously worked for Everett Harris & Co. and Dean Witter.

■ **Education:** Graduated from UC Berkeley in political science and has a master's degree in business administration from UCLA.

Los Angeles Times

James E. Holst, the university system's top attorney, agreed that the proposal carried some legal risks. Following his recommendation, the regents expanded the proposal so that health benefits will also cover an employee's financially dependent sister, brother or parent who lives with that employee.

That way, Holst said, UC's policy is making a distinction not on the basis of sexual preference, but on the basis of who can legally marry.

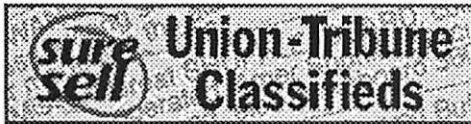
That would rule out heterosexual couples because they can legally marry and qualify for the benefits that way—while gay and lesbian couples do not have that option.

UC officials said that adding dependent family members will cost the state only a small amount.

Regents Ward Connerly, Gray Davis and others said they plan to resolve the legal issue completely by asking the board in January to further expand its health benefits to include unmarried heterosexual couples. In all—with the extra costs of Friday's action included—the university would be paying out an extra \$10.4 million to \$20.3 million per year in benefits, officials said.

UC officials stressed that they have no real way of determining how many of their 126,000 employees will opt for such benefits.

In order to qualify under the proposal adopted Friday, gay and lesbian partners—or the blood relatives—must have lived together for at least 12 consecutive months, show proof of mutual financial support and sign a document that they are committed to a long-term relationship.



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Today's News

Regents OK same-sex health plan



Despite 2 new appointees, Wilson fails to carry UC vote

By Jeff Ristine

UNION-TRIBUNE STAFF WRITER

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November 22, 1997

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LOS ANGELES -- The University of California Board of Regents approved health benefits for domestic partners of its gay and lesbian faculty and staff yesterday, dealing a defeat to Gov. Pete Wilson.

Wilson appointed two new regents to vacancies on the board just hours before yesterday's decision in a dramatic move Lt. Gov. Gray Davis derided as a bid to stack the panel. But while both appointees and a third regent named earlier this week sided with Wilson, he was opposed by two of his previous appointees and could not carry the vote.

"I feel elated," said Jonathan Winters, co-chairman of the UC Lesbian, Gay, Bisexual and Transgender Association and a 13-year employee at UC Berkeley. "The regents did what's best for the university."

Advocates of the policy change argued UC is years behind other institutions, including the University of Michigan, Stanford, Harvard and Yale -- institutions with which it competes for top-flight faculty -- as well as a number of private businesses which already offer the domestic partners of their employees the opportunity to share health insurance and other benefits.

Wilson, meanwhile, insisted the university will expose itself to tremendous legal damages by treating same-sex domestic partners different from unmarried, opposite-sex partners.

"I would predict with unhappy certainty that the university is putting itself in the position where it's going to be sued and where it will lose," Wilson said to reporters after the vote.

Although UC missed the chance to introduce the new benefits during the annual open-enrollment period for health insurance, which ended yesterday, the university expects to offer the benefits by mid-1998.

Hours of uncertainty over the outcome of the vote ended only when Regent Velma Montoya, an economist appointed to the board by Wilson in 1994, abstained. Montoya was the last person in the regent roll call to cast a vote, and did so almost inaudibly, having passed the first time her name was called.

Had she sided with Wilson, the measure would have gone down to defeat in a 13-13 tie. Instead, it passed in a 13-12 vote that remained in suspense until her last-second abstention.

Montoya said during debate that she thought the proposal was flawed, and she offered an unsuccessful amendment dealing with its effect on retirees. Montoya wanted the benefits limited to future retirees on the rationale that arguments over the need to remain competitive in recruitment and retention of employees clearly don't apply to those already in the retirement system. Her amendment failed on a 12-14 vote.

Meeting on the UCLA campus in one of the board's periodic departures from San Francisco, it was the first time in memory that the board conducted business with a full complement of 26 members.

Wilson, Assembly speaker Cruz Bustamante and state Superintendent of Public Instruction Delaine Eastin, who serve by virtue of the offices they hold but rarely attend meetings, all showed up. So did David Lee, chairman of a Santa Clara manufacturing firm, who was absent from Thursday's committee meetings and said his company was in the process of buying another company yesterday.

Rounding out the regents' table were the newly appointed Regents Carol Chandler of Selma, co-chairman of a family farming corporation, and John Hotchkis of Pasadena, an institutional portfolio manager.

Seated side by side for the meeting, Republican Wilson and Democrat Davis, a candidate in the 1998 election to succeed Wilson, sparred over the new appointments. Davis charged Wilson with attempting to manipulate the vote with appointees who hadn't fully participated in debate over the proposal, which started in July.

Wilson patted Davis on the back and replied good-naturedly, "Should you someday have the responsibility . . . you will find it, I think, a dereliction of duty on your part not to seek . . . the full complement of regents who are available" to participate in an important vote.

The two new regents' names already had been floated as nominees, and Wilson said they were fully prepared for the vote.

Voting in favor of domestic-partner benefits were Davis, Bustamante, Eastin, UC President Richard Atkinson, William Bagley, Roy Brophy, Ward Connerly, Alice Gonzales, Meredith Khachigian, Peter Preuss,

alumni regents Judith Levin and Charles Soderquist and student regent Kathryn McClymond. Preuss, founder of a La Jolla brain-tumor research firm, and Connerly are Wilson appointees to the board.

Voting no were Wilson, Chandler, Hotchkis, Lee, Frank Clark, John Davies, S. Sue Johnson, Howard Leach, S. Stephen Nakashima, Ralph M. Ochoa, Gerald L. Parsky and Tom Sayles.

Most critics focused on the problems they foresee from the conscious decision not to extend health benefits to opposite-sex domestic partners. Repeatedly, Wilson argued that doing so violates California Labor Code section 1102.1, which prohibits discrimination on the basis of sexual orientation. Wilson said a recent ruling by a state labor commissioner in an Oakland case ended in just such a judgment.

"A lot of taxpayer dollars are going to go to litigation," Wilson said. And if UC winds up being ordered to extend the benefits to unmarried, opposite-sex partners, he added, the regents will have set "a precedent that devalues marriage."

Advocates of the benefits, meanwhile, pointed out that gay and lesbian couples are legally prohibited from securing the benefits through marriage. And in an attempt to make the new policy more defensible, UC officials added a provision to include people in opposite-sex, domestic partnerships -- some who mingle finances and live with with an ailing parent, for example -- for whom marriage is not a legal option.

Despite reiterating his concerns about potential legal trouble, Wilson seemed to take the defeat in stride. "I predicted that it would be very close," he said, "and it was."

Gay and lesbian employees, some of whom first sought health benefits for their partners in 1981, were jubilant, standing and applauding the regents after the razor-thin victory.

"It feels good," said Jessea Greenman, undergraduate student affairs officer at UC Berkeley. "We have worked really, really hard on this."

UC spokesman Mike Lassiter said that the system will re-open enrollment in its health programs by mid-to late spring in order to extend the new benefits, and that they will take effect around mid-year.

Employees and their partners seeking the benefits will be required to sign an affidavit certifying a relationship of "mutual support, caring and commitment." The partners must have shared a residence for at least a year to be eligible.

Estimates of the cost of extending the benefits range from \$1.9 million to \$5.6 million.

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UC same-sex benefits OK'd

By Brad Hayward

Bee Staff Writer

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■ LOS ANGELES -- In a dramatic cliffhanger vote that handed a political defeat to Gov. Pete Wilson, the University of California Board of Regents decided Friday to offer health benefits to UC employees' domestic partners who are unable to marry.

The sharply divided board voted 13-12 for the benefits, which will be provided mainly to same-sex domestic partners. Several regents appeared to wrestle with the decision until just before the vote, and the outcome was clinched by one member's decision to abstain.

Wilson pulled out all the stops in his bid to defeat the proposal, seating on the board just hours before the vote two recently nominated regents who opposed the domestic partners plan. The Republican governor hoped for at least a tie vote that would have blocked the proposal. Afterward, he predicted that the new policy will be found discriminatory by the courts.

"I'm disappointed and I don't think we've heard the last of this at all," Wilson said. "The university is putting itself in a position where it's going to be sued and where it will lose."

The decision was a victory for gay and lesbian UC employees, who had argued that their domestic partners were unfairly being denied benefits available to married couples.

"It's a great day for the university," said Jonathan Winters, co-chairman of the UC Lesbian, Gay, Bisexual and Transgender Association. "The regents stood up to the governor's political posturing and political maneuvers and did what's best for the university."

Under the policy, medical, dental and vision benefits will be extended to UC employees' "long-term, committed" domestic partners who are precluded from marrying because they are of the same sex or are blood relatives. An

example of the latter is a parent and adult child who live together for care-giving purposes and are financially interdependent.

The university will allow employees to sign up for the benefits sometime next spring, UC officials said. The annual cost is expected to be between \$1.9 million and \$5.6 million.

UC has about 130,000 full-time faculty and staff.

Wilson, a member of the Board of Regents, injected a new element of controversy into the already divisive issue Friday when he tapped two recent appointees -- Carol Chandler of Selma and John Hotchkis of Pasadena -- to take their seats on the board. Earlier this week, he seated Sacramento lawyer Ralph Ochoa.

All three voted against the domestic partners plan. Wilson's move -- particularly seating the last two regents just before Friday's meeting at UCLA -- drew criticism from some quarters.

"I am offended by this effort to make midnight appointments," said Democratic Lt. Gov. Gray Davis. "It's wrong to ask people to come in at the last minute and make a judgment on an issue first brought to the board in 1981."

Wilson said he fulfilled all legal requirements in seating his appointees and maintained they had adequate knowledge of the issue to vote. It remains unclear, however, how the new appointees will fare in the Democratic-controlled state Senate, which ultimately must confirm them.

Davis, Assembly Speaker Cruz Bustamante and Superintendent of Public Instruction Delaine Eastin, who all serve as regents, appeared at the meeting to support the domestic partners plan.

Backers of the policy argued that it is necessary as a matter of fairness and as a means of keeping UC competitive, for recruiting purposes, with other universities that already provide the benefits.

Wilson responded that the policy would contribute to the devaluing of marriage as an institution. But he and other opponents focused mainly on legal arguments Friday, saying that because opposite-sex domestic partners who are eligible to marry are excluded from the policy, the university is vulnerable to a legal challenge.

"On its face, I believe it is a proposal that is discriminatory on the basis of sexual orientation," said Regent Gerald Parsky of Los Angeles. "The law in California permits a distinction based on marital status. It does not permit discrimination on the basis of sexual orientation."

Some regents were incredulous at that argument. "There is discrimination we're trying to cure (with the policy), and the argument is we're creating

discrimination," said Regent Ward Connerly of Sacramento.

UC General Counsel James Holst said the legal question is a "real issue" but added there is no court decision setting a precedent. But Wilson said a court could require UC to expand its benefits to heterosexual domestic partners, vastly increasing the cost.

Regent Velma Montoya of Los Angeles said she was concerned the policy would extend benefits to partners of retired UC employees and that she would support the plan if it offered the benefits to future retirees only. That amendment failed, however, and she abstained on the final vote.

The outcome was uncertain up until the moment of the vote, with some regents indicating they still had conflicting feelings.

One regent, David Lee of Santa Clara, had not intended to attend due to pressing matters at work. But he showed up and said a family debate the previous night failed to convince him how to vote.

"Five of us argued on this issue, two on each side and I'm in the middle," Lee said. "My heart tells me one way; my head tells me another way that's right."

In the end, he voted no.

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UC Regents OK Same-Sex Benefit Plan Close vote ends long battle -- stinging defeat for Wilson

Pamela Burdman, Chronicle Staff Writer

Los Angeles

In a dramatic defeat for Governor Pete Wilson, the University of California Board of Regents voted yesterday to provide health benefits to domestic partners of UC employees. By a 13-to-12 vote, the regents accepted UC President Richard C. Atkinson's plan to offer the same-sex partners of UC employees health coverage identical to that received by employees' spouses. The cost is expected to be about \$6 million a year. The issue has turned into UC's biggest political controversy since the regents voted to end affirmative action in hiring and admissions. The plan's narrow passage depended on the abstention of one regent, Velma Montoya. She had argued against certain aspects of the plan but decided not to cast her "no" vote when it became clear that doing so would have produced a tie and killed the measure. The result seemed to surprise Wilson's forces. The governor had mounted a full-court press to defeat domestic-partner benefits beginning in September, when he insisted on a regents' vote before Atkinson could go ahead with his plan. He then appointed three new regents -- all "no" votes on domestic partners -- to vacant seats on the board during the past three days. Besides Wednesday's appointment of Sacramento attorney Ralph M. Ochoa, Wilson swore in Carol Chandler, a businesswoman from Fresno County, and John Hotchkis, a Los Angeles investment fund manager, yesterday at 8:30 a.m. -- two hours before the regents were scheduled to begin debating the issue.

WILSON FEARS SUITS AGAINST UC

After the meeting, Wilson maintained that the decision to offer medical, vision and dental care plans to same-sex partners of UC employees could bring lawsuits against the university. "It puts the university in the position that they will be accused of having significantly devalued marriage," he said. "I don't think we've seen the last of this." Employee activists who had been asking for the benefits since the early 1980s were elated. "The regents did what's best for

the benefits since the early 1980s were elated. "The regents did what's best for the university," said Jonathan Winters, a UC Berkeley housing office employee and co-chairman of the systemwide Lesbian, Gay, Bisexual, and Transgender Association. "They weren't pressed into doing the political bidding of the governor." Wilson led several regents in arguing that the same-sex plan was unfair because it would discriminate against people based on their sexual orientation -- in this case, because heterosexual unmarried couples could not benefit.

So, have you got a point of view or what? Tell us what you think.

"On its face, I believe the proposal is discriminatory on the basis of sexual orientation," said Regent Gerald Parsky, a Los Angeles attorney and businessman. "I cannot bring myself to support a proposal that does that."

ONE REGENT CHANGES HIS MIND

In addition to the three new appointments, Wilson's forces appear to have summoned another regent to Los Angeles when it became clear that the vote would be close. David Lee, a Silicon Valley businessman, told The Chronicle on Tuesday that he would vote "yes" but could not attend the two-day meeting because of a business emergency. Yesterday morning, Wilson spokesman Sean Walsh accurately predicted that Lee would show up. Lee said he had been persuaded to reconsider his position after receiving several phone calls. He then voted "no." But the four additional votes were not enough to kill the plan. UC officials had originally limited the proposal to same-sex partners in order to hold down the cost of the plan and because, unlike heterosexual couples, same-sex partners do not have the option of marriage. At the suggestion of their lawyer, the regents modified the proposal so that the plan provided benefits to "competent adults over the age of 18 in a long-term, committed domestic relationship who are precluded from marriage because they are of the same sex or incapable under California law of a valid marriage because of family relationship." Under that wording, the benefits apply to employees' dependents who are not children or spouses -- including siblings or parents, for example. Montoya said she was troubled not by questions of lifestyle or equity, but by the fact that retirees would be eligible for the new benefits. She said she would support the proposal if it were changed to cover only dependents of current employees, but her suggested amendment was voted down. When it was time for the final vote count, Montoya initially passed. Apparently realizing her "no" vote would defeat the measure, she abstained.

ALL MEMBERS PRESENT

With Lieutenant Governor Gray Davis, Assembly Speaker Cruz Bustamante, and state schools chief Delaine Eastin all taking their regents' seats yesterday, the vote marked the first time in at least 12 years that all 26 board members were present for a meeting. Yesterday's decision puts UC in the company of some of the nation's most prestigious public and private universities, including the University of Michigan and all eight members of the Ivy League. The move also brings UC's San Francisco campus closer to complying with San Francisco's

domestic-partner ordinance. However, the city's law also requires benefits for heterosexual couples. More than \$13 million in contracts between the city and UCSF have expired because UC has not complied with the domestic-partners ordinance.

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UC same-sex benefit not costly so far

Saturday, November 07, 1998

LOS ANGELES -- Warnings that the University of California would face costly lawsuits and soaring bills by extending health benefits to homosexual couples have failed to pan out, officials said.

The university said its annual health insurance bill of \$442 million has jumped by about \$1.8 million since the Board of Regents agreed last year to extend the benefits to domestic partners of homosexuals and to live-in family relations.

Costs had been estimated at \$1.9 million to \$5.6 million per year.

"Frankly, we have not seen any downside," Lubbe Levin, UC's assistant vice president for human resources, told the Los Angeles Times.

"It seems to have made a big difference in overall morale. And it's helped us with our recruitment and retention of the most talented faculty and staff, since most of our competitors offer this," the paper reported Friday.

Dozens of universities have extended benefits to domestic partners, including the same sex. They include Harvard, Yale, Stanford and the universities of Michigan and Minnesota.

Last November, the UC Board of Regents voted 13-12 in favor of extending the health benefits.

Gov. Pete Wilson fought the idea, saying it would be "devaluing marriage" and would leave the UC system open to lawsuits from unmarried heterosexual couples.

The university has not been sued over the extended benefits, according to the general counsel's office.

Wilson still opposes the policy, spokesman Sean Walsh said.

"The governor's view is that it discriminates against heterosexual partners, it costs money and it sets up a precedent to extend these benefits to other state workers."

In total, 701 UC employees and retirees have added domestic partners to their health coverage, representing a fraction of the nearly 130,000 people enrolled, according to university figures.

Another 404 workers have signed up under a category that allows coverage of financially dependent relatives living with them, such as a child or parent.

One reason costs have been limited is because employees must pay taxes on the benefits, said Sarah Archibald, a UC San Diego researcher.

The taxes effectively have limited the number of employees extending the benefits to those without other health coverage options, she said.

"Those who really need it are very grateful," she added.

The UC system is the only state government agency that offers health benefits for gay domestic partners.

Two unions have proposed domestic partner benefits for the California State University system. However, unlike the private health system used by UC, Cal State campuses are under the state's Public Employees Retirement System, and the Legislature would have to pass a law to permit the benefits.



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