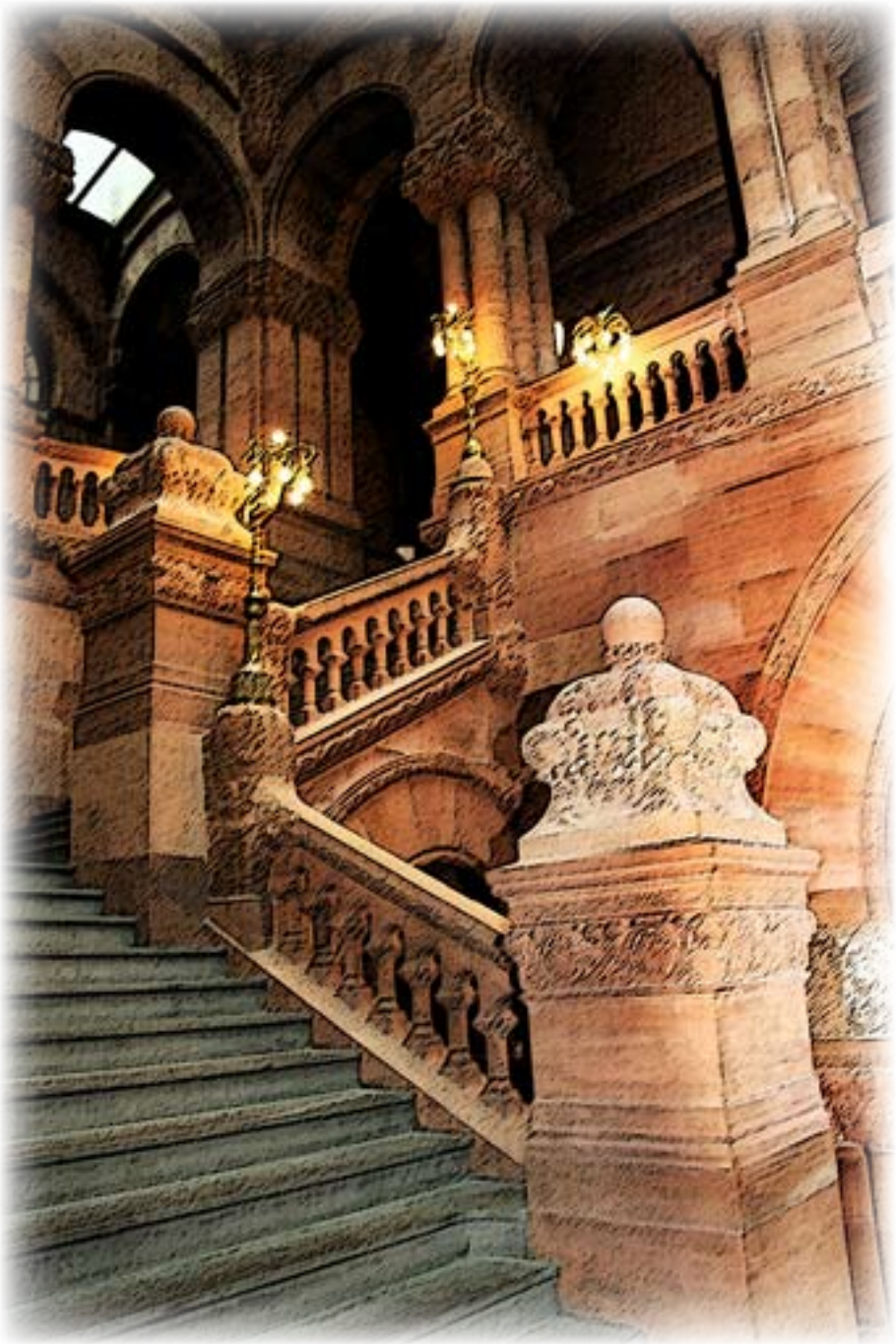
2008

Retirement Legislation

New York State Office of the State Comptroller
Thomas P. DiNapoli
New York State and Local Retirement System
Employees' Retirement System
Police and Fire Retirement System



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A Message from Comptroller Thomas P. DiNapoli

Every year, the Legislature passes new laws that affect the New York State and Local Retirement System (NYSLRS) and other State public retirement systems.

This publication covers retirement and related legislation enacted or vetoed during the 2008 Legislative Session. Sections I and II list legislation directly affecting NYSLRS, our participating employers, members, retirees and their beneficiaries. Sections III and IV cover legislation affecting the other New York State public retirement systems.

I hope you find the 2008 Retirement Legislation publication to be a useful reference.

Sincerely,

Thomas P. DiNapoli
State Comptroller

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Section I
Legislation Affecting the New York State and Local Retirement System

Chapter No.	Page	Description
10	1	Relates to compensation benefits and other terms and conditions of employment of certain state officers and employees (CSEA collective bargaining agreement) [S.6773/A.9816]
49	43	Establishes compensation, benefits and other terms for certain state officers and employees (DC 37 rent regulation employees) [A.10270/S.7162]
76	56	Increases certain special accidental death benefits for surviving spouses and children of certain police and fire personnel [S.6733/A.9666]
97	59	Relates to the mandatory retirement age for certain members employed as an investigator, senior investigator or investigator specialist [A.9444-A/S.6491-A]
113	61	Implements an agreement to provide for adjustment of salaries in the state university and making an appropriation therefore (UUP employees) [S.8360/A.11414]
114	72	Compensation, benefits and other terms and conditions of employment of certain state officers and employees (PEF collective bargaining agreement) [S.8373/A.11439]
133	89	Extends the applicability of a certain provision in the Patriot Plan relating to the suspension of public retirement system loan repayment obligations [S.8473/A.11201-A]
173	91	Relates to the revocatory effect of divorce, annulment or declaration of nullity, or dissolution of marriage on disposition, appointment or other provision in will [A.8858-A/S.5966-A]
218	94	Authorizes certain Haverstraw police officers to file for retroactive membership in an optional twenty year retirement plan [A.11491-A/S.8058-B]
271	96	Expands the retirement service credit limitation not to exceed 200 days for unused sick leave for retirement system members employed by the state liquidation bureau [S.8066/A.11112]
279	98	Relates to identity theft, protection of sensitive personal information, employee personal identifying information and crime of unlawful possession of skimmer device [S.8376-A/A.11752]

351	112	Requires that, whenever practicable, an agency make information available to the public electronically [S.3850/A.582]
381	113	Authorizes the city of Schenectady to offer an optional twenty year retirement plan to police officer Michael Kelly [S.8306/A.11342]
489	115	Relates to accidental disability benefits for persons who participated in World Trade Center rescue, recovery or cleanup operations [S.8676/A.11730]
524	194	Makes certain technical changes for the purpose of bringing certain provisions of law into compliance with the government accounting standards board [A.11137-A/S.8285-A]
543	200	Provides that deputy sheriffs Gregory Danio, Kristen Frasier, Scott McFarren and Robert Sullivan may enter a 25-year retirement plan in Washington County [S.6856-A/A.9970]
550	202	Authorizes the town of Saugerties to offer an optional twenty year retirement plan to police officers Christopher Helsmoortel and Kenneth Swart [S.7920/A.11270]
585	206	Increases the mandatory retirement age of police officers and firefighters who have elected to contribute to the New York state policemen's and firemen's retirement system. [A.10252-A/S.7990]
614	208	Authorizes the village of Lloyd Harbor to offer an optional twenty year retirement plan to a certain police officer employed by such village [S.7002-A/A.11196-A]
640	213	Relates to professional services providers [S.8699/A.11743]

Section II
Vetoed Legislation Affecting the New York State and Local Retirement System

Veto No.	Page	Description
35	222	Provides that all service as a deputy sheriff of Nassau county shall be creditable service for purposes of optional 20 year retirement plan [S.3215-A/A.7697-A]
72	226	Clarifies presumptions pertaining to heart-related disabilities or deaths suffered by members of certain retirement systems [S.6703/A.10016]
83	229	Pertains to the effect and rebuttal of certain medical presumptions relating to heart disease [S.8429/A.11455]
113	233	Establishes a task force on retiree health insurance protection [S.6457-A/A.9393-A]
147	238	Establishes that New York City shall not require mandatory retirement or separation from service on the basis of age for a police officer who is age 65 or less [A.10508/S.7332-A]

Section III
Legislation Affecting Other New York Public Retirement Systems

Chapter No.	Page	Description
19	240	Establishes retirement programs to permit members of the New York City Teachers' Retirement System and certain others to retire early without a reduction [A.9820/S.6689-A]
43	279	Relates to extending certain provisions of chapter 729 of 1994 relating to health insurance benefits and contributions of retired employees of school districts [S.6650/A.9942]

Section IV
Vetoed Legislation Affecting Other New York Public Retirement Systems

Veto No.	Page	Description
130	282	Allows certain eligible members of the NYS Teachers' Retirement System to receive service credit for up to 200 days of unused accumulated sick leave [S.8142/A.10644]

Senate Bills

Bill Number	Chapter	Section	Page
S.6773	10	I	1
S.7162	49	I	43
S.6733	76	I	56
S.6491-A	97	I	59
S.8360	113	I	61
S.8373	114	I	72
S.8473	133	I	89
S.5966-A	173	I	91
S.8058-B	218	I	94
S.8066	271	I	96
S.8376-A	279	I	98
S.3850	351	I	112
S.8306	381	I	113
S.8676	489	I	115
S.8285-A	524	I	194
S.6856-A	543	I	200
S.7920	550	I	202
S.7990	585	I	206
S.7002-A	614	I	208
S.8699	640	I	213
S.6689-A	19	III	240
S.6650	43	III	279

Assembly Bills

Bill Number	Chapter	Section	Page
A.9816	10	I	1
A.10270	49	I	43
A.9666	76	I	56
A.9444-A	97	I	59
A.11414	113	I	61
A.11439	114	I	72
A.11201-A	133	I	89
A.8858-A	173	I	91
A.11491-A	218	I	94
A.11112	271	I	96
A.11752	279	I	98
A.582	351	I	112
A.11342	381	I	113
A.11730	489	I	115
A.11137-A	524	I	194
A.9970	543	I	200
A.11270	550	I	202
A.10252-A	585	I	206
A.11196-A	614	I	208
A.11743	640	I	213
A.9820	19	III	240
A.9942	43	III	279

Section I

Legislation Affecting the New York State and Local Retirement System

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Chapter 10 Signed January 28, 2008

STATE OF NEW YORK

S. 6773 - A. 9816

IN SENATE

January 18, 2008

Introduced by Sens. ROBACH, MAZIARZ, BRUNO, ALESI, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GOLDEN, GRIFFO, HANNON, O. JOHNSON, LANZA, LARKIN, LAVALLE, LEIBELL, LIBOUS, LITTLE, MALTESE, MARCELLINO, MORAHAN, NOZZOLIO, PADAVAN, RATH, SALAND, SEWARD, SKELOS, TRUNZO, VOLKER, WINNER, YOUNG -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the civil service law and the state finance law, in relation to compensation and other terms and conditions of employment of certain state officers and employees, to authorize funding of joint labor-management committees, to implement agreements between the state and an employee organization; to amend chapter 333 of the laws of 1969 amending the civil service law and other laws relating to salary increases for certain state officers and employees, in relation to rates of pay for certain state employees; to repeal certain provisions of the civil service law relating thereto; and making an appropriation for the purpose of effectuating certain provisions hereof (Part A); to amend the civil service law and the correction law, in relation to salaries; and to amend chapter 474 of the laws of 1980 amending the civil service law and other laws relating to compensation and benefits of certain state officers and employees excluded from collective negotiating units, in relation to the vacation exchange option; to repeal certain provisions of the civil service law and the correction law relating thereto; and making an appropriation for the purpose of effectuating certain provisions hereof (Part B)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law legislation necessary to implement
2 collective bargaining agreements, to make changes to an existing collec-
3 tive bargaining agreement, and to implement changes to salary and bene-
4 fits for certain state officers and employees excluded from collective
5 negotiating units. Each component is wholly contained within a Part
6 identified as Parts A through B. The effective date for each particular
7 provision contained within such Part is set forth in the last section of

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12054-02-8

such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section two of this act sets forth the general severability clause applying to this act. Section three of this act sets forth the general effective date of this act.

PART A

COLLECTIVE BARGAINING AGREEMENT BETWEEN
THE STATE OF NEW YORK AND THE CIVIL SERVICE
EMPLOYEES ASSOCIATION, INC. FOR 2007-2011

Section 1. Subparagraphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section 130 of the civil service law are REPEALED and four new subparagraphs 1, 2, 3 and 4 are added to read as follows:

(1) Effective April fifth, two thousand seven for employees on the administrative payroll and effective March twenty-ninth, two thousand seven for employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	JR	Incr	LS1	LS2	Long Incr
1	19977	20651	21325	21999	22673	23347	24021	24695	674	25570	26445	875
2	20740	21447	22154	22861	23568	24275	24982	25689	707	26564	27439	875
3	21775	22514	23253	23992	24731	25470	26209	26948	739	27823	28698	875
4	22726	23509	24292	25075	25858	26641	27424	28207	783	29082	29957	875
5	23813	24632	25451	26270	27089	27908	28727	29546	819	30421	31296	875
6	25146	25997	26848	27699	28550	29401	30252	31103	851	31978	32853	875
7	26536	27428	28320	29212	30104	30996	31888	32780	892	33655	34530	875
8	28031	28958	29885	30812	31739	32666	33593	34520	927	35395	36270	875
9	29595	30564	31533	32502	33471	34440	35409	36378	969	37253	38128	875
10	31287	32304	33321	34338	35355	36372	37389	38406	1017	39281	40156	875
11	33102	34169	35236	36303	37370	38437	39504	40571	1067	41446	42321	875
12	34996	36100	37204	38308	39412	40516	41620	42724	1104	43599	44474	875
13	37072	38226	39380	40534	41688	42842	43996	45150	1154	46025	46900	875
14	39217	40419	41621	42823	44025	45227	46429	47631	1202	48506	49381	875
15	41493	42745	43997	45249	46501	47753	49005	50257	1252	51132	52007	875
16	43818	45129	46440	47751	49062	50373	51684	52995	1311	53870	54745	875
17	46284	47669	49054	50439	51824	53209	54594	55979	1385	56854	57729	875
18	48958	50405	51852	53299	54746	56193	57640	59087	1447	59962	60837	875
19	51582	53100	54618	56136	57654	59172	60690	62208	1518	63083	63958	875
20	54281	55859	57437	59015	60593	62171	63749	65327	1578	66202	67077	875
21	57191	58843	60495	62147	63799	65451	67103	68755	1652	69630	70505	875
22	60257	61984	63711	65438	67165	68892	70619	72346	1727	73221	74096	875
23	63479	65281	67083	68885	70687	72489	74291	76093	1802	76968	77843	875
24	66934	68799	70664	72529	74394	76259	78124	79989	1865	80864	81739	875
25	70632	72580	74528	76476	78424	80372	82320	84268	1948	85143	86018	875

(2) Effective April third, two thousand eight for officers and employees on the administrative payroll and effective March twenty-seventh, two thousand eight for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	JR	Incr	LS1	LS2	Long Incr
1	20576	21270	21964	22658	23352	24046	24740	25434	694	26434	27434	1000
2	21362	22090	22818	23546	24274	25002	25730	26458	728	27458	28458	1000
3	22428	23189	23950	24711	25472	26233	26994	27755	761	28755	29755	1000
4	23408	24214	25020	25826	26632	27438	28244	29050	806	30050	31050	1000
5	24527	25371	26215	27059	27903	28747	29591	30435	844	31435	32435	1000
6	25900	26777	27654	28531	29408	30285	31162	32039	877	33039	34039	1000

7	27332	28251	29170	30089	31008	31927	32846	33765	919	34765	35765	1000
8	28872	29827	30782	31737	32692	33647	34602	35557	955	36557	37557	1000
9	30483	31481	32479	33477	34475	35473	36471	37469	998	38469	39469	1000
10	32226	33273	34320	35367	36414	37461	38508	39555	1047	40555	41555	1000
11	34095	35194	36293	37392	38491	39590	40689	41788	1099	42788	43788	1000
12	36046	37183	38320	39457	40594	41731	42868	44005	1137	45005	46005	1000
13	38184	39373	40562	41751	42940	44129	45318	46507	1189	47507	48507	1000
14	40394	41632	42870	44108	45346	46584	47822	49060	1238	50060	51060	1000
15	42738	44028	45318	46608	47898	49188	50478	51768	1290	52768	53768	1000
16	45133	46483	47833	49183	50533	51883	53233	54583	1350	55583	56583	1000
17	47673	49099	50525	51951	53377	54803	56229	57655	1426	58655	59655	1000
18	50427	51917	53407	54897	56387	57877	59367	60857	1490	61857	62857	1000
19	53129	54693	56257	57821	59385	60949	62513	64077	1564	65077	66077	1000
20	55909	57534	59159	60784	62409	64034	65659	67284	1625	68284	69284	1000
21	58907	60609	62311	64013	65715	67417	69119	70821	1702	71821	72821	1000
22	62065	63844	65623	67402	69181	70960	72739	74518	1779	75518	76518	1000
23	65383	67239	69095	70951	72807	74663	76519	78375	1856	79375	80375	1000
24	68942	70863	72784	74705	76626	78547	80468	82389	1921	83389	84389	1000
25	72751	74757	76763	78769	80775	82781	84787	86793	2006	87793	88793	1000

(3) Effective April second, two thousand nine for officers and employees on the administrative payroll and effective March twenty-sixth, two thousand nine for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	JR	Incr	LS1	LS2	Long Incr
1	21193	21908	22623	23338	24053	24768	25483	26198	715	27323	28448	1125
2	22003	22753	23503	24253	25003	25753	26503	27253	750	28378	29503	1125
3	23101	23885	24669	25453	26237	27021	27805	28589	784	29714	30839	1125
4	24110	24940	25770	26600	27430	28260	29090	29920	830	31045	32170	1125
5	25263	26132	27001	27870	28739	29608	30477	31346	869	32471	33596	1125
6	26677	27580	28483	29386	30289	31192	32095	32998	903	34123	35248	1125
7	28152	29099	30046	30993	31940	32887	33834	34781	947	35906	37031	1125
8	29738	30722	31706	32690	33674	34658	35642	36626	984	37751	38876	1125
9	31397	32425	33453	34481	35509	36537	37565	38593	1028	39718	40843	1125
10	33193	34271	35349	36427	37505	38583	39661	40739	1078	41864	42989	1125
11	35118	36250	37382	38514	39646	40778	41910	43042	1132	44167	45292	1125
12	37127	38298	39469	40640	41811	42982	44153	45324	1171	46449	47574	1125
13	39330	40555	41780	43005	44230	45455	46680	47905	1225	49030	50155	1125
14	41606	42881	44156	45431	46706	47981	49256	50531	1275	51656	52781	1125
15	44020	45349	46678	48007	49336	50665	51994	53323	1329	54448	55573	1125
16	46487	47877	49267	50657	52047	53437	54827	56217	1390	57342	58467	1125
17	49103	50572	52041	53510	54979	56448	57917	59386	1469	60511	61636	1125
18	51940	53475	55010	56545	58080	59615	61150	62685	1535	63810	64935	1125
19	54723	56334	57945	59556	61167	62778	64389	66000	1611	67125	68250	1125
20	57586	59260	60934	62608	64282	65956	67630	69304	1674	70429	71554	1125
21	60674	62427	64180	65933	67686	69439	71192	72945	1753	74070	75195	1125
22	63927	65759	67591	69423	71255	73087	74919	76751	1832	77876	79001	1125
23	67344	69256	71168	73080	74992	76904	78816	80728	1912	81853	82978	1125
24	71010	72989	74968	76947	78926	80905	82884	84863	1979	85988	87113	1125
25	74934	77000	79066	81132	83198	85264	87330	89396	2066	90521	91646	1125

(4) Effective April first, two thousand ten for officers and employees on the administrative payroll and effective March twenty-fifth, two thousand ten for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	JR	Incr
1	22041	22785	23529	24273	25017	25761	26505	27249	744

2	**22883**	**23663**	**24443**	**25223**	**26003**	**26783**	**27563**	**28343**	**780**
3	**24025**	**24840**	**25655**	**26470**	**27285**	**28100**	**28915**	**29730**	**815**
4	**25074**	**25937**	**26800**	**27663**	**28526**	**29389**	**30252**	**31115**	**863**
5	**26274**	**27178**	**28082**	**28986**	**29890**	**30794**	**31698**	**32602**	**904**
6	**27744**	**28683**	**29622**	**30561**	**31500**	**32439**	**33378**	**34317**	**939**
7	**29278**	**30263**	**31248**	**32233**	**33218**	**34203**	**35188**	**36173**	**985**
8	**30928**	**31951**	**32974**	**33997**	**35020**	**36043**	**37066**	**38089**	**1023**
9	**32653**	**33722**	**34791**	**35860**	**36929**	**37998**	**39067**	**40136**	**1069**
10	**34521**	**35642**	**36763**	**37884**	**39005**	**40126**	**41247**	**42368**	**1121**
11	**36523**	**37700**	**38877**	**40054**	**41231**	**42408**	**43585**	**44762**	**1177**
12	**38612**	**39830**	**41048**	**42266**	**43484**	**44702**	**45920**	**47138**	**1218**
13	**40903**	**42177**	**43451**	**44725**	**45999**	**47273**	**48547**	**49821**	**1274**
14	**43270**	**44596**	**45922**	**47248**	**48574**	**49900**	**51226**	**52552**	**1326**
15	**45781**	**47163**	**48545**	**49927**	**51309**	**52691**	**54073**	**55455**	**1382**
16	**48346**	**49792**	**51238**	**52684**	**54130**	**55576**	**57022**	**58468**	**1446**
17	**51067**	**52595**	**54123**	**55651**	**57179**	**58707**	**60235**	**61763**	**1528**
18	**54018**	**55614**	**57210**	**58806**	**60402**	**61998**	**63594**	**65190**	**1596**
19	**56912**	**58587**	**60262**	**61937**	**63612**	**65287**	**66962**	**68637**	**1675**
20	**59889**	**61630**	**63371**	**65112**	**66853**	**68594**	**70335**	**72076**	**1741**
21	**63101**	**64924**	**66747**	**68570**	**70393**	**72216**	**74039**	**75862**	**1823**
22	**66484**	**68389**	**70294**	**72199**	**74104**	**76009**	**77914**	**79819**	**1905**
23	**70038**	**72026**	**74014**	**76002**	**77990**	**79978**	**81966**	**83954**	**1988**
24	**73850**	**75908**	**77966**	**80024**	**82082**	**84140**	**86198**	**88256**	**2058**
25	**77931**	**80080**	**82229**	**84378**	**86527**	**88676**	**90825**	**92974**	**2149**

§ 2. Paragraph (f) of subdivision 3 of section 130 of the civil service law, as amended by section 3 of part A of chapter 103 of the laws of 2004, is amended to read as follows:

(f) Notwithstanding the provisions of paragraph (e) of this subdivision, officers and employees otherwise eligible to receive the longevity payments provided by paragraph (e) of this subdivision who, on their eligibility date, are serving in a higher graded position (i) on a temporary basis or on a probationary or a permanent basis and subsequently fail the probationary period or accept a voluntary demotion which is not a consequence or settlement of a disciplinary action or are demoted as a result of the abolition of positions and (ii) return to a position in a lower salary grade [~~**on or before March thirty-first, two thousand seven**~~] and (iii) remain in such lower salary grade for at least six payroll periods shall be eligible for such longevity payments.

§ 3. Subdivision 2 of section 208 of the civil service law, as amended by section 4 of part A of chapter 103 of the laws of 2004, is amended to read as follows:

2. An employee organization certified or recognized pursuant to this article shall be entitled to unchallenged representation status until seven months prior to the expiration of a written agreement between the public employer and said employee organization determining terms and conditions of employment. For the purposes of this subdivision, (a) any such agreement for a term covering other than the fiscal year of the public employer shall be deemed to expire with the fiscal year ending immediately prior to the termination date of such agreement, (b) any such agreement having a term in excess of three years shall be treated as an agreement for a term of three years, provided, however, any such agreement between the state and an employee organization representing employees in the executive or judicial branches which commences in the calendar year [~~**of**~~] two thousand [~~**three**~~] **seven** having a term in excess of three years shall be treated as an agreement for a term certain specified in such agreement but in no event for a term greater than four years, (c)

extensions of any such agreement shall not extend the period of unchallenged representation status, and (d) notwithstanding any provision of law to the contrary, the interest arbitration award issued pursuant to the provisions of paragraph (e) of subdivision four of section two hundred nine of this article binding the executive branch of the state of New York and the employee organization which represents the collective negotiating unit consisting of troopers and the unit consisting of commissioned and non-commissioned officers in the division of state police, covering a period commencing April first, nineteen hundred ninety-nine, shall be treated as a written agreement for the term specified in such award solely for the representation purposes of this section.

§ 4. Paragraph (e) of subdivision 3 of section 130 of the civil service law, as amended by chapter 582 of the laws of 1988, is amended to read as follows:

(e) [~~Notwithstanding~~] **(i) Prior to April first, two thousand ten, and notwithstanding** any inconsistent provision of law, officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, nineteen hundred eighty-seven, on their anniversary date have five or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, but below the first longevity step and whose performance for the most recent rating period was rated at least "satisfactory" or its equivalent, shall have their basic annual salary increased to the first longevity step or shall have their basic annual salary as otherwise effective increased by seven hundred fifty dollars**, or by eight hundred seventy-five dollars on or after April first, two thousand seven; or by one thousand dollars on or after April first, two thousand eight; or by one thousand one hundred twenty-five dollars on or after April first, two thousand nine** or as much of that amount as will not result in the new basic annual salary exceeding the step two longevity step. Notwithstanding any inconsistent provision of law, officers and employees to whom paragraph a of subdivision one of this section apply who, on or after April first, nineteen hundred eighty-seven, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, but below the second longevity step and whose performance for the most recent rating period was rated at least "satisfactory" or its equivalent, shall have their basic annual salary increased to the second longevity step **as found in paragraph a of subdivision one of this section**. Such increases to longevity steps by eligible officers or employees shall become effective on the first day of the payroll period which next begins following the anniversary date which satisfies the prescribed service requirements. For the purposes of this paragraph the term continuous service as defined by paragraph (c) of this subdivision for employees in the division of military and naval affairs unit shall refer to uninterrupted service in the civilian service of the division of military and naval affairs.

(ii) Officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand ten, on their anniversary date have five or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, shall receive a lump sum payment in the amount of one thousand two hundred fifty dollars. Officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April

first, two thousand ten, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of two thousand five hundred dollars.

Such lump sum payment shall be in addition to and not part of the employee's basic annual salary, provided however that any amount payable by this paragraph shall be included as compensation for overtime and retirement purposes.

Such lump sum payment shall be payable in April of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period October first through March thirty-first of the previous fiscal year. Such payment shall be payable in October of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period April first through September thirtieth of that same fiscal year. All compensation already included in an employee's basic annual salary pursuant to subparagraph (i) of this paragraph shall remain included in such basic annual salary.

§ 5. Subdivision 12-d of section 8 of the state finance law, as amended by section 7 of part A of chapter 103 of the laws of 2004, is amended to read as follows:

12-d. Notwithstanding any inconsistent provision of the court of claims act, examine, audit and certify for payment any claim submitted and approved by the head of a state department or agency, other than a department or agency specified in subdivision twelve of this section, for personal property of an employee damaged or destroyed in the course of the performance of official duties without fault on his part by an inmate, patient or client of such department or agency after March thirty-first, two thousand [~~three~~] **seven** and prior to April first, two thousand [~~seven~~] **eleven**, provided no such claim may be certified for payment to an officer or employee who is in a collective negotiating unit until the director of employee relations shall deliver to the comptroller a certificate that there is in effect with respect to such negotiating unit a written collectively negotiated agreement with the state pursuant to article fourteen of the civil service law which provides therefor. Payment of any such claim shall not exceed the sum of three hundred dollars. No person submitting a claim under this subdivision shall have any claim for damages to such personal property approved pursuant to the provision of subdivision four of section five hundred thirty of the labor law or any other applicable provision of law.

§ 6. Subdivision 12-e of section 8 of the state finance law, as amended by section 7 of part A of chapter 103 of the laws of 2004, is amended to read as follows:

12-e. Notwithstanding any inconsistent provision of the court of claims act, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of the civil service law on behalf of officers and employees serving in positions in the professional, scientific and technical services unit, administrative services unit, institutional services unit, operational services and military and naval affairs unit so provides, examine, audit

and certify for payment any claim submitted and approved by the head of a state department or agency for personal property of an officer or employee damaged or destroyed in the actual performance of official duties without fault or negligence of the officer or employee other than a claim specified and covered by subdivision twelve or twelve-d of this section after March thirty-first, two thousand [~~three~~] **seven** and before April first, two thousand [~~seven~~] **eleven**. Payment of such claim shall not exceed the sum of three hundred fifty dollars. Where an agreement between the state and such employee organization entered into pursuant to article fourteen of the civil service law provides for payment to be made to officers and employees by a state department or agency, such payments for claims not in excess of the amount specified in subdivision three of section one hundred fifteen of this chapter may be made from a petty cash account established pursuant to section one hundred fifteen of this chapter and in the manner prescribed therein and pursuant to regulations of the comptroller. No person submitting a claim under this subdivision shall have any claim for damages to such personal property approved pursuant to the provisions of subdivision four of section five hundred thirty of the labor law or any other applicable provision of law.

§ 7. Paragraph (c) of subdivision 5 of section 131 of the civil service law, as amended by chapter 103 of the laws of 2005, is amended to read as follows:

(c) Employees in the service of the state or of a public authority under the civil service jurisdiction of the state department of civil service, for which neither paragraph (a) or (b) of this subdivision is applicable, who have been continuously occupying a position which is not allocated to one of the salary grades prescribed in section one hundred thirty of this title and who are appointed, promoted, reinstated, or transferred to a position allocated to one of the salary grades in such section, the hiring rate of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement, or transfer, be paid the minimum salary of the grade of such allocated position plus an amount to be determined by the director of the classification and compensation division consistent with the performance advancement system in effect for positions in the salary grade to which he or she is appointed, promoted, reinstated, or transferred, [~~**not to exceed the salary that he or she was receiving in his or her former position immediately prior to the date of such appointment, promotion, reinstatement, or transfer, and**~~] not to exceed the job rate of his or her new position. For the purposes of this paragraph, the annual rate of compensation of the incumbent of an unallocated position compensable on an hourly or per diem basis or on any other basis other than at an annual salary rate, shall be deemed to be the compensation which would have been payable if the services were required on a full time annual basis for the number of hours per day and days per week established by law or administrative rule or order.

§ 8. Compensation for certain state officers and employees in collective negotiating units. 1. The provisions of this section shall apply to full-time officers and employees in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit, and the division of military and naval affairs unit established pursuant to article 14 of the civil service law.

2. Effective April 5, 2007 for officers and employees on the administrative payroll and effective March 29, 2007 for officers and employees on the institutional payroll, the basic annual salary of officers and

employees in full-time employment status on the day before such payroll period shall be increased by three percent adjusted to the nearest whole dollar amount.

3. Effective April 3, 2008 for officers and employees on the administrative payroll and effective March 27, 2008 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period shall be increased by three percent adjusted to the nearest whole dollar amount.

4. Effective April 2, 2009 for officers and employees on the administrative payroll and effective March 26, 2009 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period, shall be increased by three percent adjusted to the nearest whole dollar amount.

5. Effective April 1, 2010 for officers and employees on the administrative payroll and effective March 25, 2010 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period, shall be increased by four percent adjusted to the nearest whole dollar amount.

6. Notwithstanding the provisions of subdivisions 2, 3, 4 and 5 of this section, if the basic annual salary of an officer or employee to whom the provisions of this section apply is identical with the hiring rate, step one, two, three, four, five, six or job rate of the salary grade of his or her position on the effective dates of the increases provided in these subdivisions, such basic annual salary shall be increased to the hiring rate, step one, two, three, four, five, six or job rate, respectively, of such salary grade as contained in the appropriate salary schedules in subparagraphs 1, 2, 3 and 4 of paragraph a of subdivision 1 of section 130 of the civil service law, as added by section one of this act, to take effect on the dates provided in subparagraphs 1, 2, 3 and 4, respectively. The increases in basic annual salary provided by this subdivision shall be in lieu of any increase in basic annual salary provided for in subdivisions 2, 3, 4 and 5 of this section.

7. Payments pursuant to the provisions of subdivision 6 of section 131 of the civil service law for officers and employees entitled to such payments to whom the provisions of this section apply shall be payable in accordance with the terms of an agreement reached pursuant to article 14 of the civil service law between the state and an employee organization representing employees subject to the provisions of this section.

8. If an unencumbered position is one which if encumbered, would be subject to the provisions of this section, the salary of such position shall be increased by the salary increase amounts specified in this section. If a position is created, and filled by the appointment of an officer or employee who is subject to the provisions of this section, the salary otherwise provided for such position shall be increased in the same manner as though such position had been in existence but unencumbered. Notwithstanding the provisions of this section, the director of the budget may reduce the salary of any such position which is or becomes vacant.

9. The increases in salary provided in subdivisions 2, 3, 4 and 5 of this section shall apply on a prorated basis to officers and employees, otherwise eligible to receive an increase in salary, who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis and employees paid on any basis other than at an annual salary

rate. Notwithstanding the foregoing, the provisions of subdivision 6 of this section shall not apply to employees serving on a seasonal basis, except as determined by the director of the budget.

10. In order to provide for the officers and employees to whom this section applies who are not allocated to salary grades, increases and payments pursuant to subdivision 7 of this section in proportion to those provided to persons to whom this section applies who are allocated to salary grades, the director of the budget is authorized to add appropriate adjustments and/or payments to the compensation which such officers and employees are otherwise entitled to receive. The director of the budget shall issue certificates which shall contain schedules of positions and the salaries and/or payments thereof for which adjustments and/or payments are made pursuant to the provisions of this subdivision, and a copy of each such certificate shall be filed with the state comptroller, the state department of civil service, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

11. Notwithstanding any other provision of this section, the provisions of this section shall not apply to officers or employees paid on a fee schedule basis.

12. Notwithstanding any other provision of this section, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on the basis of such lower graded position provided, however, that the increases in salary provided in subdivisions 2, 3, 4 and 5 of this section shall not cause such officer's or employee's salary to exceed longevity step two of such lower graded position.

13. Notwithstanding any of the foregoing provisions of this section, any increase in compensation may be withheld in whole or in part from any employee to whom the provisions of this section are applicable when, in the opinion of the director of the budget and the director of employee relations, such increase is not warranted or is not appropriate.

§ 9. Compensation for certain employees of the contract colleges at Cornell and Alfred universities. 1. During the period April 1, 2007 to March 31, 2011, the basic annual salaries of positions in the nonprofessional service, except those positions in the Cornell service and maintenance unit which are subject to the terms of a collective bargaining agreement between Cornell University and the employee organization representing employees in such positions and except those positions in the Alfred service and maintenance unit which are subject to the terms of a collective bargaining agreement between Alfred University and the employee organization representing employees in such positions, in institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university may be increased pursuant to plans approved by the state university trustees. Such plans may include new salary schedules which shall supersede the salary schedules then in effect applicable to such employees. Such increases in basic annual salary rates, exclusive of performance advancement payments or merit recognition payments, shall not exceed in the aggregate the payments provided in subdivisions 2, 3, 4 and 5 of section eight of this act, for incumbents of positions subject to this subdivision. Such plans may provide, within the appropriations available therefor, an amount for distribution in whole or in part for meritorious service by Cornell and Alfred universities, in their discretion, with the

approval of the state university trustees to the incumbents of such positions.

2. For the purposes of this section, the basic annual salary of employees is that salary which is obtained through direct appropriation of state moneys for the purpose of paying wages. Nothing in this section shall prevent payment of additional amounts to incumbents of such positions in the nonprofessional service in addition to the basic annual salary; provided, however, that the amounts required for such additional payment, and the cost of fringe benefits attributable to such payment, as determined by the comptroller, are made available to the state in accordance with the procedures established by the state university for such purposes.

3. Notwithstanding the foregoing provisions of this section, any increase in compensation provided by this section may be withheld in whole or in part from any officer or employee when, in the opinion of the director of the budget, such withholding is necessary to reflect the job performance of such officer or employee, or to maintain appropriate salary relationships among officers or employees of the state, or to reduce state expenditures to acceptable levels, or when such increase is not warranted or is not appropriate and the salary of such officer or employee is set at the discretion of the appointing authority.

4. Notwithstanding the foregoing provisions of this subdivision or act or any other provision of law, rule or regulation to the contrary, the contract colleges at Cornell and Alfred universities are authorized to provide for a procedure for the repayment of salaries withheld from incumbents of positions subject to this subdivision as described in subdivision 1 of this section, pursuant to subdivision 2-a of section 200 of the state finance law in lieu of the lump sum payment authorized by subparagraph 3 of paragraph (a) of subdivision 2-a of section 200 of the state finance law, subject to the approval of the state university trustees. Further, Cornell and Alfred universities are authorized to provide that the salary of employees newly hired on or after September 1, 1992 shall not be subject to the provisions of subdivision 2-a of section 200 of the state finance law.

§ 10. Location compensation for certain state officers and employees in collective negotiating units. Notwithstanding any inconsistent provisions of law, officers and employees, including seasonal officers and employees who shall receive the compensation provided for pursuant to this section on a pro-rated basis, except part-time officers and employees, in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit, and the division of military and naval affairs unit established pursuant to article 14 of the civil service law, whose principal place of employment or, in the case of a field employee, whose official station as determined in accordance with the regulations of the comptroller is located (1) in the county of Monroe and who were eligible to receive location pay on March 31, 1985, shall receive location pay at the rate of two hundred dollars per year provided they continue to be otherwise eligible or (2) in the city of New York, or in the county of Rockland, Westchester, Nassau or Suffolk shall receive a downstate adjustment at the annual rate of one thousand eight hundred fifty dollars effective the payroll period beginning closest to April 1, 2008 which shall be increased to three thousand twenty-six dollars effective the payroll period beginning the closest to October 1, 2008; (3) in the county of Dutchess, Putnam or Orange shall receive a mid-Hudson adjustment at the annual rate of one thousand dollars effective the payroll period beginning closest to April

1, 2008 which shall be increased to one thousand five hundred thirteen dollars effective the payroll period beginning the closest to October 1, 2008. Such location payments shall be in addition to and shall not be a part of an officer's or employee's basic annual salary, and shall not affect or impair any performance advancements or other rights or benefits to which an officer or employee may be entitled by law, provided, however, that location payments shall be included as compensation for purposes of computation of overtime pay and for retirement purposes. For the sole purpose of continuing eligibility for location pay in Monroe county, an officer or employee previously eligible to receive location pay on March 31, 1985 who is on an approved leave of absence or participates in an employer program to reduce to part-time service during summer months shall continue to be eligible for said location pay upon return to full-time state service in Monroe county.

§ 11. Continuation of location compensation for certain officers and employees of the Hudson Valley developmental disabilities services office. 1. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating units designated as the administrative services unit, the institutional services unit or the operational services unit, who is receiving location pay pursuant to section 5 of chapter 174 of the laws of 1993 shall continue to receive such location pay under the conditions and at the rates specified by such section.

2. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating units designated as the administrative services unit, the institutional services negotiating unit or the operational services negotiating unit, who is receiving location pay pursuant to subdivision 2 of section 9 of chapter 315 of the laws of 1995 shall continue to receive such location pay under the conditions and at the rates specified by such subdivision.

3. Notwithstanding section ten of this act or any other law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating units designated as the administrative services unit, the institutional services unit or the operational services unit, who is receiving location pay pursuant to such section ten shall continue to be eligible for such location pay if such officer's or employee's principal place of employment is changed to a location outside of the county of Rockland as the result of a reduction or redeployment of staff, provided, however, that such officer or employee is reassigned to or otherwise appointed or promoted to a different position at another work location within the Hudson Valley developmental disabilities services office located outside of the county of Rockland. The rate of such continued location pay shall not exceed the rates such officer or employee is receiving on the date of such reassignment, appointment or promotion.

§ 12. Notwithstanding any law, rule or regulation to the contrary, certain full-time employees of the office of mental retardation and developmental disabilities in the collective negotiating unit designated as the institutional services unit who are required to sleep over at their work site shall receive inconvenience pay pursuant to section 17 of chapter 333 of the laws of 1969 as amended, in accordance with and subject to the conditions established by the terms of a negotiated agreement between the state and an employee organization representing such

unit and the resolution of a contract grievance bearing identification number 98-04-448.

§ 13. Additional compensation for certain employees in recognition of pre-shift briefing. 1. In recognition of the general requirement for full-time employees of the state in the collective negotiating unit designated as the division of military and naval affairs unit, established pursuant to article 14 of the civil service law, to assemble for briefing prior to the commencement of duties, each such employee shall receive additional compensation at the rate of sixty dollars per biweekly payroll period in accordance with the terms of a collectively negotiated agreement between the state and an employee organization representing such employees pursuant to article 14 of the civil service law. Such additional compensation shall be paid in addition to and shall not be a part of the employee's basic annual salary. Notwithstanding the foregoing provisions of this section, or of any other law, such additional compensation as added by this section shall be in lieu of the continuation of any other additional compensation for such employees paid prior to June 2, 1988, in recognition of pre-shift briefing.

2. In recognition of the general requirement that certain full-time employees of the state in the collective negotiating unit designated as the institutional services unit, established pursuant to article 14 of the civil service law, in the employ of the office of children and family services, to assemble for briefing prior to the commencement of duties, each such employee shall receive additional compensation in the amount of four dollars and eighty cents, or one-quarter hour of their overtime rate, whichever is higher, when they are required to and actually assemble for such briefing in accordance with the terms of a collectively negotiated agreement between the state and an employee organization representing such employees pursuant to article 14 of the civil service law. Such additional compensation shall be paid in addition to and shall not be a part of the employee's basic annual salary.

§ 14. Assignment to duty pay. Notwithstanding any inconsistent provisions of law, effective April 1, 2007, where and to the extent that, an agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provide, an assignment to duty lump sum shall be paid each year to an employee who is serving in a particular assignment deemed qualified pursuant to such agreement. Such payment shall be in an amount negotiated for those employees assigned to qualifying work assignments and who work such assignments for the minimum periods of time in a year provided in the negotiated agreement. Assignment to duty pay shall not be paid in any year an employee does not meet the minimum period of time in such qualifying assignment required by the agreement or upon cessation of the assignment to duty program on March 30, 2011 unless an extension is negotiated by the parties. Such lump sum shall be considered salary only for final average salary retirement purposes.

§ 15. Long term seasonal employees. Notwithstanding any inconsistent provisions of law, effective April 1, 2004, where and to the extent that, an agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides, a lump sum shall be paid each year to an employee who is serving in a qualifying long term seasonal position. Such payment shall be in an amount negotiated and pursuant to negotiated qualifying criteria and shall be considered salary only for final average salary retirement purposes. Such benefit shall be available until March 30, 2011.

§ 16. In recognition of the specific requirements for winter maintenance activity for full-time employees of the state department of transportation in the collective negotiating unit designated as the operational services unit, established pursuant to article 14 of the civil service law, and to the extent the terms of a negotiated agreement between the state and an employee organization representing such unit entered into pursuant to article 14 of the civil service law so provides, such employees shall receive payments for winter maintenance shifts and call-out responses if otherwise eligible and in accordance with such negotiated agreement.

§ 17. Subdivision 2 of section 17 of chapter 333 of the laws of 1969 amending the civil service law and other laws relating to salary increases for certain state officers and employees, as amended by section 18 of part A of chapter 103 of the laws of 2004, is amended to read as follows:

2. Any employee subject to this section who is required to work a tour of duty which includes four or more hours between the hours of six p.m. and six a.m., exclusive of any hours for which he or she receives overtime compensation, shall be entitled to inconvenience pay for such tour of duty in an amount equal to the daily rate equivalent of four hundred dollars per year, unless a higher daily rate is authorized under the terms of a collective negotiated agreement between the state and an employee organization pursuant to article 14 of the civil service law, or is authorized by the director of the budget for employees excluded from negotiating rights under article 14 of the civil service law, in which case such daily rate may be up to five hundred [~~fifty~~] **seventy-five** dollars per year, effective April [~~1~~] **2**, [~~2004~~] **2007. The provisions of this subdivision shall apply on a prorated basis to officers and employees serving on a seasonal basis in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit, and the division of military and naval affairs unit established pursuant to article 14 of the civil service law**.

§ 18. Notwithstanding any inconsistent provision of law, where and to the extent that any agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides on behalf of employees in the collective negotiating units designated as the administrative, institutional, operational services negotiating units and the military and naval affairs negotiating unit established pursuant to article 14 of the civil service law, the state shall contribute an amount designated in such agreement and for the period covered by such agreement to the accounts of such employees enrolled for dependent care deductions pursuant to subdivision 7 of section 201-a of the state finance law. Such amounts shall be from funds appropriated in this act and shall not be part of basic annual salary for overtime or retirement purposes.

§ 19. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment and publication of grievance and arbitration settlements and awards pursuant to articles 33 and 34 of the collective negotiating agreement between the state and the employee organization representing the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit and the division of military and naval affairs unit established pursuant to article 14 of the civil service law.

§ 20. During the period April 2, 2007 through April 1, 2011, there shall be a statewide labor-management committee continued and administered pursuant to the terms of the agreement negotiated between the state and an employee organization representing employees in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit and the division of military and naval affairs unit established pursuant to article 14 of the civil service law which shall, after April 2, 2007, have the responsibility of studying and making recommendations concerning the major issues of productivity, the quality of work life and implementing the agreements reached.

§ 21. The salary increases and benefit modification provided for by this act for state employees in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit and the division of military and naval affairs unit established pursuant to article 14 of the civil service law shall not be implemented until the director of employee relations shall have delivered to the director of the budget and the comptroller a letter certifying that there is in effect with respect to such negotiating units collectively negotiated agreements, ratified by the membership, which provide for such increases and modifications and which are fully executed in writing with the state pursuant to article 14 of the civil service law.

§ 22. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal years commencing April 1, 2007 and April 1, 2008 by the foregoing provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal year. To the extent that such appropriations in any fund are insufficient to accomplish the purposes herein set forth, the director of the budget is authorized to allocate to the various departments and agencies, from any appropriations available in any fund, the amounts necessary to pay such amounts.

§ 23. Effect of participation in special annuity program. No officer or employee participating in a special annuity program pursuant to the provisions of article 8-C of the education law shall, by reason of an increase in compensation pursuant to this act, suffer any reduction of the salary adjustment to which he or she would otherwise be entitled by reason of participation in such program, and such salary adjustment shall be based upon the salary of such officer or employee without regard to the reduction authorized by such article.

§ 24. Deferred payment of salary increase. Notwithstanding the provisions of any other section of this act, or any other law, pending payment pursuant to this act of the basic annual salaries of incumbents of positions subject to this act, such incumbents shall receive, as partial compensation for services rendered, the rate of compensation otherwise payable in their respective positions. An incumbent holding a position subject to this act at any time during the period from April 1, 2007, until the time when basic annual salaries are first paid pursuant to this act for such services in excess of the compensation actually received therefor, shall be entitled to a lump sum payment for the difference between the salary to which such incumbent is entitled for such services and the compensation actually received therefor. Such lump sum payment shall be made as soon as practicable.

§ 25. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, upon request of the director of the

1 budget, the comptroller is hereby authorized and directed to transfer up
2 to $36,941,000 from the general fund to the dedicated highway and bridge
3 trust fund (072), on or before March 31, 2009, to carry out the
4 provisions of section twenty-six of this act.
5 § 26. The several amounts as hereinafter set forth, or so much thereof
6 as may be necessary, are hereby appropriated from the fund so designated
7 for use by any state department or agency for the fiscal year beginning
8 April 1, 2007 to supplement appropriations from each respective fund
9 available for personal service, other than personal service and fringe
10 benefits, and to carry out the provisions of this act. No money shall be
11 available for expenditure from this appropriation until a certificate of
12 approval has been issued by the director of the budget and a copy of such
13 certificate or any amendment thereto has been filed with the state comp-
14 troller, the chair of the senate finance committee and the chair of the
15 assembly ways and means committee.

16 ALL STATE DEPARTMENTS AND AGENCIES
17 SPECIAL PAY BILLS

18 General Fund / State Operations
19 State Purposes Account - 003

20 Personal Service

21 Personal Service - regular 138,812,000
22 Temporary service 4,817,000
23 Other compensation, including, but not
24 limited to, overtime and holiday pay 47,527,000

25 Nonpersonal Service

26 Fringe Benefits 19,785,000
27 Employee Benefit Fund 3,670,000
28 Joint committee on health benefits 2,357,000
29 Employee training and development 17,813,000
30 Safety and health maintenance committee 1,409,000
31 Employment security committee 930,000
32 Family Benefits Committee 4,573,000
33 Discipline 677,000
34 Employee assistance program 1,147,000
35 Statewide performance rating committee 72,000
36 Property damage 57,000
37 Work related clothing (operational services
38 unit) 1,898,000
39 Tool allowance (operational services unit) 136,000
40 Tool insurance (operational services unit) 47,000
41 Uniform allowance (institutional services
42 unit) 830,000
43 Work related clothing (institutional
44 services unit) 147,000
45 Contract administration 400,000
46 Alternative Drug Study 300,000
47 Special Revenue Funds - Federal
48 Federal USDA - Food and Nutritional Services - 261

1 Personal Service

2 Personal Service 241,000

3 Nonpersonal Service

4 Fringe Benefits 119,000

5 Federal Health and Human Services Fund - 265

6 Personal Service

7 Personal Service 1,619,000

8 Nonpersonal Service

9 Fringe Benefits 800,000

10 Federal Education Fund - 267

11 Personal Service

12 Personal Service 1,066,000

13 Nonpersonal Service

14 Fringe Benefits 527,000

15 Federal Health and Human Services Block Grant Fund - 269

16 Personal Service

17 Personal Service 477,000

18 Nonpersonal Service

19 Fringe Benefits 236,000

20 Federal Operating Grants Fund - 290

21 Personal Service

22 Personal Service 2,495,000

23 Nonpersonal Service

24 Fringe Benefits 1,233,000

25 Unemployment Insurance Administration Fund - 480

26 Personal Service

27 Personal Service 3,913,000

1 Nonpersonal Service

2 Fringe Benefits 1,933,000

3 Special Revenue Funds - Other
4 Combined Expendable Trust Fund - 020

5 Personal Service

6 Personal Service 23,000

7 Nonpersonal Service

8 Fringe Benefits 11,000

9 NYS Archives Partnership Trust Fund - 024

10 Personal Service

11 Personal Service 4,000

12 Nonpersonal Service
13 Fringe Benefits 2,000

14 Tuition Reimbursement Fund - 050

15 Personal Service

16 Personal Service 14,000

17 Nonpersonal Service

18 Fringe Benefits 7,000

19 Records Management Improvement Fund - 052

20 Personal Service

21 Personal Service 49,000

22 Nonpersonal Service

23 Fringe Benefits 24,000

24 Health Care Reform - 061

25 Personal Service

26 Personal Service 120,000

27 Nonpersonal Service

28 Fringe Benefits 59,000

29 State Lottery Fund - 160

1 Personal Service

2 Personal Service 967,000

3 Nonpersonal Service

4 Fringe Benefits 478,000

5 Sewage Treatment Management and Administration Fund -
6 300

7 Personal Service

8 Personal Service 13,000

9 Nonpersonal Service

10 Fringe Benefits 6,000

11 Environmental Conservation Special Revenue Fund - 301

12 Personal Service

13 Personal Service 1,177,000

14 Nonpersonal Service

15 Fringe Benefits 581,000

16 Conservation Fund - 302

17 Personal Service

18 Personal Service 721,000

19 Nonpersonal Service

20 Fringe Benefits 356,000

21 Environmental Protection and Oil Spill Compensation Fund
22 - 303

23 Personal Service

24 Personal Service 111,000

25 Nonpersonal Service

26 Fringe Benefits 55,000

27 OSHA - Training and Education Occupational Safety Fund -
28 305

1 Personal Service

2 Personal Service 244,000

3 Nonpersonal Service

4 Fringe Benefits 121,000

5 Mass Transportation Operating Assistance Fund - 313

6 Personal Service

7 Personal Service 13,000

8 Nonpersonal Service

9 Fringe Benefits 6,000

10 Clean Air Fund - 314

11 Personal Service

12 Personal Service 593,000

13 Nonpersonal Service

14 Fringe Benefits 293,000

15 Miscellaneous Special Revenue Fund - 339

16 Personal Service

17 Personal Service 28,729,000

18 Nonpersonal Service

19 Fringe Benefits 14,192,000

20 State University Income Fund - 345

21 Personal Service

22 Personal Service 16,335,000

23 Nonpersonal Service

24 Fringe Benefits 8,069,000

25 Lake George Park Trust Fund - 349

26 Personal Service

27 Personal Service 18,000

1 Nonpersonal Service

2 Fringe Benefits 9,000

3 Motor Vehicle Law Enforcement - 354

4 Personal Service

5 Personal Service 9,000

6 Nonpersonal Service

7 Fringe Benefits 4,000

8 Drinking Water Program Management and Administration -
9 366

10 Personal Service

11 Personal Service 24,000

12 Nonpersonal Service

13 Fringe Benefits 12,000

14 Internal Service Funds

15 Centralized Services Fund - 323

16 Personal Service

17 Personal Service 589,000

18 Nonpersonal Service

19 Fringe Benefits 291,000

20 Miscellaneous Internal Services Fund - 334

21 Personal Service

22 Personal Service 751,000

23 Nonpersonal Service

24 Fringe Benefits 371,000

25 Mental Hygiene Community Stores Fund - 343

26 Personal Service

27 Personal Service 61,000

1 Nonpersonal Service

2 Fringe Benefits 30,000

3 Health Insurance Internal Service Fund - 396

4 Personal Service

5 Personal Service 265,000

6 Nonpersonal Service

7 Fringe Benefits 131,000

8 Correctional Industries Internal Services Fund - 397

9 Personal Service

10 Personal Service 1,629,000

11 Nonpersonal Service

12 Fringe Benefits 805,000

13 Private Purpose Trust Fund
14 Milk Product Security Fund - 022

15 Personal Service

16 Personal Service 4,000

17 Nonpersonal Service

18 Fringe Benefits 2,000

19 Pension Trust Fund
20 Common Retirement Fund - 400

21 Personal Service

22 Personal Service 1,782,000

23 Nonpersonal Service

24 Fringe Benefits 880,000

25 Agency Trust Fund
26 State Insurance Fund - 640

27 Personal Service

28 Personal Service 3,261,000

1 Nonpersonal Service

2 Fringe Benefits 1,611,000

3 Enterprise Funds
4 State Expo Fund - 325

5 Personal Service

6 Personal Service 28,000

7 Nonpersonal Service

8 Fringe Benefits 14,000

9 Correction - Family Benefit Fund - 329

10 Personal Service

11 Personal Service 36,000

12 Nonpersonal Service

13 Fringe Benefits 18,000

14 Agencies Enterprise Funds - 331

15 Personal Service

16 Personal Service 57,000

17 Nonpersonal Service

18 Fringe Benefits 28,000

19 Mental Health and Mental Retardation Community Stores
20 Fund - 353

21 Personal Services

22 Personal Service 33,000

23 Nonpersonal Service

24 Fringe Benefits 16,000

25 Capital Project Funds - Other
26 Dedicated Highway and Bridge Trust Fund - 072

27 Personal Service

28 Personal Service 24,726,000

Nonpersonal Service

Fringe Benefits 12,215,000

§ 27. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 2, 2007. Appropriations made by this act shall remain in full force and effect for liabilities incurred through March 31, 2009.

REPEAL NOTE.--Subparagraphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section 130 of the civil service law, repealed by section one of this act, provided salary schedules for state employees in the administrative services unit, the operational services unit, the institutional services unit and the division of military and naval affairs and are replaced by revised salary schedules in new subparagraphs 1, 2, 3 and 4.

PART B
SALARIES AND BENEFITS FOR CERTAIN STATE
OFFICERS AND EMPLOYEES EXCLUDED FROM
COLLECTIVE NEGOTIATING UNITS FOR 2007-2011

Section 1. Paragraph d of subdivision 1 of section 130 of the civil service law is REPEALED and a new paragraph d is added to read as follows:

d. Salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York designated managerial or confidential pursuant to article fourteen of this chapter, civilian state employees of the division of military and naval affairs of the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit, and those excluded from representation rights under article fourteen of this chapter pursuant to rules or regulations of the public employment relations board shall be as follows on the effective dates indicated:

(1) Effective April second, two thousand seven:

Grade	Hiring Rate	Job Rate
M/C 3	$21,890	$27,984
M/C 4	$22,856	$29,254
M/C 5	$24,228	$30,674
M/C 6	$25,256	$32,248
M/C 7	$26,713	$33,993
M/C 8	$28,179	$35,746
M/C 9	$29,788	$37,647
M/C 10	$31,393	$39,735
M/C 11	$33,297	$41,942
M/C 12	$35,054	$44,142
M/C 13	$37,095	$46,593
M/C 14	$39,298	$49,156
M/C 15	$41,484	$51,812
M/C 16	$43,823	$54,575
M/C 17	$46,309	$57,584
M/C 18	$46,555	$57,771
M/C 19	$49,052	$60,774
M/C 20	$51,552	$63,822
M/C 21	$54,333	$67,118

M/C 22	$57,253	$70,646
M/C 23	$60,187	$75,198
M 1	$64,965	$82,117
M 2	$72,049	$91,071
M 3	$79,964	$101,049
M 4	$88,443	$111,613
M 5	$98,203	$124,072
M 6	$108,730	$136,761
M 7	$119,850	$148,433
M 8	$101,050+	

(2) Effective April first, two thousand eight:

Grade	Hiring Rate	Job Rate
M/C 3	$22,547	$28,824
M/C 4	$23,542	$30,132
M/C 5	$24,955	$31,594
M/C 6	$26,014	$33,215
M/C 7	$27,514	$35,013
M/C 8	$29,024	$36,818
M/C 9	$30,682	$38,776
M/C 10	$32,335	$40,927
M/C 11	$34,296	$43,200
M/C 12	$36,106	$45,466
M/C 13	$38,208	$47,991
M/C 14	$40,477	$50,631
M/C 15	$42,729	$53,366
M/C 16	$45,138	$56,212
M/C 17	$47,698	$59,312
M/C 18	$47,952	$59,504
M/C 19	$50,524	$62,597
M/C 20	$53,099	$65,737
M/C 21	$55,963	$69,132
M/C 22	$58,971	$72,765
M/C 23	$61,993	$77,454
M 1	$66,914	$84,581
M 2	$74,210	$93,803
M 3	$82,363	$104,080
M 4	$91,096	$114,961
M 5	$101,149	$127,794
M 6	$111,992	$140,864
M 7	$123,446	$152,886
M 8	$104,082+	

(3) Effective April first, two thousand nine:

Grade	Hiring Rate	Job Rate
M/C 3	$23,223	$29,689
M/C 4	$24,248	$31,036
M/C 5	$25,704	$32,542
M/C 6	$26,794	$34,211
M/C 7	$28,339	$36,063
M/C 8	$29,895	$37,923
M/C 9	$31,602	$39,939
M/C 10	$33,305	$42,155
M/C 11	$35,325	$44,496
M/C 12	$37,189	$46,830
M/C 13	$39,354	$49,431
M/C 14	$41,691	$52,150
M/C 15	$44,011	$54,967

M/C 16	$46,492	$57,898
M/C 17	$49,129	$61,091
M/C 18	$49,391	$61,289
M/C 19	$52,040	$64,475
M/C 20	$54,692	$67,709
M/C 21	$57,642	$71,206
M/C 22	$60,740	$74,948
M/C 23	$63,853	$79,778
M 1	$68,921	$87,118
M 2	$76,436	$96,617
M 3	$84,834	$107,202
M 4	$93,829	$118,410
M 5	$104,183	$131,628
M 6	$115,352	$145,090
M 7	$127,149	$157,473
M 8	$107,204+	

(4) Effective April first, two thousand ten:

Grade	Hiring Rate	Job Rate
M/C 3	$24,152	$30,877
M/C 4	$25,218	$32,277
M/C 5	$26,732	$33,844
M/C 6	$27,866	$35,579
M/C 7	$29,473	$37,506
M/C 8	$31,091	$39,440
M/C 9	$32,866	$41,537
M/C 10	$34,637	$43,841
M/C 11	$36,738	$46,276
M/C 12	$38,677	$48,703
M/C 13	$40,928	$51,408
M/C 14	$43,359	$54,236
M/C 15	$45,771	$57,166
M/C 16	$48,352	$60,214
M/C 17	$51,094	$63,535
M/C 18	$51,367	$63,741
M/C 19	$54,122	$67,054
M/C 20	$56,880	$70,417
M/C 21	$59,948	$74,054
M/C 22	$63,170	$77,946
M/C 23	$66,407	$82,969
M 1	$71,678	$90,603
M 2	$79,493	$100,482
M 3	$88,227	$111,490
M 4	$97,582	$123,146
M 5	$108,350	$136,893
M 6	$119,966	$150,894
M 7	$132,235	$163,772
M 8	$111,492+	

§ 2. Subdivision 1 of section 19 of the correction law is REPEALED and a new subdivision 1 is added to read as follows:

1. This section shall apply to each superintendent of a correctional facility appointed on or after August ninth, nineteen hundred seventy-five and any superintendent heretofore appointed who elects to be covered by the provisions thereof by filing such election with the commissioner.

a. The salary schedule for superintendents of a correctional facility with an inmate population capacity of four hundred or more inmates shall be as follows:

Effective April second, two thousand seven:

Hiring Rate	Job Rate
$102,828	$140,325

Effective April first, two thousand eight:

Hiring Rate	Job Rate
$105,913	$144,535

Effective April first, two thousand nine:

Hiring Rate	Job Rate
$109,090	$148,871

Effective April first, two thousand ten:

Hiring Rate	Job Rate
$113,454	$154,826

b. The salary schedule for superintendents of correctional facilities with an inmate population capacity of fewer than four hundred inmates shall be as follows:

Effective April second, two thousand seven:

Hiring Rate	Job Rate
$79,964	$101,049

Effective April first, two thousand eight:

Hiring Rate	Job Rate
$82,363	$104,081

Effective April first, two thousand nine:

Hiring Rate	Job Rate
$84,834	$107,203

Effective April first, two thousand ten:

Hiring Rate	Job Rate
$88,227	$111,491

§ 3. Paragraph (b) of subdivision 8 of section 130 of the civil service law, as amended by section 8 of part B of chapter 68 of the laws of 2000, is amended to read as follows:

(b) Officers and employees to whom the provisions of this subdivision apply may receive lump sum merit awards in accordance with guidelines issued by the director of the budget within the appropriations made available therefor. Additionally, effective April first, nineteen hundred eighty-eight, and each April first thereafter, such officers and employees to whom the provisions of this subdivision apply whose basic annual salary equals or exceeds the job rate of the salary grade of their position who on their anniversary date have five or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade and whose basic annual salary is less than [~~seven hundred fifty dollars~~] **eight hundred seventy-five dollars during fiscal year two thousand seven-two thousand eight, one thousand dollars during fiscal year two thousand eight-two thousand nine, and one thousand one hundred twenty-five dollars during fiscal year two thousand nine-two thousand ten** in excess of the job rate of the salary grade of their position shall on such anniversary date have their basic annual salary as otherwise effective increased by a longevity payment in the amount of [~~seven hundred fifty dollars~~] **eight hundred seventy-five dollars during fiscal year two thousand seven-two thousand eight, one thousand dollars during fiscal year two thousand eight-two thousand nine, and one thousand one hundred twenty-five dollars during fiscal year two thousand nine-two thousand ten,** except

that such officers and employees who on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of the salary grade of their position and whose basic annual salary is less than [~~one thousand five hundred dollars~~] **one thousand seven hundred fifty dollars during fiscal year two thousand seven-two thousand eight, two thousand dollars during fiscal year two thousand eight-two thousand nine, and two thousand two hundred fifty dollars during fiscal year two thousand nine-two thousand ten** in excess of the job rate of the salary grade of their position shall on such anniversary date receive a longevity payment increasing their basic annual salary to that of the job rate of the salary grade of their position increased by [~~one thousand five hundred dollars~~] **one thousand seven hundred fifty dollars during fiscal year two thousand seven-two thousand eight, two thousand dollars during fiscal year two thousand eight-two thousand nine, and two thousand two hundred fifty dollars during fiscal year two thousand nine-two thousand ten**. Such increases shall be effective at the beginning of the pay period following the anniversary date upon which the required service is attained. **Effective April first, two thousand ten, however, such longevity payments shall be made in the amount of one thousand two hundred fifty dollars to officers and employees as defined herein who on their anniversary date have five or more years of continuous service and in the amount of two thousand five hundred dollars to officers and employees as defined herein who on their anniversary date have ten or more years of continuous service. Such payments shall be made in addition to and shall not be considered part of basic annual salary and shall be made by separate check as soon as practicable following the anniversary date upon which the required service is attained.**

§ 4. Compensation for certain state officers and employees. 1. The provisions of this section shall apply to the following full-time state officers and employees:

(a) officers and employees whose positions are designated managerial or confidential pursuant to article 14 of the civil service law;

(b) civilian state employees of the division of military and naval affairs in the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit;

(c) officers and employees excluded from representation rights under article 14 of the civil service law pursuant to rules or regulations of the public employment relations board; and

(d) officers and employees whose salaries are prescribed by section 19 of the correction law.

2. For such officers and employees the following increases shall apply:

(a) Effective April 2, 2007, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by three percent adjusted to the nearest whole dollar amount.

(b) Effective April 1, 2008, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by three percent adjusted to the nearest whole dollar amount.

(c) Effective April 1, 2009, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by three percent adjusted to the nearest whole dollar amount.

(d) Effective April 1, 2010, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by four percent adjusted to the nearest whole dollar amount.

3. If an unencumbered position is one that, if encumbered, would be subject to the provisions of this section, the salary of such position shall be increased by the salary increase amounts specified in this section. If a position is created and is filled by the appointment of an officer or employee who is subject to the provisions of this section, the salary otherwise provided for such position shall be increased in the same manner as though such position had been in existence but unencumbered. Notwithstanding the provisions of this section, the director of the budget may reduce the salary of any such position that is or becomes vacant.

4. The increases in salary pursuant to this section shall apply on a prorated basis in accordance with guidelines issued by the director of the budget to officers and employees otherwise eligible to receive an increase in salary pursuant to this act who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis, and employees paid on any basis other than at an annual salary rate.

5. Notwithstanding any of the foregoing provisions of this section, the provisions of this section shall not apply to the following except as otherwise provided by law:

(a) officers or employees paid on a fee schedule basis;

(b) officers or employees whose salaries are prescribed by section 40, 60, or 169 of the executive law;

(c) officers or employees in collective negotiating units established pursuant to article 14 of the civil service law.

6. Officers and employees to whom the provisions of this section apply who are incumbents of positions that are not allocated to salary grades specified in paragraph d of subdivision 1 of section 130 of the civil service law and whose salary is not prescribed in any other statute shall receive the salary increases specified in subdivision 2 of this section.

7. In order to provide for the officers and employees to whom this section applies who are not allocated to salary grades performance advancements, merit awards, longevity payments and in lieu payments, and special achievement awards in proportion to those provided to persons to whom this section applies who are allocated to salary grades, the director of the budget is authorized to add appropriate adjustments to the compensation that such officers and employees are otherwise entitled to receive. The director of the budget shall issue certificates that shall contain schedules of positions and the salaries or payments thereof for which adjustments or payments are made pursuant to the provisions of this subdivision, and a copy of each such certificate shall be filed with the state comptroller, the department of civil service, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

8. Notwithstanding any of the foregoing provisions of this section, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on the basis of such lower graded position provided, however, that the increases in salary provided in subdivision 2 of this section shall not cause such officer's or employee's salary to exceed (i) the job rate plus two longevity payments of any such lower graded position at salary

grade M/C 17 and below or (ii) the job rate of any such lower graded position at salary grade M/C 18 and above.

§ 5. Compensation for certain state officers and employees in the division of state police. 1. The provisions of this section shall apply to officers and employees whose salaries are provided for by paragraph (a) of subdivision 1 of section 215 of the executive law.

2. For such officers and employees the following increases shall apply:

(a) Effective April 2, 2007, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by three percent adjusted to the nearest whole dollar amount.

(b) Effective April 1, 2008, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by three percent adjusted to the nearest whole dollar amount.

(c) Effective April 1, 2009, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by three percent adjusted to the nearest whole dollar amount.

(d) Effective April 1, 2010, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by four percent adjusted to the nearest whole dollar amount.

3. The increases in salary payable pursuant to this section shall apply on a prorated basis in accordance with guidelines issued by the director of the budget to officers and employees otherwise eligible to receive an increase in salary pursuant to this act who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis, and employees paid on any basis other than at an annual salary rate.

4. Notwithstanding any of the foregoing provisions of this section, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on the basis of such lower graded position provided, however, that the increases in salary provided in subdivision 2 of this section shall not cause such officer's or employee's salary to exceed (i) the job rate plus two longevity payments of any such lower graded position at salary grade M/C 17 and below or (ii) the job rate of any such lower graded position at salary grade M/C 18 and above.

§ 6. Compensation for certain state employees in the state university and certain employees of contract colleges at Cornell and Alfred universities. 1. Effective April 2, 2007, April 1, 2008, April 1, 2009, and April 1, 2010, the basic annual salary of incumbents of positions in the professional service in the state university that are designated, stipulated, or excluded from negotiating units as managerial or confidential as defined pursuant to article 14 of the civil service law, may be increased pursuant to plans approved by the state university trustees. Such increases in basic annual salary rates, exclusive of amounts for meritorious service pursuant to subdivision 3 of this section, shall not exceed in the aggregate three percent of the total basic annual salary rates in effect on March 31, 2007, three percent of the total basic annual salary rates in effect on March 31, 2008, three percent of the total basic annual salary rates in effect on March 31, 2009, and four percent of the total basic annual salary rates in effect on March 31, 2010.

2. Effective April 2, 2007, April 1, 2008, April 1, 2009, and April 1, 2010, the basic annual salary of incumbents of positions in the insti-

tutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university that, in the opinion of the director of employee relations, would be designated managerial or confidential were they subject to article 14 of the civil service law may be increased pursuant to plans approved by the state university trustees. Such increases in basic annual salary rates, exclusive of amounts for meritorious service pursuant to subdivision 3 of this section, shall not exceed in the aggregate three percent of the total basic annual salary rates in effect on March 31, 2007, three percent of the total basic annual salary rates in effect on March 31, 2008, three percent of the total basic annual salary rates in effect on March 31, 2009, and four percent of the total basic annual salary rates in effect on March 31, 2010.

3. (a) There shall be available an amount each year not to exceed one percent of the total of the basic annual salaries on July 1, 2007, July 1, 2008, July 1, 2009, and July 1, 2010 of incumbents of positions in the professional service in the state university that are designated, stipulated, or excluded from negotiating units as managerial or confidential as defined pursuant to article 14 of the civil service law, for distribution, in whole or in part, by the state university trustees, in their discretion, to such incumbents for meritorious service. Any such distribution shall be effective July 1, 2007, July 1, 2008, July 1, 2009, and July 1, 2010 respectively.

(b) During the fiscal years commencing April 1, 2007, April 1, 2008, April 1, 2009, and April 1, 2010, Cornell and Alfred universities, at their discretion, and with the approval of the state university trustees, may provide within the appropriations available therefor, an amount each year not to exceed one percent of the total of the basic annual salaries on July 1, 2007, July 1, 2008, July 1, 2009, and July 1, 2010 for distribution in whole or in part for meritorious service to incumbents of positions in the institutions under the management of Cornell and Alfred universities as representative of the board of trustees of the state university that, in the opinion of the director of employee relations, would be designated managerial or confidential were they subject to article 14 of the civil service law.

4. During the period April 2, 2007 through March 31, 2011, the basic annual salary of incumbents of positions in the non-professional service that, in the opinion of the director of employee relations, would be designated managerial or confidential were they subject to article 14 of the civil service law, except those positions in the Cornell service and maintenance unit that are subject to the terms of a collective bargaining agreement between Cornell university and the employee organization representing employees in such positions and except those positions in the Alfred service and maintenance unit that are subject to the terms of a collective bargaining agreement between Alfred university and the employee organization representing employees in such positions, in institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university may be increased pursuant to plans approved by the state university trustees. Such plans may include new salary schedules which shall supersede the salary schedules then in effect applicable to such employees. Such plans shall provide for increases in basic annual salaries, which, exclusive of performance advancement payments or merit recognition payments, shall not exceed in the aggregate three percent of the total basic annual salary rates in effect on March 31, 2007, three percent of the total basic annual salary rates in effect on March 31,

2008, three percent of the total basic annual salary rates in effect on March 31, 2009, and four percent of the total basic annual salary rates in effect on March 31, 2010. During the fiscal years commencing April 1, 2007, April 1, 2008, April 1, 2009, and April 1, 2010, such plans may provide, within the appropriations available therefor, an amount not to exceed one percent of the total basic annual salaries on April 1, 2007, April 1, 2008, April 1, 2009, and April 1, 2010 for distribution in whole or in part for meritorious service by Cornell university and Alfred university, at their discretion and with the approval of the state university trustees, to the incumbents of such positions.

5. For the purposes of this section, the basic annual salary of an employee is that salary that is obtained through direct appropriation of state moneys for the purpose of paying wages. Nothing in this part shall prevent increasing amounts paid to incumbents of such positions in the professional service in addition to the basic annual salary, provided, however, that the amounts required for such increase and the cost of fringe benefits attributable to such increase, as determined by the comptroller, are made available to the state in accordance with the procedures established by the state university, with the approval of the director of the budget, for such purposes.

§ 7. Location compensation for certain state officers and employees. 1. This section shall apply to all state officers and employees except the following:

(a) officers and employees of the legislature and the judiciary, including officers and employees of boards, bodies and commissions that are deemed to be part of the legislature or judiciary for the purposes of section 49 of the state finance law;

(b) officers and employees whose salaries are prescribed by or determined in accordance with section 40, 60, 169, 215 or 216 of the executive law;

(c) incumbents of allocated or unallocated positions in the professional service in the state university and in institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university;

(d) part-time and seasonal employees;

(e) officers and employees who are in recognized or certified collective negotiating units pursuant to article 14 of the civil service law.

2. Notwithstanding the provisions of section 15 of chapter 333 of the laws of 1969, as amended, officers and employees subject to this section whose principal place of employment or, in the case of field employees, whose official station as determined in accordance with the regulations of the comptroller is located:

(a) in the county of Monroe and who were eligible to receive location pay on March 31, 1985, shall receive location pay at the rate of two hundred dollars per year provided they continue to be otherwise eligible.

(b) in the city of New York, or in the county of Rockland, Westchester, Nassau, or Suffolk shall receive a downstate adjustment at the rate of one thousand eight hundred fifty dollars effective April 1, 2008 and three thousand twenty-six dollars effective October 1, 2008.

(c) in the county of Dutchess, Orange, or Putnam shall receive a mid-Hudson adjustment at the rate of one thousand dollars effective April 1, 2008 and one thousand five hundred thirteen dollars effective October 1, 2008.

Such location payments shall be in addition to and shall not be a part of an employee's basic annual salary, and shall not affect or impair any

advancements or other rights or benefits to which an employee may be entitled by law, provided, however, that location payments shall be included as compensation for purposes of computation of overtime pay and for retirement purposes. For the sole purpose of continuing eligibility for location pay in Monroe county, an employee previously eligible to receive location pay on March 31, 1985 who is on an approved leave of absence or participates in an employer program to reduce to part-time service during summer months shall continue to be eligible for said location pay upon return to full-time state service in Monroe county.

§ 8. Continuation of location compensation for certain officers and employees of the Hudson Valley developmental disabilities services office. 1. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office not represented in collective negotiating units established pursuant to article 14 of the civil service law who is receiving location pay pursuant to section 5 of chapter 174 of the laws of 1993 shall continue to receive such location pay under the conditions and at the rates specified by such section 5 of chapter 174 of the laws of 1993.

2. Notwithstanding section seven of this act or any other law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office not represented in collective negotiating units established pursuant to article 14 of the civil service law who is receiving location pay pursuant to said section seven of this act shall continue to be eligible for such location pay if such officer's or employee's principal place of employment is changed to a location outside of the county of Rockland as the result of a reduction or redeployment of staff, provided, however, that such officer or employee is reassigned to or otherwise appointed or promoted to a different position at another work location within such Hudson Valley developmental disabilities services office located outside of the county of Rockland. The rate of such continued location pay shall not exceed the rate such officer or employee is receiving on the date of such reassignment, appointment, or promotion.

§ 9. Section 20 of chapter 474 of the laws of 1980, amending the civil service law and other laws relating to compensation and benefits of certain state officers and employees excluded from collective negotiating units, as amended by section 9 of part B of chapter 103 of the laws of 2004, is amended to read as follows:

§ 20. Vacation exchange option. Notwithstanding any other provision of law to the contrary, effective April 1, [~~2004~~] **2008** through March 31, [~~2007~~] **2011**, state employees as defined herein who are entitled to earn and accumulate vacation credits may once per fiscal year elect to receive cash payment in exchange for such earned and accumulated credits in units of full days only up to a maximum of five days, provided that at the time of such election such credits total thirty-five or more days, and provided further that the availability of such vacation exchange option shall be subject to the approval of the director of the division of the budget for each respective state fiscal year. Vacation credits designated for such an exchange shall be segregated from the employee's accrued vacation credits for future cash payment and such days shall not be included in the accrued credits of the employee for the purpose of disallowing subsequent vacation credits within the limits otherwise prescribed. The election of such an exchange shall be made by the last day of the payroll period which includes July first of each year[~~; provided, however, that during the fiscal year commencing April~~

~~1, 2004 such election shall be made no later than sixty days after the effective date of a~~]**. However, if the effective date of the** chapter of the laws of [~~2004~~] **2008** which amended this section **is after April 1, 2008, such election for the fiscal year commencing April 1, 2008 shall be made no later than sixty days after the effective date of such chapter** and employees who choose to make an election and whose accumulated vacation credits totaled thirty-five or more days on a date or dates during the period April 1, [~~2004~~] **2008** through sixty days after the effective date of [~~a~~] **such** chapter [~~of the laws of 2004 which amended this section~~] may be deemed to have made such election on such date. Such payment for exchanged credits shall be made during the first week of December of the year of such exchange at a rate determined by the employee's salary in effect on the October first immediately prior to such payment. Such compensation shall be paid in addition to and shall not be part of an employee's basic annual salary, nor shall it be considered salary for the purpose of computing retirement benefits. For the purposes of this section, "state employees" shall mean state officers and employees in the executive branch of the state of New York whose positions have been designated managerial or confidential pursuant to article 14 of the civil service law, employees covered by section 19 of the correction law, employees in positions in the professional service in the state university which are designated, stipulated or excluded from negotiating units as managerial or confidential as defined pursuant to article 14 of the civil service law, employees covered by paragraph (a) of subdivision 1 of section 215 of the executive law, employees who have been excluded from representation rights under such article pursuant to rules and regulations of the public employment relations board, or civilian state employees who are employed in the division of military and naval affairs in the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit, and officers or employees in positions in the institutions under the management and control of Cornell and Alfred universities, as representatives of the board of trustees of the state university, which in the opinion of the director of employee relations would be designated managerial or confidential were they subject to article 14 of the civil service law, who are entitled to earn and accumulate vacation credits, provided, however, that state employees, for the purposes of this section, shall not include officers or employees whose salaries are prescribed by section 169 of the executive law or whose salaries were so prescribed prior to the enactment of chapter 55 of the laws of 1979. The director of employee relations may adopt such regulations as are deemed necessary to carry out the provisions of this section.

§ 10. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment of grievance settlements and awards pursuant to executive order 42, dated October 14, 1970, and title 9, part 560, official compilation of codes, rules and regulations of the state of New York.

§ 11. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal years commencing April 1, 2007 and April 1, 2008 by the foregoing provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal year. To the extent that such appropriations in any fund are insufficient to accomplish the purposes herein set forth, the director of the budget is authorized to

allocate to the various departments and agencies, from any appropriations available in any fund, the amounts necessary to pay such amounts.

§ 12. Effect of participation in special annuity program. No officer or employee participating in a special annuity program pursuant to the provision of article 8-C of the education law shall, by reason of an increase in compensation pursuant to this act, suffer any reduction of the salary adjustment to which that employee would otherwise be entitled by reason of participation in such program, and such salary adjustment shall be based upon the salary of such officer or employee without regard to the reduction authorized by such article.

§ 13. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other law, the increase in salary or compensation of any officer or employee provided by this act shall be added to the salary or compensation of such officer or employee at the beginning of that payroll period the first day of which is nearest to the effective date of such increase as provided in this act, or at the beginning of the earlier of two payroll periods the first days of which are nearest but equally near to the effective date of such increase as provided in this act, provided, however, that for the purposes of determining the salary of such officer or employee upon reclassification, reallocation, appointment, promotion, transfer, demotion, reinstatement or other change of status, such salary increase shall be deemed to be effective on the date thereof as prescribed in this act, and the payment thereof pursuant to this section on a date prior thereto, instead of on such effective date, shall not operate to confer any additional salary rights or benefits on such officer or employee. Payment of such salary increase may be deferred pursuant to section fourteen of this act.

§ 14. Deferred payment of salary increase. Notwithstanding the provisions of any other section of this act or of any other law, pending payment pursuant to this act of the basic annual salaries of incumbents of positions subject to this act, such incumbents shall receive, as partial compensation for services rendered, the rate of compensation otherwise payable in their respective positions. An incumbent holding a position subject to this act at any time during the period from April 1, 2007 until the time when basic annual salaries are first paid pursuant to this act for such services in excess of the compensation actually received therefor, shall be entitled to a lump sum payment for the difference between the salary to which such incumbent is entitled for such services and the compensation actually received therefor. Such lump sum payments shall be made as soon as practicable.

§ 15. 1. Notwithstanding the provisions of any other section of this act or any other provision of law to the contrary, any increase in compensation provided: (a) in this act, or (b) as a result of a promotion, appointment, or advancement to a position in a higher salary grade, or (c) pursuant to paragraph (c) of subdivision 6 of section 131 of the civil service law, or (d) pursuant to paragraph (b) of subdivision 8 of section 130 of the civil service law, or (e) pursuant to paragraph (a) of subdivision 3 of section 13 of chapter 732 of the laws of 1988, as amended may be withheld in whole or in part from any officer or employee when, in the opinion of the director of the budget, such withholding is necessary to reflect the job performance of such officer or employee, or to maintain appropriate salary relationships among officers or employees of the state, or to reduce state expenditures to acceptable levels or when, in the opinion of the director of the budget, such increase is not warranted or is not appropriate.

2. Notwithstanding the provisions of any other section of this act, the salary increases and lump sum payments provided for in this act shall not be implemented until the director of employee relations has delivered notice to the director of the budget and the comptroller that such amounts may be paid.

§ 16. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, upon request of the director of the budget, the comptroller is hereby authorized and directed to transfer up to $7,005,000 from the general fund to the dedicated highway and bridge trust fund (072), on or before March 31, 2009, to carry out the provisions of section seventeen of this act.

§ 17. The several amounts as hereinafter set forth, or so much thereof as may be necessary, are hereby appropriated from the fund so designated for use by any state department or agency for the fiscal year beginning April 1, 2007 to supplement appropriations from each respective fund available for personal service, other than personal service and fringe benefits, and to carry out the provisions of this act. No money shall be available for expenditure from this appropriation until a certificate of approval has been issued by the director of the budget and a copy of such certificate or any amendment thereto has been filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

ALL STATE DEPARTMENTS AND AGENCIES
SPECIAL PAY BILLS

General Fund / State Operations
State Purposes Account - 003

Personal Service

Personal service - regular 65,534,000
Temporary service 174,000
Other compensation, including, but not
limited to, overtime and holiday pay 8,122,000

Nonpersonal Service

Fringe benefits 7,960,000
Family benefits 310,000
Medical flexible spending account 500,000
Pre-tax transportation benefit 550,000
Management training 1,017,500
Uniform allowance 245,000
Tuition reimbursement 250,000
M/C share of negotiated programs 570,000

Special Revenue Funds - Federal
Federal USDA - Food and Nutritional
Services - 261

Personal Service

Personal Service 107,000

1 Nonpersonal Service

2 Fringe Benefits 53,000

3 Federal Health and Human Services Fund - 265

4 Personal Service

5 Personal Service 2,613,000

6 Nonpersonal Service

7 Fringe Benefits 1,291,000

8 Federal Education Fund - 267

9 Personal Service

10 Personal Service 639,000

11 Nonpersonal Service

12 Fringe Benefits 316,000

13 Federal Health and Human Services Block
14 Grant Fund - 269

15 Personal Service

16 Personal Service 582,000

17 Nonpersonal Service

18 Fringe Benefits 288,000

19 Federal Operating Grants Fund - 290

20 Personal Service

21 Personal Service 742,000

22 Nonpersonal Service

23 Fringe Benefits 367,000

24 Unemployment Insurance Administration Fund - 480

25 Personal Service

26 Personal Service 2,488,000

27 Nonpersonal Service

28 Fringe Benefits 1,229,000

29 Special Revenue Funds - Other

1 Combined Expendable Trust Fund - 020

2 Personal Service

3 Personal Service 18,000

4 Nonpersonal Service

5 Fringe Benefits 9,000

6 NY Interest on Lawyers Account Fund - 023

7 Personal Service

8 Personal Service 57,000

9 Nonpersonal Service

10 Fringe Benefits 28,000

11 Tuition Reimbursement Fund - 050

12 Personal Service

13 Personal Service 10,000

14 Nonpersonal Service

15 Fringe Benefits 5,000

16 Records Management Improvement Fund - 052

17 Personal Service

18 Personal Service 9,000

19 Nonpersonal Service

20 Fringe Benefits 4,000

21 Health Care Reform - 061

22 Personal Service

23 Personal Service 42,000

24 Nonpersonal Service

25 Fringe Benefits 21,000

26 State Lottery Fund - 160

27 Personal Service

28 Personal Service 315,000

1 Nonpersonal Service

2 Fringe Benefits 156,000

3 Sewage Treatment Management and Administration Fund -
4 300

5 Personal Service

6 Personal Service 394,000

7 Nonpersonal Service

8 Fringe Benefits 195,000

9 Environmental Conservation Special Revenue Fund - 301

10 Personal Service

11 Personal Service 209,000

12 Nonpersonal Service

13 Fringe Benefits 103,000

14 Conservation Fund - 302

15 Personal Service

16 Personal Service 234,000

17 Nonpersonal Service

18 Fringe Benefits 116,000

19 Environmental Protection and Oil Spill Compensation Fund
20 - 303

21 Personal Service

22 Personal Service 145,000

23 Nonpersonal Service

24 Fringe Benefits 72,000

25 OSHA - Training and Education Occupational Safety Fund -
26 305
27 Personal Service
28 Personal Service 171,000

29 Nonpersonal Service

30 Fringe Benefits 84,000

31 Mass Transportation Operating Assistance Fund - 313

1 Personal Service

2 Personal Service 24,000
3 Nonpersonal Service

4 Fringe Benefits 12,000

5 Clean Air Fund - 314

6 Personal Service

7 Personal Service 194,000

8 Nonpersonal Service

9 Fringe Benefits 96,000

10 Miscellaneous Special Revenue Fund - 339

11 Personal Service

12 Personal Service 13,416,000

13 Nonpersonal Service

14 Fringe Benefits 6,628,000

15 Medical flexible spending account 500,000

16 State University Income Fund - 345

17 Personal Service

18 Personal Service 3,180,000

19 Nonpersonal Service

20 Fringe Benefits 1,571,000

21 Lake George Park Trust Fund - 349

22 Personal Service

23 Personal Service 6,000

24 Nonpersonal Service

25 Fringe Benefits 3,000

26 New York Great Lakes Protection Fund - 355

27 Personal Service

28 Personal Service 8,000

1 Nonpersonal Service

2 Fringe Benefits 4,000

3 Drinking Water Program Management and Administration -
4 366

5 Personal Service

6 Personal Service 157,000

7 Nonpersonal Service

8 Fringe Benefits 78,000

9 Enterprise Funds
10 State Expo Fund - 325

11 Personal Service

12 Personal Service 21,000

13 Nonpersonal Service

14 Fringe Benefits 10,000

15 Correction - Family Benefit Fund - 329

16 Personal Service

17 Personal Service 42,000

18 Nonpersonal Service

19 Fringe Benefits 21,000

20 Mental Health and Mental Retardation Community Stores
21 Fund - 353

22 Personal Service

23 Personal Service 7,000

24 Nonpersonal Service

25 Fringe Benefits 3,000

26 Internal Service Funds
27 Centralized Services Fund - 323

28 Personal Service

29 Personal Service 228,000

1 Nonpersonal Service

2 Fringe Benefits 113,000

3 Miscellaneous Internal Services Fund - 334

4 Personal Service

5 Personal Service 656,000

6 Nonpersonal Service

7 Fringe Benefits 324,000

8 Joint Labor and Management Administration Fund - 394

9 Personal Service

10 Personal Service 182,000

11 Nonpersonal Service
12 Fringe Benefits 90,000

13 Audit and Control Internal Service Fund -
14 395

15 Personal Service

16 Personal Service 66,000

17 Nonpersonal Service

18 Fringe Benefits 33,000

19 Health Insurance Internal Service Fund - 396

20 Personal Service

21 Personal Service 723,000

22 Nonpersonal Service

23 Fringe Benefits 357,000

24 Correctional Industries Internal Services Fund - 397

25 Personal Service

26 Personal Service 193,000

27 Nonpersonal Service

28 Fringe Benefits 95,000

29 Pension Trust Fund
30 Common Retirement Fund - 400

1 Personal Service

2 Personal Service 973,000

3 Nonpersonal Service

4 Fringe Benefits 481,000

5 Agency Trust Fund
6 State Insurance Fund - 640

7 Personal Service

8 Personal Service 1,376,000

9 Nonpersonal Service

10 Fringe Benefits 680,000

11 Capital Project Funds - Other
12 Dedicated Highway and Bridge Trust Fund - 072

13 Personal Service

14 Personal Service 4,689,000

15 Nonpersonal Service

16 Fringe Benefits 2,316,000

17 § 18. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after April 1, 2007. Appropri-
19 ations made by this act shall remain in full force and effect for
20 liabilities incurred through March 31, 2009.

REPEAL NOTE.--Paragraph d of subdivision 1 of section 130 of the civil service law, repealed by section one of this act, provided salary schedules for state employees designated managerial and confidential pursuant to article 14 of the civil service law and is replaced by revised salary schedules in a new paragraph d.

Subdivision 1 of section 19 of the correction law, repealed by section two of this act, provided salary schedules for superintendents of correctional facilities and is replaced by revised salary schedules in a new subdivision 1.

21 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
22 sion, section or part contained in any part of this act shall be
23 adjudged by any court of competent jurisdiction to be invalid, such
24 judgment shall not affect, impair, or invalidate the remainder thereof,
25 but shall be confined in its operation to the clause, sentence, para-
26 graph, subdivision, section or part contained in any part thereof
27 directly involved in the controversy which such judgment shall have been
28 rendered. It is hereby declared to be the intent of the legislature that
29 this act would have been enacted even if such invalid provisions had not
30 been included herein.
31 § 3. This act shall take effect immediately provided, however, that
32 the applicable effective date for Parts A through B of this act shall be
33 as specifically set forth in the last section of such Part.

Chapter 49 Signed April 23, 2008

STATE OF NEW YORK

A. 10270 - S. 7162

IN ASSEMBLY

March 13, 2008

Introduced by M. of A. ABBATE -- (at request of the Governor) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to compensation, benefits and other terms and conditions of employment of certain state officers and employees; to implement agreements between the state and an employee organization; making an appropriation therefor; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraphs 1, 2, 3, 4 and 5 of paragraph e of subdivision 1 of section 130 of the civil service law are REPEALED and four new subparagraphs 1, 2, 3, and 4 are added to read as follows:

(1) Effective April fifth, two thousand seven for employees on the administrative payroll and effective March twenty-ninth, two thousand seven for employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	19977	20651	21325	21999	22673	23347	24021
2	20740	21447	22154	22861	23568	24275	24982
3	21775	22514	23253	23992	24731	25470	26209
4	22726	23509	24292	25075	25858	26641	27424
5	23813	24632	25451	26270	27089	27908	28727
6	25146	25997	26848	27699	28550	29401	30252
7	26536	27428	28320	29212	30104	30996	31888
8	28031	28958	29885	30812	31739	32666	33593
9	29595	30564	31533	32502	33471	34440	35409
10	31287	32304	33321	34338	35355	36372	37389
11	33102	34169	35236	36303	37370	38437	39504
12	34996	36100	37204	38308	39412	40516	41620
13	37072	38226	39380	40534	41688	42842	43996
14	39217	40419	41621	42823	44025	45227	46429
15	41493	42745	43997	45249	46501	47753	49005
16	43818	45129	46440	47751	49062	50373	51684
17	46284	47669	49054	50439	51824	53209	54594

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12061-02-8

18	46466	48060	49654	51248	52842	54436	56030
19	48984	50645	52306	53967	55628	57289	58950
20	51492	53226	54960	56694	58428	60162	61896
21	54222	56029	57836	59643	61450	63257	65064
22	57136	59019	60902	62785	64668	66551	68434
23	60159	62118	64077	66036	67995	69954	71913
24	63363	65401	67439	69477	71515	73553	75591
25	66859	68982	71105	73228	75351	77474	79597
26	70381	72590	74799	77008	79217	81426	83635
27	74191	76517	78843	81169	83495	85821	88147
28	78097	80514	82931	85348	87765	90182	92599
29	82191	84700	87209	89718	92227	94736	97245
30	86486	89088	91690	94292	96894	99496	102098
31	91096	93796	96496	99196	101896	104596	107296
32	95940	98729	101518	104307	107096	109885	112674

SG	JR	Merit Rate	Incr	LS1	LS1plus Merit	LS2	LS2plus Merit	Long Incr	Merit Advance Amount
1	24695		674	25645		26595		950	
2	25689		707	26639		27589		950	
3	26948		739	27898		28848		950	
4	28207		783	29157		30107		950	
5	29546		819	30496		31446		950	
6	31103		851	32053		33003		950	
7	32780		892	33730		34680		950	
8	34520		927	35470		36420		950	
9	36378		969	37328		38278		950	
10	38406		1017	39356		40306		950	
11	40571		1067	41521		42471		950	
12	42724		1104	43674		44624		950	
13	45150		1154	46100		47050		950	
14	47631		1202	48581		49531		950	
15	50257		1252	51207		52157		950	
16	52995		1311	53945		54895		950	
17	55979		1385	56929		57879		950	
18	57624	59087	1594	58574	60037	59524	60987	950	1463
19	60611		1661	61561		62511		950	
20	63630		1734	64580		65530		950	
21	66871		1807	67821		68771		950	
22	70317		1883	71267		72217		950	
23	73872		1959	74822		75772		950	
24	77629		2038	78579		79529		950	
25	81720		2123	82670		83620		950	
26	85844		2209	86794		87744		950	
27	90473		2326	91423		92373		950	
28	95016		2417	95966		96916		950	
29	99754		2509	100704		101654		950	
30	104700		2602	105650		106600		950	
31	109996		2700	110946		111896		950	
32	115463		2789	116413		117363		950	

(2) Effective April third, two thousand eight for officers and employees on the administrative payroll and effective March twenty-seventh, two thousand eight for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	20576	21270	21964	22658	23352	24046	24740
2	21362	22090	22818	23546	24274	25002	25730
3	22428	23189	23950	24711	25472	26233	26994
4	23408	24214	25020	25826	26632	27438	28244
5	24527	25371	26215	27059	27903	28747	29591
6	25900	26777	27654	28531	29408	30285	31162
7	27332	28251	29170	30089	31008	31927	32846
8	28872	29827	30782	31737	32692	33647	34602
9	30483	31481	32479	33477	34475	35473	36471
10	32226	33273	34320	35367	36414	37461	38508
11	34095	35194	36293	37392	38491	39590	40689
12	36046	37183	38320	39457	40594	41731	42868
13	38184	39373	40562	41751	42940	44129	45318
14	40394	41632	42870	44108	45346	46584	47822
15	42738	44028	45318	46608	47898	49188	50478
16	45133	46483	47833	49183	50533	51883	53233
17	47673	49099	50525	51951	53377	54803	56229
18	47860	49502	51144	52786	54428	56070	57712
19	50454	52165	53876	55587	57298	59009	60720
20	53037	54823	56609	58395	60181	61967	63753
21	55849	57710	59571	61432	63293	65154	67015
22	58850	60790	62730	64670	66610	68550	70490
23	61964	63982	66000	68018	70036	72054	74072
24	65264	67363	69462	71561	73660	75759	77858
25	68865	71052	73239	75426	77613	79800	81987
26	72492	74767	77042	79317	81592	83867	86142
27	76417	78813	81209	83605	86001	88397	90793
28	80440	82929	85418	87907	90396	92885	95374
29	84657	87241	89825	92409	94993	97577	100161
30	89081	91761	94441	97121	99801	102481	105161
31	93829	96610	99391	102172	104953	107734	110515
32	98818	101691	104564	107437	110310	113183	116056

SG	JR	Merit Rate	Incr	LS1	LS1plus Merit	LS2	LS2plus Merit	Long Incr	Merit Advance Amount
1	25434		694	26484		27534		1050	
2	26458		728	27508		28558		1050	
3	27755		761	28805		29855		1050	
4	29050		806	30100		31150		1050	
5	30435		844	31485		32535		1050	
6	32039		877	33089		34139		1050	
7	33765		919	34815		35865		1050	
8	35557		955	36607		37657		1050	
9	37469		998	38519		39569		1050	
10	39555		1047	40605		41655		1050	
11	41788		1099	42838		43888		1050	
12	44005		1137	45055		46105		1050	
13	46507		1189	47557		48607		1050	
14	49060		1238	50110		51160		1050	
15	51768		1290	52818		53868		1050	
16	54583		1350	55633		56683		1050	
17	57655		1426	58705		59755		1050	
18	59354	60857	1642	60404	61907	61454	62957	1050	1503
19	62431		1711	63481		64531		1050	

20	65539	1786	66589	67639	1050
21	68876	1861	69926	70976	1050
22	72430	1940	73480	74530	1050
23	76090	2018	77140	78190	1050
24	79957	2099	81007	82057	1050
25	84174	2187	85224	86274	1050
26	88417	2275	89467	90517	1050
27	93189	2396	94239	95289	1050
28	97863	2489	98913	99963	1050
29	102745	2584	103795	104845	1050
30	107841	2680	108891	109941	1050
31	113296	2781	114346	115396	1050
32	118929	2873	119979	121029	1050

(3) Effective April second, two thousand nine for officers and employees on the administrative payroll and effective March twenty-sixth, two thousand nine for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	21193	21908	22623	23338	24053	24768	25483
2	22003	22753	23503	24253	25003	25753	26503
3	23101	23885	24669	25453	26237	27021	27805
4	24110	24940	25770	26600	27430	28260	29090
5	25263	26132	27001	27870	28739	29608	30477
6	26677	27580	28483	29386	30289	31192	32095
7	28152	29099	30046	30993	31940	32887	33834
8	29738	30722	31706	32690	33674	34658	35642
9	31397	32425	33453	34481	35509	36537	37565
10	33193	34271	35349	36427	37505	38583	39661
11	35118	36250	37382	38514	39646	40778	41910
12	37127	38298	39469	40640	41811	42982	44153
13	39330	40555	41780	43005	44230	45455	46680
14	41606	42881	44156	45431	46706	47981	49256
15	44020	45349	46678	48007	49336	50665	51994
16	46487	47877	49267	50657	52047	53437	54827
17	49103	50572	52041	53510	54979	56448	57917
18	49296	50987	52678	54369	56060	57751	59442
19	51968	53730	55492	57254	59016	60778	62540
20	54628	56468	58308	60148	61988	63828	65668
21	57524	59441	61358	63275	65192	67109	69026
22	60616	62614	64612	66610	68608	70606	72604
23	63823	65902	67981	70060	72139	74218	76297
24	67222	69384	71546	73708	75870	78032	80194
25	70931	73184	75437	77690	79943	82196	84449
26	74667	77010	79353	81696	84039	86382	88725
27	78710	81178	83646	86114	88582	91050	93518
28	82853	85417	87981	90545	93109	95673	98237
29	87197	89858	92519	95180	97841	100502	103163
30	91753	94513	97273	100033	102793	105553	108313
31	96644	99508	102372	105236	108100	110964	113828
32	101783	104742	107701	110660	113619	116578	119537

SG	JR	Merit Rate	Incr	LS1	LS1plus Merit	LS2	LS2plus Merit	Long Incr	Merit Advance Amount
1	26198		715	27348		28498		1150	

2	27253		750	28403		29553		1150	
3	28589		784	29739		30889		1150	
4	29920		830	31070		32220		1150	
5	31346		869	32496		33646		1150	
6	32998		903	34148		35298		1150	
7	34781		947	35931		37081		1150	
8	36626		984	37776		38926		1150	
9	38593		1028	39743		40893		1150	
10	40739		1078	41889		43039		1150	
11	43042		1132	44192		45342		1150	
12	45324		1171	46474		47624		1150	
13	47905		1225	49055		50205		1150	
14	50531		1275	51681		52831		1150	
15	53323		1329	54473		55623		1150	
16	56217		1390	57367		58517		1150	
17	59386		1469	60536		61686		1150	
18	61133	62685	1691	62283	63835	63433	64985	1150	1552
19	64302		1762	65452		66602		1150	
20	67508		1840	68658		69808		1150	
21	70943		1917	72093		73243		1150	
22	74602		1998	75752		76902		1150	
23	78376		2079	79526		80676		1150	
24	82356		2162	83506		84656		1150	
25	86702		2253	87852		89002		1150	
26	91068		2343	92218		93368		1150	
27	95986		2468	97136		98286		1150	
28	100801		2564	101951		103101		1150	
29	105824		2661	106974		108124		1150	
30	111073		2760	112223		113373		1150	
31	116692		2864	117842		118992		1150	
32	122496		2959	123646		124796		1150	

(4) Effective April first, two thousand ten for officers and employees on the administrative payroll and effective March twenty-fifth, two thousand ten for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	22041	22785	23529	24273	25017	25761	26505
2	22883	23663	24443	25223	26003	26783	27563
3	24025	24840	25655	26470	27285	28100	28915
4	25074	25937	26800	27663	28526	29389	30252
5	26274	27178	28082	28986	29890	30794	31698
6	27744	28683	29622	30561	31500	32439	33378
7	29278	30263	31248	32233	33218	34203	35188
8	30928	31951	32974	33997	35020	36043	37066
9	32653	33722	34791	35860	36929	37998	39067
10	34521	35642	36763	37884	39005	40126	41247
11	36523	37700	38877	40054	41231	42408	43585
12	38612	39830	41048	42266	43484	44702	45920
13	40903	42177	43451	44725	45999	47273	48547
14	43270	44596	45922	47248	48574	49900	51226
15	45781	47163	48545	49927	51309	52691	54073
16	48346	49792	51238	52684	54130	55576	57022
17	51067	52595	54123	55651	57179	58707	60235
18	51268	53027	54786	56545	58304	60063	61822
19	54047	55879	57711	59543	61375	63207	65039

20	56813	58727	60641	62555	64469	66383	68297
21	59825	61819	63813	65807	67801	69795	71789
22	63041	65119	67197	69275	71353	73431	75509
23	66376	68538	70700	72862	75024	77186	79348
24	69911	72159	74407	76655	78903	81151	83399
25	73768	76111	78454	80797	83140	85483	87826
26	77654	80091	82528	84965	87402	89839	92276
27	81858	84425	86992	89559	92126	94693	97260
28	86167	88834	91501	94168	96835	99502	102169
29	90685	93452	96219	98986	101753	104520	107287
30	95423	98293	101163	104033	106903	109773	112643
31	100510	103489	106468	109447	112426	115405	118384
32	105854	108931	112008	115085	118162	121239	124316

SG	JR	INCR	JR INCR
1	27249	744	744
2	28343	780	780
3	29730	815	815
4	31115	863	863
5	32602	904	904
6	34317	939	939
7	36173	985	985
8	38089	1023	1023
9	40136	1069	1069
10	42368	1121	1121
11	44762	1177	1177
12	47138	1218	1218
13	49821	1274	1274
14	52552	1326	1326
15	55455	1382	1382
16	58468	1446	1446
17	61763	1528	1528
18	65190	1759	3368
19	68637	1832	3598
20	72076	1914	3779
21	75862	1994	4073
22	79819	2078	4310
23	83954	2162	4606
24	88256	2248	4857
25	92974	2343	5148
26	95713	2437	3437
27	100827	2567	3567
28	105836	2667	3667
29	111054	2767	3767
30	116513	2870	3870
31	122363	2979	3979
32	128393	3077	4077

§ 2. Paragraphs (c) and (d) of subdivision 10 of section 130 of the civil service law, paragraph (c) as added and paragraph (d) as amended by chapter 111 of the laws of 2006, are amended to read as follows:

(c) [~~Notwithstanding~~] **(i) Prior to April first two thousand ten, and notwithstanding** any inconsistent provision of law, officers and employees to whom paragraph e of subdivision one of this section applies who, on or after April first, two thousand four, on their anniversary date have five or more years of continuous service as defined by paragraph

(c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, but below the first longevity step and whose performance for the most recent rating period was rated at least "satisfactory" or its equivalent, shall have their basic annual salary increased to the first longevity step or shall have their basic annual salary as otherwise effective increased by eight hundred fifty dollars**; or by nine hundred fifty dollars on or after April first, two thousand seven; or by one thousand fifty dollars on or after April first, two thousand eight; or by one thousand one hundred fifty dollars on or after April first, two thousand nine;** or as much of that amount as will not result in the new basic annual salary exceeding the step two longevity step. Notwithstanding any inconsistent provision of law, officers and employees to whom paragraph e of subdivision one of this section apply who, on or after April first, two thousand four, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, but below the second longevity step and whose performance for the most recent rating period was rated at least "satisfactory" or its equivalent, shall have their basic annual salary increased to the second longevity step **as found in paragraph e of subdivision one of this section**. Such increases to longevity steps by eligible officers or employees shall become effective on the first day of the payroll period which next begins following the anniversary date which satisfies the prescribed service requirements.

(ii) Officers and employees to whom paragraph (e) of subdivision one of this section apply who, on or after April first, two thousand ten, on their anniversary date have five or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, shall receive a lump sum payment in the amount of one thousand two hundred fifty dollars. Officers and employees to whom paragraph e of subdivision one of this section applies who, on or after April first, two thousand ten, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of two thousand five hundred dollars.

Such lump sum payment shall be in addition to and not part of the employee's basic annual salary, provided however that any amount payable herein shall be included as compensation for overtime and retirement purposes.

Such lump sum payment shall be payable in April of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period October first through March thirty-first of the previous fiscal year. Such payment shall be payable in October of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more years of continuous service as defined by paragraph (c) of subdivision three of this section at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade

during the period April first through September thirtieth of that same fiscal year. All compensation already included in an employee's basic annual salary pursuant to subparagraph (i) of this paragraph shall remain included in such basic annual salary.

(d) Notwithstanding the provisions of paragraphs (b) and (c) of this subdivision, officers and employees otherwise eligible to receive the longevity payments provided by paragraphs (b) and (c) of this subdivision who, on their eligibility date, are serving in a higher graded position (i) on a temporary basis or on a probationary or a permanent basis and subsequently fail the probationary period or accept a voluntary demotion which is not a consequence or settlement of a disciplinary action or are demoted as a result of the abolition of positions and (ii) return to a position in a lower salary grade [~~**on or before March thirty-first, two thousand seven**~~] and (iii) remain in such lower salary grade for at least six payroll periods shall be eligible for such longevity payments.

§ 3. Paragraph (d) of subdivision 6 of section 131 of the civil service law, as amended by chapter 9 of the laws of 2005, is amended to read as follows:

(d) Where, and to the extent an agreement negotiated pursuant to article fourteen of this chapter so provides and notwithstanding the provisions of paragraph (a) of this subdivision, effective April first, two thousand seven an employee holding a position allocated to Grade 18 or below in the salary schedule prescribed in subparagraph five of paragraph c of subdivision one of section one hundred thirty of this title, or allocated to Grade 18 in the salary schedule **then applicable as** prescribed in [~~**subparagraph five of**~~] paragraph e of subdivision one of section one hundred thirty of this title, may advance to a merit step above the job rate established in such salary schedule.

§ 4. Compensation for certain state officers and employees in collective negotiating units. 1. The provisions of this section shall apply to full-time officers and employees in the collective negotiating unit designated as the rent regulation services negotiating unit.

2. Effective April 5, 2007 for officers and employees on the administrative payroll and effective March 29, 2007 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period shall be increased by three percent adjusted to the nearest whole dollar amount.

3. Effective April 3, 2008 for officers and employees on the administrative payroll and effective March 27, 2008 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period shall be increased by three percent adjusted to the nearest whole dollar amount.

4. Effective April 2, 2009 for officers and employees on the administrative payroll and effective March 26, 2009 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period, shall be increased by three percent adjusted to the nearest whole dollar amount.

5. Effective April 1, 2010 for officers and employees on the administrative payroll and effective March 25, 2010 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll

period, shall be increased by four percent adjusted to the nearest whole dollar amount.

5-a. Effective April 1, 2007, an employee, who has been at the job rate of the salary grade 18 for no less than one year and satisfies all other eligibility criteria established pursuant to an agreement negotiated pursuant to article 14 of the civil service law, shall continue to move to the merit step applicable in paragraph e of subdivision 1 of section 130 of the civil service law. Such merit step or movement thereto shall only occur if the director of the office of employee relations certifies to the state comptroller that a merit evaluation program has been negotiated.

6. Notwithstanding the provisions of subdivisions two, three, four and five of this section, if the basic annual salary of an officer or employee to whom the provisions of this section apply is identical with the hiring rate, job rate, merit rate or step one, two, three, four, five, or six of the salary grade of his or her position on the effective dates of the increases provided in these subdivisions, such basic annual salary shall be increased to the hiring rate, step one, two, three, four, five, six, job rate or merit rate, respectively, of such salary grade as contained in the appropriate salary schedules in subparagraphs 1, 2, 3, and 4 of paragraph e of subdivision 1 of section 130 of the civil service law, as added by section one of this act, to take effect on the dates provided in subparagraphs 1, 2, 3, and 4 of such paragraph, respectively. The increases in basic annual salary provided by this subdivision shall be in lieu of any increase in basic annual salary provided for in subdivisions two, three, four and five of this section.

7. Advancement within salary grade. Payments pursuant to the provisions of subdivision 6 of section 131 of the civil service law for officers and employees entitled to such payments to whom the provisions of this section apply shall be payable in accordance with the terms of an agreement reached pursuant to article 14 of the civil service law between the state and an employee organization representing employees in the collective negotiating unit designated as the rent regulation services negotiating unit.

8. If an unencumbered position is one which if encumbered, would be subject to the provisions of this section, the salary of such position shall be increased by the salary increase amounts specified in this section. If a position is created, and filled by the appointment of an officer or employee who is subject to the provisions of this section, the salary otherwise provided for such position shall be increased in the same manner as though such position had been in existence but unencumbered. Notwithstanding the provisions of this section, the director of the budget may reduce the salary of any such position which is or becomes vacant.

9. The increases in salary provided in subdivisions two, three, four, and five of this section shall apply on a prorated basis to officers and employees, otherwise eligible to receive an increase in salary, who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis and employees paid on any basis other than at an annual salary rate. Notwithstanding the foregoing, the provisions of subdivision six of this section shall not apply to employees serving on a seasonal basis, except as determined by the director of the budget.

10. In order to provide for the officers and employees to whom this section applies who are not allocated to salary grades, increases and payments pursuant to subdivision seven of this section in proportion to those provided to persons to whom this section applies who are allocated

to salary grades, the director of the budget is authorized to add appropriate adjustments and/or payments to the compensation which such officers and employees are otherwise entitled to receive. The director of the budget shall issue certificates which shall contain schedules of positions and the salaries and/or payments thereof for which adjustments and/or payments are made pursuant to the provisions of this subdivision, and a copy of each such certificate shall be filed with the state comptroller, the state department of civil service, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

11. Notwithstanding any of the foregoing provisions of this section, the provisions of this section shall not apply to officers or employees paid on a fee schedule basis.

12. Notwithstanding any of the foregoing provisions of this section except subdivision one, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on the basis of such lower graded position provided, however, that the increases in salary provided in subdivisions two, three, four, and five of this section shall not cause such officer's or employee's salary to exceed longevity step two of such lower graded position.

13. Notwithstanding any of the foregoing provisions of this section, any increase in compensation may be withheld in whole or in part from any employee to whom the provisions of this section are applicable when, in the opinion of the director of the budget and the director of employee relations, such increase is not warranted or is not appropriate.

§ 5. Location compensation for certain state officers and employees in collective negotiating units. Notwithstanding any inconsistent provisions of law, officers and employees, including seasonal officers and employees who shall receive the compensation provided for pursuant to this section on a pro-rated basis, except part-time officers and employees, in the collective negotiating unit designated as the rent regulation services negotiating unit, whose principal place of employment or, in the case of a field employee, whose official station as determined in accordance with the regulations of the comptroller, is located in the city of New York, or in the county of Rockland, Westchester, Nassau or Suffolk shall receive a downstate adjustment at the annual rate of: one thousand eight hundred fifty dollars effective the payroll period beginning closest to April 1, 2008 and which shall be increased to three thousand twenty-six dollars effective the payroll period beginning the closest to October 1, 2008. Such location payments shall be in addition to and shall not be a part of an officer's or employee's basic annual salary, and shall not affect or impair any performance advancements or other rights or benefits to which an officer or employee may be entitled by law, provided, however, that location payments shall be included as compensation for purposes of computation of overtime pay and for retirement purposes.

§ 6. Notwithstanding any inconsistent provision of law, where and to the extent that any agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides on behalf of employees in the collective negotiating unit designated as the rent regulation services negotiating unit, the state shall contribute an amount designated in such agreement and for the period covered by such agreement to the accounts of such employees

enrolled for dependent care deductions pursuant to subdivision 7 of section 201-a of the state finance law. Such amounts shall be from funds appropriated in this act and shall not be part of basic annual salary for overtime or retirement purposes.

§ 7. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment and publication of grievance and arbitration settlements and awards pursuant to articles 31 and 33 of the collective negotiating agreement between the state and the employee organization representing the collective negotiating unit designated as the rent regulation services negotiating unit.

§ 8. The salary increases and benefit modification provided for by this act for state employees in the collective negotiating unit designated as the rent regulation services negotiating unit shall not be implemented until the director of employee relations shall have delivered to the director of the budget and the comptroller a letter certifying that there is in effect with respect to such negotiating unit a collectively negotiated agreement, ratified by the membership, which provides for such increases and modifications and which are fully executed in writing with the state pursuant to article 14 of the civil service law.

§ 9. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal years commencing April 1, 2007 and April 1, 2008 by the foregoing provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal years. To the extent that such appropriations in any fund are insufficient to accomplish the purposes herein set forth, the director of the budget is authorized to allocate to the various departments and agencies, from any appropriations available in any fund, the amounts necessary to pay such amounts.

§ 10. Effect of participation in special annuity program. No officer or employee participating in a special annuity program pursuant to the provisions of article 8-C of the education law shall, by reason of an increase in compensation pursuant to this act, suffer any reduction of the salary adjustment to which he or she would otherwise be entitled by reason of participation in such program, and such salary adjustment shall be based upon the salary of such officer or employee without regard to the reduction authorized by such article.

§ 11. Deferred payment of salary increase. Notwithstanding the provisions of any other section of this act, or any other law, pending payment pursuant to this act of the basic annual salaries of incumbents of positions subject to this act, such incumbents shall receive, as partial compensation for services rendered, the rate of compensation otherwise payable in their respective positions. An incumbent holding a position subject to this act at any time during the period from April 1, 2007, until the time when basic annual salaries are first paid pursuant to this act for such services in excess of the compensation actually received therefor, shall be entitled to a lump sum payment for the difference between the salary to which such incumbent is entitled for such services and the compensation actually received therefor. Such lump sum payment shall be made as soon as practicable.

§ 12. The several amounts as hereinafter set forth, or so much thereof as may be necessary, are hereby appropriated from the fund so designated for use by any state department or agency for the fiscal year beginning April 1, 2007 and April 1, 2008 to supplement appropriations from each

respective fund available for personal service, other than personal service and fringe benefits, and to carry out the provisions of this act. No money shall be available for expenditure from this appropriation until a certificate of approval has been issued by the director of the budget and a copy of such certificate or any amendment thereto has been filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

ALL STATE DEPARTMENTS AND AGENCIES
SPECIAL PAY BILLS

General Fund - State Purposes Account

Personal Service

Personal Service 103,000

Non-Personal Service

Fringe Benefits 172,000
Employee Benefit Fund 43,000
Family Benefits 18,000
Committee on health benefits 10,000
Employee assistance program 6,000
Employee development and training 120,000
Contract Administration 3,000
Statewide Performance Rating Committee 2,000
Time & Attendance Umpire Process Admin 2,000
Disciplinary Panel Administration 2,000

Special Revenue Funds - Other
Miscellaneous Special Revenue Fund - 339

Personal Service

Personal Service 2,120,000

Non-Personal Service

Non-Personal Service 1,047,000

Special Revenue Funds - Federal
Federal Operating Grants Fund - 290

Personal Service

Personal Service 28,000

Non-Personal Service

Non-Personal Service 14,000

§ 13. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 2, 2007. Appropriations made by this act shall remain in full force and effect for liabilities incurred through March 31, 2009.

REPEAL NOTE--Subparagraphs 1, 2, 3, 4, and 5 of paragraph e of subdivision 1 of section 130 of the civil service law, repealed by section one of this act, provided salary schedules for state employees in the rent regulation services negotiating unit and is replaced by revised salary schedules in new subparagraphs 1, 2, 3, and 4.

Chapter 76 Signed May 13, 2008

STATE OF NEW YORK

S. 6733 - A. 9666

IN SENATE

January 15, 2008

Introduced by Sens. MALTESE, GOLDEN, LANZA, PADAVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the general municipal law and the retirement and social security law, in relation to increasing certain special accidental death benefits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision c of section 208-f of the general municipal law, as amended by chapter 39 of the laws of 2007, is amended to read as follows:

c. Commencing July first, two thousand [~~seven~~] **eight** the special accidental death benefit paid to a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member (as increased pursuant to subdivision b of this section) in accordance with the following schedule:

calendar year of death of the deceased member	per centum	
1977 or prior	[~~142.7%~~]	**150.0%**
1978	[~~135.7%~~]	**142.7%**
1979	[~~128.8%~~]	**135.7%**
1980	[~~122.1%~~]	**128.8%**
1981	[~~115.7%~~]	**122.1%**
1982	[~~109.4%~~]	**115.7%**
1983	[~~103.3%~~]	**109.4%**
1984	[~~97.4%~~]	**103.3%**
1985	[~~91.6%~~]	**97.4%**
1986	[~~86.0%~~]	**91.6%**
1987	[~~80.6%~~]	**86.0%**
1988	[~~75.4%~~]	**80.6%**
1989	[~~70.2%~~]	**75.4%**
1990	[~~65.3%~~]	**70.2%**

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14680-02-8

1991	[~~60.5%~~]	**65.3%**
1992	[~~55.8%~~]	**60.5%**
1993	[~~51.3%~~]	**55.8%**
1994	[~~46.9%~~]	**51.3%**
1995	[~~42.6%~~]	**46.9%**
1996	[~~38.4%~~]	**42.6%**
1997	[~~34.4%~~]	**38.4%**
1998	[~~30.5%~~]	**34.4%**
1999	[~~26.7%~~]	**30.5%**
2000	[~~23.0%~~]	**26.7%**
2001	[~~19.4%~~]	**23.0%**
2002	[~~15.9%~~]	**19.4%**
2003	[~~12.6%~~]	**15.9%**
2004	[~~9.3%~~]	**12.6%**
2005	[~~6.1%~~]	**9.3%**
2006	[~~3.0%~~]	**6.1%**
2007	[~~0.0%~~]	**3.0%**
2008	**0.0%**	

§ 2. Subdivision c of section 361-a of the retirement and social security law, as amended by chapter 39 of the laws of 2007, is amended to read as follows:

c. Commencing July first, two thousand [~~seven~~] **eight** the special accidental death benefit paid to a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member, as increased pursuant to subdivision b of this section, in accordance with the following schedule:

calendar year of death of the deceased member	per centum	
1977 or prior	[~~142.7%~~]	**150.0%**
1978	[~~135.7%~~]	**142.7%**
1979	[~~128.8%~~]	**135.7%**
1980	[~~122.1%~~]	**128.8%**
1981	[~~115.7%~~]	**122.1%**
1982	[~~109.4%~~]	**115.7%**
1983	[~~103.3%~~]	**109.4%**
1984	[~~97.4%~~]	**103.3%**
1985	[~~91.6%~~]	**97.4%**
1986	[~~86.0%~~]	**91.6%**
1987	[~~80.6%~~]	**86.0%**
1988	[~~75.4%~~]	**80.6%**
1989	[~~70.2%~~]	**75.4%**
1990	[~~65.3%~~]	**70.2%**
1991	[~~60.5%~~]	**65.3%**
1992	[~~55.8%~~]	**60.5%**
1993	[~~51.3%~~]	**55.8%**
1994	[~~46.9%~~]	**51.3%**
1995	[~~42.6%~~]	**46.9%**
1996	[~~38.4%~~]	**42.6%**
1997	[~~34.4%~~]	**38.4%**
1998	[~~30.5%~~]	**34.4%**
1999	[~~26.7%~~]	**30.5%**
2000	[~~23.0%~~]	**26.7%**
2001	[~~19.4%~~]	**23.0%**
2002	[~~15.9%~~]	**19.4%**

2003	[~~12.6%~~]	**15.9%**
2004	[~~9.3%~~]	**12.6%**
2005	[~~6.1%~~]	**9.3%**
2006	[~~3.0%~~]	**6.1%**
2007	[~~0.0%~~]	**3.0%**
2008	**0.0%**	

§ 3. This act shall take effect July 1, 2008.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend both the General Municipal Law and the Retirement and Social Security Law to increase the salary used in the computation of the special accidental death benefit by 3% in cases where the date of death was before 2008.

Insofar as this bill would amend the Retirement and Social Security Law, it is estimated that there would be an additional annual cost of approximately $330,000 above the approximately $7.2 million current annual cost of this benefit. This cost would be shared by the State of New York and all participating employers of the New York State and Local Police and Fire Retirement System.

This estimate, dated December 28, 2007 and intended for use only during the 2008 Legislative Session, is fiscal Note No. 2008-102, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

FISCAL NOTE.-- Pursuant to Legislative Law, Section 50:

If the bill were to be enacted in the 2008 Legislative Session, the cost to the State in fiscal year 2008-09 would be approximately $2.7 million.

This estimate dated December 31, 2007 and intended for use only during the 2008 Legislative Session was prepared by Jonathan Schwartz, consulting actuary.

Chapter 97 Signed June 3, 2008

STATE OF NEW YORK

A. 9444—A - S. 6491—A

2007-2008 Regular Sessions

IN ASSEMBLY

October 9, 2007

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to mandatory retirement age for members of the division of state police

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision e of section 381-b of the retirement and social security law, as amended by chapter 562 of the laws of 2007, is amended to read as follows:

e. Mandatory retirement. A member subject to the provisions of this section shall be retired on December thirty-first of the year in which he or she attains sixty years of age.

Notwithstanding the foregoing, any member in service in the division on August fifteenth, two thousand seven, and who on that date was entitled to receive retirement benefits on the thirty-first day of December in the year in which he or she attained fifty-seven years of age as provided in paragraph three of subdivision b of this section, may elect to retain such entitlement, provided the member remains in service on the thirtieth day of December in the year in which he or she attains fifty-seven years of age. The provisions of this subdivision shall not apply to the superintendent.

§ 2. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill is a technical correction to Chapter 562 of the Laws of 2007. Language would be added to subdivision e of section 381-b of the Retirement and Social Security Law to state that members who were employed by the division of State Police prior to August 15, 2007 would be allowed to receive retirement benefits at age 57 if they do not have 20 years of service. These members were already eligible for this benefit prior to the enactment of Chapter 562.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD14115-05-8

If this bill is enacted, there would be no additional cost to the State of New York or the participating employers in the New York State and Local Police and Fire Retirement System.

This estimate, dated January 16, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-123, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 113 Signed June 17, 2008

STATE OF NEW YORK

S. 8360 - A. 11414

IN SENATE

May 30, 2008

Introduced by Sens. LAVALLE, LANZA -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT implementing an agreement between the state and an employee organization; providing for the adjustment of salaries of certain incumbents in the professional service in the state university and making an appropriation therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Definitions.

1. For purposes of this act, "professional services unit" means the collective negotiating unit designated as the professional services negotiating unit in the state university of New York established pursuant to article 14 of the civil service law.

2. For purposes of this act, "the agreement" means a collectively negotiated agreement entered into in 2007 between the state and the employee organization representing members of the professional services unit.

3. For purposes of this act, "the employee organization" means the employee organization representing members of the professional services unit.

§ 2. Adjustment to salaries and other compensation of certain incumbents in positions in the professional service in the state university.

1. The basic annual salaries as of July 1, 2007, of incumbents of positions in the professional service in the state university in the professional services unit, other than positions described in subdivision twelve of this section, shall be increased by 3 percent, adjusted to the nearest whole dollar amount (a) commencing the first day of the payroll period closest to July 2, 2007 for employees having a calendar year or college year professional obligation or (b) commencing the first day of the payroll period closest to September 1, 2007 for employees having an academic year professional obligation, except that certain incumbents at the state university of New York at Binghamton, the colleges of technology and the agriculture and technology colleges here-

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12078-02-8

tofore specifically identified by the department of audit and control, for the purpose of establishing the effective date of eligibility for salary increase shall be granted said salary increase commencing the first day of the payroll period closest to July 2, 2007. Notwithstanding the above, for employees having an academic year professional obligation and who are in a 21 pay period status, for the purpose of establishing the effective date of eligibility for salary increase, shall be granted said salary increase effective August 23, 2007.

2. The basic annual salaries as of July 1, 2008, of incumbents of positions in the professional service in the state university in the professional services unit, other than positions described in subdivision twelve of this section, shall be increased by 3 percent, adjusted to the nearest whole dollar amount, (a) commencing the first day of the payroll period closest to July 2, 2008, for employees having a calendar year or college year professional obligation, or (b) commencing the first day of the payroll period closest to September 1, 2008, for employees having an academic year professional obligation, except that certain incumbents at the state university of New York at Binghamton, the colleges of technology and the agriculture and technology colleges heretofore specifically identified by the department of audit and control for the purpose of establishing the effective date of eligibility for salary increases, shall be granted said salary increase commencing the first day of the payroll period closest to July 2, 2008. Notwithstanding the above provisions of this subdivision, employees having an academic year professional obligation and who are in a 21 pay period status, for the purpose of establishing the effective date of eligibility for salary increases, shall be granted said salary increase effective August 21, 2008.

3. The basic annual salaries as of July 1, 2009, of incumbents of positions in the professional service in the state university in the professional services unit, other than positions described in subdivision twelve of this section, shall be increased by 3 percent, adjusted to the nearest whole dollar amount, (a) commencing the first day of the payroll period closest to July 2, 2009 for employees having a calendar year or college year professional obligation, or (b) commencing the first day of the payroll period closest to September 1, 2009, for employees having an academic year professional obligation, except that certain incumbents at the state university of New York at Binghamton, the colleges of technology and the agriculture and technology colleges heretofore specifically identified by the department of audit and control for the purpose of establishing the effective date of eligibility for salary increases, shall be granted said salary increase commencing the first day of the payroll period closest to July 2, 2009. Notwithstanding the above provisions of this subdivision, employees having an academic year professional obligation and who are in a 21 pay period status, for the purpose of establishing the effective date of eligibility for salary increases, shall be granted said salary increase effective August 20, 2009.

4. The basic annual salaries as of July 1, 2010, of incumbents of positions in the professional service in the state university in the professional services unit, other than positions described in subdivision twelve of this section, shall be increased by 4 percent, adjusted to the nearest whole dollar amount, (a) commencing the first day of the payroll period closest to July 2, 2010 for employees having a calendar year or college year professional obligation, or (b) commencing the first day of the payroll period closest to September 1, 2010, for

employees having an academic year professional obligation, except that certain incumbents at the state university of New York at Binghamton, the colleges of technology and the agriculture and technology colleges heretofore specifically identified by the department of audit and control for the purpose of establishing the effective date of eligibility for salary increases, shall be granted said salary increase commencing the first day of the payroll period closest to July 2, 2010. Notwithstanding the above provisions of this subdivision, employees having an academic year professional obligation and who are in a 21 pay period status, for the purpose of establishing the effective date of eligibility for salary increases, shall be granted said salary increase effective August 19, 2010.

5. Notwithstanding the provisions of subdivisions one, two, three and four of this section, an employee in service on April 30 of 2007, 2008, 2009 or 2010, whose employment expired prior to July 2 of any such year and who would have been eligible for the salary increase provided for in subdivision one, two, three or four of this section if the employee's employment had continued through July 2 of that year, shall be eligible for the salary increase provided for in subdivision one, two, three or four of this section if the employee is reemployed in an equivalent position for at least one semester or the equivalent of the twelve-month period commencing on July 2 of such year.

6. Notwithstanding the provisions of subdivision one, two, three or four of this section, an employee in service during a portion of the twelve-month period commencing on July 2 of 2006, 2007, 2008 or 2009, for at least one semester or the equivalent, but whose employment expired prior to July 2 of the following year, shall be eligible for the salary increase provided for such year in subdivision one, two, three or four of this section if the employee is reemployed in an equivalent position for at least one semester or the equivalent of the twelve-month period commencing on July 2 of such following year.

7. The provisions of this subdivision shall apply to incumbents of positions in the professional services unit, other than positions described in subdivision twelve of this section. For each of the years 2008, 2009, 2010 and 2011, there shall be available an amount equal to 1 percent of the total of the basic annual salaries on June 30 of such year of incumbents to whom the provisions of this subdivision apply, for distribution to such incumbents by the state university trustees in their discretion. Such distribution shall occur not later than December 31 of each year, and shall be retroactive to July 1 of such year for employees having a calendar year or college year professional obligation, or September 1 of such year for employees having an academic year professional obligation. The total of the basic annual salaries on June 30 shall include the total salaries of part-time faculty employees in service on April 30 of that year, but whose employment expires prior to July 1 of such year. If the part-time faculty employee is reemployed prior to the distribution of the pool, the employee will be eligible for a discretionary increase at the discretion of the state university trustees.

8. Location compensation of certain incumbents in positions in the professional service of the state university.

(a) Employees in positions in the professional services unit who are full-time employees and whose work station is: (i) in the city of New York, or in the county of Suffolk, Nassau, Rockland or Westchester, shall be entitled to location pay at the annual rate of 1,850 dollars effective July 1, 2008, or (ii) in the county of Dutchess, Putnam or

Orange shall be entitled to location pay at the annual rate of 1000 dollars effective July 1, 2008.

(b) Employees in positions in the professional services unit who are full-time employees and whose work station is: (i) in the city of New York, or in the county of Suffolk, Nassau, Rockland or Westchester, shall be entitled to location pay at the annual rate of 3,026 dollars effective January 1, 2009, or (ii) in the county of Dutchess, Putnam or Orange shall be entitled to location pay at the annual rate of 1513 dollars effective January 1, 2009.

(c) Payments made under paragraph (a) or (b) of this subdivision shall be paid biweekly and shall be in addition to and not part of the basic annual salary of such employees, provided, however, that any amount payable pursuant to this subdivision shall be included as compensation for retirement purposes.

(d) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, a full-time employee on an authorized leave of absence who is receiving a part-time salary, but who would have been otherwise eligible for the location compensation set forth in paragraph (a) or (b) of this subdivision, shall be eligible for such location compensation, on a prorated basis, and shall be paid the appropriately prorated amount of the location compensation, which prorated amount shall be consistent with the part-time salary of that employee.

9. (a) Pursuant to the terms of the agreement, employees in the professional services unit who have been granted permanent or continuing appointment at the campus at which they are employed, effective on or after July 2, 2007 and before January 1, 2008, or who have been granted a second five-year term appointment at the campus at which they are currently employed under Article XI, Title A of the policies of the board of trustees of the state university of New York, effective on or after July 2, 2007 and before January 1, 2008, shall receive a one-time advance to basic annual salary of 500 dollars. Such advance shall be effective on January 1, 2008, shall be made as soon as practicable, and shall be added to and become part of such employee's basic annual salary.

(b) Pursuant to the terms of the agreement, employees in the professional services unit who have been granted permanent or continuing appointment at the campus at which they are employed, effective on or after January 1, 2008 but on or before July 1, 2011, or who have been granted a second five-year term appointment at the campus at which they are currently employed under Article XI, Title A of the policies of the board of trustees of the state university of New York, effective on or after January 1, 2008 but on or before July 1, 2011, shall receive a one-time advance to basic annual salary of 500 dollars. Such advance shall be effective as soon as practicable following such appointment and shall be added to and become part of such employee's basic annual salary.

(c) Pursuant to the terms of the agreement, part-time employees in the professional services unit who have completed at least eight years of consecutive service before January 1, 2008 at the campus at which they are employed at the time of payment, shall receive a non-recurring lump sum payment in the amount of 500 dollars. Such payment shall be made as soon as practicable after January 1, 2008 and shall be in addition to and shall not be a part of an employee's basic annual salary, provided, however, that such payment shall be included as compensation for retirement purposes.

(d) Pursuant to the terms of the agreement, part-time employees in the professional services unit who complete eight years of consecutive service effective on or after January 1, 2008, but effective on or before July 1, 2011, at the campus at which they are employed at the time of payment, shall receive a non-recurring lump sum payment in the amount of 500 dollars. Such payment shall be made as soon as practicable thereafter and shall be in addition to and shall not be a part of an employee's basic annual salary, provided, however, that such payment shall be included as compensation for retirement purposes. A professional services unit member who is eligible to receive a payment pursuant to this paragraph shall be ineligible to receive a payment pursuant to paragraph (c) of this subdivision.

10. Minimum basic annual salary. (a) This subdivision shall apply to employees in the professional services unit, except those who are not paid on the basis of a basic annual salary.

(b) The basic annual salary minimums as of July 1, 2007, as provided for in the agreement, shall be increased by 3 percent, adjusted to the nearest whole dollar amount, on the dates of the salary increase provided for in subdivision one of this section.

(c) The basic annual salary minimums as of July 1, 2008, as provided for in the agreement, shall be increased by 3 percent, adjusted to the nearest whole dollar amount, on the dates of the salary increase provided for in subdivision two of this section.

(d) The basic annual salary minimums as of July 1, 2009, as provided for in the agreement, shall be increased by 3 percent, adjusted to the nearest whole dollar amount, on the dates of the salary increase provided for in subdivision three of this section.

(e) The basic annual salary minimums as of July 1, 2010, as provided for in the agreement, shall be increased by 4 percent, adjusted to the nearest whole dollar amount, on the dates of the salary increase provided for in subdivision four of this section.

(f) A part-time employee who is paid on the basis of a prorated basic annual salary and who, if employed on a full-time basis, would be eligible to be paid a minimum basic annual salary, shall be paid a minimum basic annual salary which shall be the appropriately prorated amount of the minimum basic annual salary that would have been paid to the employee had the employee been employed on a full-time basis.

(g) Notwithstanding the provisions of subdivision one of this section, incumbents to whom the provisions of subdivisions one, two, three and four of this section apply and who are in employment status on July 2, 2007, shall receive not less than the minimum basic annual salary in force on July 2, 2007, as provided for in the agreement, for the rank or grade in which such incumbent serves.

(h) An incumbent promoted on or after the effective dates, appropriate to the incumbent's professional obligation or the incumbent's date of eligibility for salary increases, of the salary increases provided for in subdivisions one, two, three and four of this section shall receive not less than the minimum basic annual salary provided for in the agreement for the rank or grade to which the incumbent has been promoted.

(i) An employee hired on or after the effective dates, appropriate to the employee's professional obligation or the employee's date of eligibility for salary increases, of the salary increases provided for in subdivisions one, two, three and four of this section shall receive not less than the minimum basic annual salary for the employee's rank or grade provided for in the agreement on the date the employee is placed in payroll status.

11. The increases in salary payable pursuant to subdivisions one, two, three and four of this section shall apply on a prorated basis to incumbents otherwise eligible to receive an increase in salary pursuant to this section, who are paid on an hourly or per diem basis, or who serve on a part-time basis or who are paid on any basis other than at an annual salary rate.

12. Notwithstanding any of the provisions of this section, the salary increases or payments provided by this section shall not apply to employees deemed to be casual employees pursuant to the resolution of clarification petition CP 751 brought against the state by the employee organization representing professional services unit; to extra service compensation; to summer session compensation; or to compensation derived from clinical practice plan arrangements; nor shall anything in this section be deemed to provide any adjustment in salary or other compensation of any person holding a chair established pursuant to section 239 of the education law.

13. Inconvenience pay. Pursuant to the terms of the agreement, effective July 2, 2007, an eligible employee, as provided for in the agreement, shall be paid 575 dollars per year for working 4 or more hours between the hours of 6:00 p.m. and 6:00 a.m.

14. Basic annual salary. For the purposes of this section, basic annual salary is the amount of annual compensation payable to an employee for the performance of the employee's professional obligation, as such obligation is set forth in Title H, Article XI, of the policies of the board of trustees of the state university of New York, from state moneys appropriated for such purpose. Nothing herein shall prevent increasing amounts paid to incumbents of positions of the professional service in the professional services unit in addition to the basic annual salary, provided however, that the amounts required for such other increases and the cost of fringe benefits attributable to such other increases, as determined by the comptroller, are made available to the state in accordance with procedures established by the state university; provided that the state university shall annually submit a report to the director of the budget specifying aggregate amounts by campus, sources and expenditure of such funds as payment for such increases.

15. Notwithstanding any of the foregoing provisions of this section, any increase in compensation may be withheld in whole or in part from any employee to whom the provisions of this section are applicable when, in the opinion of the chancellor of the state university of New York and the director of employee relations, such increase is not warranted or is not appropriate.

§ 3. Recall compensation for certain state officers and employees within the professional services unit. Notwithstanding any provision of law to the contrary and to the extent that the agreement so provides, professional employees as defined by the policies of the board of trustees of the state university of New York within the professional services unit, who provide patient care services on a full-time basis in the areas of a hospital or clinic specified in the agreement, and who are eligible to accrue overtime credits, shall be considered to have worked a minimum of 4 hours each time they are recalled to work overtime after having completed their scheduled work period and left their scheduled work station. In the event any such professional employee works in excess of 4 hours upon such recall, such professional employee shall receive overtime compensation for the hours actually worked. To the extent that the agreement so provides, any such professional employee who is not eligible to accrue overtime credits shall receive additional

compensation at the rate of one and one-half times the regular hourly rate of compensation for time actually worked when such professional employee is recalled to work after having completed the scheduled work period and left the scheduled work station, but, in no case, shall such professional employee receive less than 4 hours of additional compensation upon recall. Any professional employee eligible to receive compensation pursuant to this section who is recalled to work more than once during a period of 4 hours commencing with the onset of the initial recall will not be eligible for more than 4 hours of compensation in any form unless more than 4 hours is actually worked. Any compensation paid pursuant to this section shall be in addition to and not part of such employee's basic annual salary, provided however, that any amounts payable pursuant to this section shall be included as compensation for retirement purposes.

§ 4. On-call compensation for certain state officers and employees in the professional services negotiating unit of the state university. Notwithstanding any provision of law to the contrary, any professional employee eligible to receive compensation pursuant to section three of this act, who is required to be available for immediate recall and who must be prepared to return to duty within a limited period of time, may be granted additional compensation for each day such employee is actually scheduled to remain and remains available for recall. Such additional compensation shall be paid at a rate established pursuant to the agreement. Such compensation shall be in addition to and not part of such employee's basic annual salary, provided however, that any amount payable pursuant to this section shall be included as compensation for retirement purposes.

§ 5. Health insurance coverage for part-time employees in the professional services negotiating unit of the state university. Notwithstanding any provision of law to the contrary, any employee serving in a position within the professional services negotiating unit of the state university who serves on a part-time basis and is otherwise ineligible to receive health insurance coverage may participate in the state health insurance program provided that such part-time employee pays the full premium cost for the coverage provided by such health insurance program.

§ 6. Statewide joint labor-management committees for certain state officers and employees.

1. During the period July 2, 2007 through July 1, 2011, there shall be a statewide joint labor-management committee continued and administered pursuant to the terms of the agreement, which shall have the responsibility for studying and making recommendations concerning the major issues of professional development and implementing such agreements which may be entered into between the state and the employee organization concerning such matters.

2. During the period July 2, 2007 through July 1, 2011, there shall be a statewide joint labor-management committee continued and administered pursuant to the terms of the agreement, which shall have the responsibility for studying and making recommendations concerning employment related issues as required by provisions of the agreement and administering the continuity of employment fund subject to the approval of the state and the employee organization.

3. During the period July 2, 2007 through July 1, 2011, there shall be a statewide joint labor-management committee continued and administered pursuant to the terms of the agreement, which shall have the responsibility for studying and making recommendations concerning issues of safety in the workplace and implementing such agreements which may be

entered into between the state and the employee organization concerning such matters.

4. During the period July 2, 2007 through July 1, 2011, there shall be a statewide joint labor-management committee continued and administered pursuant to the terms of the agreement, which shall have the responsibility for studying and making recommendations concerning matters of mutual interest in the areas of equal employment and affirmative action concerning minorities, women, persons with disabilities and Vietnam era veterans and implementing such agreements which may be entered into between the state and the employee organization concerning such matters.

5. During the period July 2, 2007 through July 1, 2011, there shall be a statewide joint labor-management committee continued and administered pursuant to the terms of the agreement, which shall have the responsibility for studying and making recommendations concerning issues of health benefits and implementing such agreements which may be entered into between the state and the employee organization concerning such matters.

6. During the period July 2, 2007 through July 1, 2011, there shall be a statewide joint labor-management committee continued and administered pursuant to the terms of the agreement, which shall have the responsibility for studying and making recommendations concerning issues of technology and implementing such agreements which may be entered into between the state and the employee organization concerning such matters.

7. During the period July 2, 2007 through July 1, 2011, there shall be a Tripartite Redeployment Committee administered pursuant to the terms of the agreement, which shall have the responsibility for reviewing and discussing issues related to redeployment consideration and implementing such agreements which may be entered into between the state and the employee organization concerning such matters.

8. During the period July 2, 2007 through July 1, 2011, there shall be a statewide joint labor-management committee established and administered pursuant to the terms of the agreement, which shall have the responsibility for studying, making recommendations and approving campus grants that would benefit groups of employees at one or more campuses and implementing such agreements which may be entered into between the state and the employee organization concerning such matters.

§ 7. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment of grievance and arbitration settlements and awards pursuant to article 7 of the agreement.

§ 8. The salary increases and benefit modifications provided for by this act for state employees in the professional services unit, shall not be implemented until the director of employee relations has delivered, to the director of the budget and the comptroller, a certificate that there is in effect with respect to such negotiating unit a collectively negotiated agreement which provides for such increases and modifications and which is fully executed in writing with the state pursuant to article 14 of the civil service law, and ratified pursuant to the ratification procedure of the employee organization.

§ 9. Notwithstanding any other provision of law to the contrary, where, and to the extent that, the agreement so provides, where an employee is affected as a result of the state's exercise of its right to contract out, and in the event that such affected employee obtains employment with the contractor, the employee shall not be barred from accepting such employment as provided for in the agreement.

§ 10. Notwithstanding any inconsistent provision of law, where and to the extent that any agreement between the state and the employee organization entered into pursuant to article 14 of the civil service law so provides on behalf of employees in the professional services unit, the state shall contribute an amount designated in such agreement and for the period covered by such agreement to the accounts of such employees enrolled for dependant care deductions pursuant to subdivision 7 of section 201-a of the state finance law. Such amounts shall be from funds appropriated herein and shall not be part of basic annual salary for overtime or retirement purposes.

§ 11. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other law, the increase in salary or compensation of any officer or employee provided by this act shall be added to the salary or compensation of such officer or employee at the beginning of that payroll period the first day of which is nearest to the effective date of such increase as provided in this act, or at the beginning of the earlier of two payroll periods the first days of which are nearest but equally near to the effective date of such increase as provided in this act, provided, however, that for the purposes of determining the salary of such officer or employee upon reclassification, reallocation, appointment, promotion, transfer, demotion, reinstatement or other change of status, such salary increase shall be deemed to be effective on the date thereof as prescribed in this act, and the payment thereof pursuant to this section on a date prior thereto, instead of on such effective date, shall not operate to confer any additional salary rights or benefits on such officer or employee. Payment of such salary increase may be deferred pursuant to section twelve of this act.

§ 12. Deferred payment of salary increase. Notwithstanding the provisions of any other section of this act or of any other law, pending payment pursuant to this act of the basic annual salaries of incumbents of positions subject to this act, such incumbents shall receive, as partial compensation for services rendered, the rate of compensation otherwise payable in their respective positions. An incumbent holding a position subject to this act at any time during the period from the effective dates of the salary increases provided for in this act until the time when basic annual salaries are first paid pursuant to this act for such services in excess of the compensation actually received therefor, shall be entitled to a lump sum payment for the difference between the salary to which such incumbent is entitled for such services and the compensation actually received therefor. Such lump sum payments shall be made as soon as practicable.

§ 13. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal years commencing April 1, 2007 and April 1, 2008, by the provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal year. To the extent that such appropriations are insufficient to accomplish the purposes herein set forth, the director of the budget is authorized to allocate to the various departments and agencies, from any appropriations available, the amounts necessary to pay such amounts. The aforementioned appropriations shall be available for payment of any liabilities or obligations incurred prior to April 1, 2007 in addition to current liabilities.

§ 14. Payment from special or administrative funds. If the compensation to which officers and employees of the state are otherwise entitled is payable from a special or administrative fund or funds of the

1 state, other than the general fund or the capital projects fund of the
2 state, the increase in compensation to which such officers or employees
3 are entitled under this act shall be payable from such other fund or
4 funds in the same manner as such other compensation. If the amounts
5 appropriated or allocable from such other fund or funds are insufficient
6 to accomplish the purposes of this act, the director of the budget is
7 hereby authorized to allocate such additional sums from such other fund
8 or funds as may be necessary therefor.
9 § 15. Effect of participation in special annuity program. No employee
10 participating in a special annuity program pursuant to the provisions of
11 article 8-C of the education law shall, by reason of an increase in
12 compensation pursuant to this act, suffer any reduction of the salary
13 adjustment to which such officer or employee would otherwise be entitled
14 by reason of participation in such program, and such salary adjustment
15 shall be based upon the salary of such officer or employee without
16 regard to the reduction authorized by said article.
17 § 16. The several amounts as hereinafter set forth, or so much thereof
18 as may be necessary, are hereby appropriated from the fund so designated
19 for use by any state department or agency, including the contract
20 colleges at Alfred and Cornell, for the fiscal years beginning April 1,
21 2007 and April 1, 2008, to supplement appropriations available for
22 fringe benefits, and to carry out the provisions of this act. The monies
23 hereby appropriated are available for payment of any liabilities or
24 obligations incurred prior to April 1, 2007 in addition to current
25 liabilities. No money shall be available for expenditure from this
26 appropriation until a certificate of approval of availability has been
27 issued by the director of the budget and a copy of such certificate or
28 any amendment thereto has been filed with the state comptroller, the
29 chair of the senate finance committee and the chair of the assembly ways
30 and means committee.
31 ALL STATE DEPARTMENTS AND AGENCIES

32 General Fund - State Purposes Account

33 Personal Service 102,109,000

34 NONPERSONAL SERVICE

35 Fringe Benefits 14,132,000

36 For services and expenses to carry out the
37 provisions of this act, including, but not
38 limited to: adjustments to compensation,
39 funding for professional development,
40 safety and health, employee assistance
41 programs, the employment committee, the
42 affirmative action committee and the tech-
43 nology committee, the tripartite redeploy-
44 ment committee and the campus grants
45 committee and for family benefit programs,
46 including but not limited to the employ-
47 er's share of dependent care, for employ-
48 ees of the state university of New York in
49 the collective negotiating unit designated
50 as the professional services negotiating
51 unit 11,800,000

1 For the joint committee on health benefits 700,000

2 Miscellaneous Special Revenue Fund - 339

3 Personal Service 2,550,000

4 NONPERSONAL SERVICE

5 Fringe Benefits 1,260,000

6 State University Income Fund - 345

7 Personal Service 57,271,000

8 NONPERSONAL SERVICE

9 Fringe Benefits 19,528,000

10 § 17. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after July 2, 2007. Appropri-
12 ations made by this act shall remain in full force and effect for
13 liabilities incurred through June 30, 2009.

Chapter 114 Signed June 17, 2008

STATE OF NEW YORK

S. 8373 - A. 11439

IN SENATE

June 2, 2008

Introduced by Sens. FARLEY, ROBACH, LANZA -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the civil service law, in relation to compensation, benefits and other terms and conditions of employment of certain state officers and employees; to implement agreements between the state and an employee organization; making an appropriation for the purpose of effectuating certain provisions thereof; and to repeal certain provisions of the civil service law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraphs 1, 2, 3, 4 and 5 of paragraph c of subdivision 1 of section 130 of the civil service law are REPEALED and four new subparagraphs 1, 2, 3 and 4 are added to read as follows:

(1) Effective April fifth, two thousand seven, for officers and employees on the administrative payroll and effective March twenty-ninth, two thousand seven for officers and employees on the institutional payroll:

SG	HIRING RATE	JOB RATE	ADVANCE AMOUNT	MERIT JOB RATE	MERIT ADVANCE AMOUNT
1	$19,138	$24,846	$ 816		
2	$19,863	$25,783	$ 846		
3	$20,835	$26,983	$ 879		
4	$21,770	$28,181	$ 916	$28,207	$26
5	$22,801	$29,656	$ 980		
6	$24,024	$31,122	$1,015		
7	$25,372	$32,740	$1,053	$32,780	$40
8	$26,769	$34,398	$1,090	$34,520	$122
9	$28,261	$36,168	$1,130	$36,378	$210
10	$29,864	$38,120	$1,180	$38,406	$286
11	$31,575	$40,370	$1,257	$40,571	$201
12	$33,346	$42,442	$1,300	$42,724	$282
13	$35,288	$44,747	$1,352	$45,150	$403

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12081-02-8

14	$37,315	$47,422	$1,444	$47,631	$209
15	$39,426	$49,905	$1,497	$50,257	$352
16	$41,637	$52,517	$1,555	$52,995	$478
17	$43,974	$55,372	$1,629	$55,979	$607
18	$46,466	$57,633	$1,596	$59,087	$1,454
19	$48,983	$60,614	$1,662		
20	$51,492	$63,610	$1,732		
21	$54,222	$66,872	$1,808		
22	$57,136	$70,315	$1,883		
23	$60,158	$73,884	$1,961		
24	$63,363	$77,617	$2,037		
25	$66,859	$81,722	$2,124		
26	$70,381	$85,847	$2,210		
27	$74,190	$90,473	$2,327		
28	$78,098	$95,011	$2,417		
29	$82,190	$99,756	$2,510		
30	$86,486	$104,697	$2,602		
31	$91,096	$109,988	$2,699		
32	$95,939	$115,468	$2,790		
33	$101,157	$121,330	$2,882		
34	$106,547	$127,418	$2,982		
35	$112,070	$133,614	$3,078		
36	$117,703	$139,986	$3,184		
37	$123,880	$146,857	$3,283		
38	$115,575				

(2) Effective April third, two thousand eight, for officers and employees on the administrative payroll and effective March twenty-seventh, two thousand eight, for officers and employees on the institutional payroll:

SG	HIRING RATE	JOB RATE	ADVANCE AMOUNT	MERIT JOB RATE	MERIT ADVANCE AMOUNT
1	$19,712	$25,591	$840		
2	$20,459	$26,556	$872		
3	$21,460	$27,792	$905		
4	$22,423	$29,026	$944	$29,050	$24
5	$23,485	$30,546	$1,009		
6	$24,745	$32,056	$1,045		
7	$26,133	$33,722	$1,085	$33,765	$43
8	$27,572	$35,430	$1,123	$35,557	$127
9	$29,109	$37,253	$1,164	$37,469	$216
10	$30,760	$39,264	$1,215	$39,555	$291
11	$32,522	$41,581	$1,295	$41,788	$207
12	$34,346	$43,715	$1,339	$44,005	$290
13	$36,347	$46,089	$1,392	$46,507	$418
14	$38,434	$48,845	$1,488	$49,060	$215
15	$40,609	$51,402	$1,542	$51,768	$366
16	$42,886	$54,093	$1,601	$54,583	$490
17	$45,293	$57,033	$1,678	$57,655	$622
18	$47,860	$59,362	$1,644	$60,857	$1,495
19	$50,452	$62,432	$1,712		
20	$53,037	$65,518	$1,784		
21	$55,849	$68,878	$1,862		
22	$58,850	$72,424	$1,940		
23	$61,963	$76,101	$2,020		
24	$65,264	$79,946	$2,098		

25	$68,865	$84,174	$2,187
26	$72,492	$88,422	$2,276
27	$76,416	$93,187	$2,396
28	$80,441	$97,861	$2,489
29	$84,656	$102,749	$2,585
30	$89,081	$107,838	$2,680
31	$93,829	$113,288	$2,780
32	$98,817	$118,932	$2,874
33	$104,192	$124,970	$2,969
34	$109,743	$131,241	$3,072
35	$115,432	$137,622	$3,171
36	$121,234	$144,186	$3,279
37	$127,596	$151,263	$3,381
38	$119,042		

(3) Effective April second, two thousand nine for officers and employees on the administrative payroll and effective March twenty-six, two thousand nine for officers and employees on the institutional payroll:

SG	HIRING RATE	JOB RATE	ADVANCE AMOUNT	MERIT JOB RATE	MERIT ADVANCE AMOUNT
1	$20,303	$26,359	$866		
2	$21,073	$27,353	$898		
3	$22,104	$28,626	$932		
4	$23,096	$29,897	$972	$29,920	$23
5	$24,190	$31,462	$1,039		
6	$25,487	$33,018	$1,076		
7	$26,917	$34,734	$1,117	$34,781	$47
8	$28,399	$36,493	$1,157	$36,626	$133
9	$29,982	$38,371	$1,199	$38,593	$222
10	$31,683	$40,442	$1,252	$40,739	$297
11	$33,498	$42,828	$1,333	$43,042	$214
12	$35,376	$45,026	$1,379	$45,324	$298
13	$37,437	$47,472	$1,434	$47,905	$433
14	$39,587	$50,310	$1,532	$50,531	$221
15	$41,827	$52,944	$1,589	$53,323	$379
16	$44,173	$55,716	$1,650	$56,217	$501
17	$46,652	$58,744	$1,728	$59,386	$642
18	$49,296	$61,143	$1,693	$62,685	$1,542
19	$51,966	$64,305	$1,763		
20	$54,628	$67,484	$1,837		
21	$57,524	$70,944	$1,918		
22	$60,616	$74,597	$1,998		
23	$63,822	$78,384	$2,081		
24	$67,222	$82,344	$2,161		
25	$70,931	$86,699	$2,253		
26	$74,667	$91,075	$2,344		
27	$78,708	$95,983	$2,468		
28	$82,854	$100,797	$2,564		
29	$87,196	$105,831	$2,663		
30	$91,753	$111,073	$2,760		
31	$96,644	$116,687	$2,864		
32	$101,782	$122,500	$2,960		
33	$107,318	$128,719	$3,058		
34	$113,035	$135,178	$3,164		
35	$118,895	$141,751	$3,266		
36	$124,871	$148,512	$3,378		

title, or allocated to Grade 18 in the salary schedule then applicable as prescribed in paragraph e of subdivision one of section one hundred thirty of this title, may advance to a merit step above the job rate established in such salary schedule. **Such merit step as provided in this subdivision shall no longer apply after April first, two thousand ten.**

§ 3. Compensation for certain state officers and employees in collective negotiating units. 1. The provisions of this section shall apply to full-time officers and employees in the collective negotiating unit designated as the professional, scientific and technical services unit established pursuant to article 14 of the civil service law.

2. Effective March 29, 2007 for officers and employees on the institutional payroll and effective April 5, 2007 for officers and employees on the administrative payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period shall be increased by three percent adjusted to the nearest whole dollar amount.

3. Effective March 27, 2008 for officers and employees on the institutional payroll and effective April 3, 2008 for officers and employees on the administrative payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period shall be increased by three percent adjusted to the nearest whole dollar amount.

4. Effective March 26, 2009 for officers and employees on the institutional payroll and effective April 2, 2009 for officers and employees on the administrative payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period shall be increased by three percent adjusted to the nearest whole dollar amount.

5. Effective March 25, 2010 for officers and employees on the institutional payroll and effective April 1, 2010 for officers and employees on the administrative payroll, the basic annual salary of officers and employees in full-time employment status on the day before such payroll period shall be increased by four percent adjusted to the nearest whole dollar amount.

6. Effective April 1, 2007, an employee, who has been at the job rate of the applicable salary grade for no less than one year and satisfies all other eligibility criteria established pursuant to an agreement negotiated pursuant to article 14 of the civil service law, shall continue to move to the merit step established in paragraph c of subdivision 1 of section 130 of the civil service law. Such merit step or movement thereto shall only occur if the director of the office of employee relations certifies to the state comptroller that a merit evaluation program has been negotiated.

7. Notwithstanding the provisions of subdivisions two, three, four and five of this section, (a) if the basic annual salary of an officer or employee to whom the provisions of this section apply is identical with the hiring rate or the job rate of the salary grade of his or her position on April 1, 2007, such basic annual salary shall be increased to the hiring rate or job rate, respectively, of such salary grade as contained in subparagraph 1 of paragraph c of subdivision 1 of section 130 of the civil service law, as added by section one of this act, (b) if the basic annual salary of an officer or employee to whom the provisions of this section apply is identical with the hiring rate or the job rate of the salary grade of his or her position on April 1, 2008, such basic annual salary shall be increased to the hiring rate or job rate, respectively, of such salary grade as contained in subpara-

graph 2 of paragraph c of subdivision 1 of section 130 of the civil service law, as added by section one of this act, (c) if the basic annual salary of an officer or employee to whom the provisions of this section apply is identical with the hiring rate or the job rate of the salary grade of his or her position on April 1, 2009, such basic annual salary shall be increased to the hiring rate or job rate, respectively, of such salary grade as contained in subparagraph 3 of paragraph c of subdivision 1 of section 130 of the civil service law, as added by section one of this act, (d) if the basic annual salary of an officer or employee to whom the provisions of this section apply is identical with the hiring rate or the job rate of the salary grade of his or her position on April 1, 2010, such basic annual salary shall be increased to the hiring rate or job rate, respectively, of such salary grade as contained in subparagraph 4 of paragraph c of subdivision 1 of section 130 of the civil service law, as added by section one of this act, and (e) if the basic annual salary of an officer or employee to whom the provisions of this section apply is higher than the job rate of the salary grade of his or her position on April 1, 2010, such basic annual salary shall be increased to the greater of: (i) the job rate of such salary grade as contained in subparagraph 4 of paragraph c of subdivision 1 of section 130 of the civil service law, as added by section one of this act, or (ii) the basic annual salary increase provided in subdivision 5 of this section. Such increases shall take effect on the dates provided in subdivisions two, three, four and five of this section respectively. Except as herein provided to the contrary, the increases in basic annual salary provided by this subdivision shall be in lieu of any increase in basic annual salary provided for in subdivisions two, three, four and five of this section.

8. Payments pursuant to the provisions of subdivision 6 of section 131 of the civil service law for officers and employees entitled to such payments to whom the provisions of this section apply shall be payable in accordance with the terms of an agreement reached pursuant to article 14 of the civil service law between the state and an employee organization representing employees subject to the provisions of this section.

9. If an unencumbered position is one which if encumbered, would be subject to the provisions of this section, the salary of such position shall be increased by the salary increase amounts specified in this section. If a position is created, and filled by the appointment of an officer or employee who is subject to the provisions of this section, the salary otherwise provided for such position shall be increased in the same manner as though such position had been in existence but unencumbered. Notwithstanding the provisions of this section, the director of the budget may reduce the salary of any such position which is or becomes vacant.

10. The increases in salary provided in subdivisions two, three, four and five of this section shall apply on a prorated basis to officers and employees, otherwise eligible to receive an increase in salary, who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis, and employees paid on any basis other than at an annual salary rate. Notwithstanding the foregoing, the provisions of subdivision seven of this section shall not apply to employees serving on a seasonal basis, except as determined by the director of the budget.

11. In order to provide for the officers and employees to whom this section applies but are not allocated to salary grades, increases and payments pursuant to subdivisions eight and fifteen of this section in proportion to those provided to persons to whom this section applies who

are allocated to salary grades, the director of the budget is authorized to add appropriate adjustments and/or payments to the compensation which such officers and employees are otherwise entitled to receive. The director of the budget shall issue certificates which shall contain schedules of positions and the salaries and/or payments thereof for which adjustments and/or payments are made pursuant to the provisions of this subdivision, and a copy of each such certificate shall be filed with the state comptroller, the department of civil service, the chair of the senate finance committee and the chair of the assembly ways and means committee.

12. Notwithstanding any other provision of this section, the provisions of this section shall not apply to officers or employees paid on a fee schedule basis, provided however, that the increases in basic annual salary provided for in subdivisions two, three, four and five of this section shall apply to fire instructors paid on a fee schedule basis employed by the department of state.

13. Notwithstanding any other provision of this section, except subdivision one, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on the basis of such lower graded position provided, however, that the increases in salary provided in subdivisions two, three, four and five of this section shall not cause such officer's or employee's salary to exceed the job rate of such lower graded position.

14. Notwithstanding any other provision of this section, any increase in compensation may be withheld in whole or in part from any employee to whom the provisions of this section are applicable when, in the opinion of the director of the budget and the director of employee relations, such increase is not warranted or is not appropriate.

15. Notwithstanding any law, rule or regulation to the contrary, officers and employees to whom the provisions of this section apply shall receive performance awards in accordance with the terms of a collectively negotiated agreement between the state and the employee organization representing such employees entered into pursuant to article 14 of the civil service law, effective for the period commencing April 2, 2007, and ending April 1, 2011, in accordance with the rules and regulations issued by the director of the budget to implement payment of such negotiated performance awards.

§ 4. Location compensation for certain state officers and employees. Notwithstanding any inconsistent provisions of law, officers and employees, including seasonal officers and employees who shall receive the compensation provided for pursuant to this section on a pro-rated basis except part-time officers and employees, in the collective negotiating unit designated as the professional, scientific and technical services unit established pursuant to article 14 of the civil service law, whose principal place of employment or, in the case of a field employee, whose official station as determined in accordance with the regulations of the comptroller, is located: (1) in the county of Monroe and who were eligible to receive location pay on March 31, 1985, shall receive location pay at the rate of two hundred dollars per year provided they continue to be otherwise eligible; or (2) in the city of New York, or in the county of Rockland, Westchester, Nassau or Suffolk shall receive a downstate adjustment at the annual rate of one thousand eight hundred fifty dollars effective the payroll period beginning closest to April 1, 2008, which shall be increased to three thousand twenty-six dollars effective

the payroll period beginning closest to October 1, 2008; or (3) in the county of Dutchess, Putnam or Orange shall receive a mid-Hudson adjustment at the annual rate of one thousand dollars effective the payroll period beginning closest to April 1, 2008, which shall be increased to one thousand five hundred thirteen dollars effective the payroll period beginning the closest to October 1, 2008. Such location payments shall be in addition to and shall not be a part of an officer's or employee's basic annual salary, and shall not affect or impair any performance advancements or other rights or benefits to which an officer or employee may be entitled by law, provided, however, that location payments shall be included as compensation for purposes of computation of overtime pay and for retirement purposes. For the sole purpose of continuing eligibility for location pay in Monroe county, an officer or employee previously eligible to receive location pay on March 31, 1985 who is on an approved leave of absence or participates in an employer program to reduce to part-time service during summer months shall continue to be eligible for said location pay upon return to full-time state service in Monroe county.

§ 5. Continuation of location compensation for certain officers and employees of the Hudson Valley developmental disabilities services office. 1. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating unit designated as the professional, scientific and technical services unit, who is receiving location pay pursuant to section 5 of chapter 174 of the laws of 1993 shall continue to receive such location pay under the conditions and at the rate specified by such section.

2. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating unit designated as the professional, scientific and technical services unit, who is receiving location pay pursuant to subdivision 2 of section 9 of chapter 315 of the laws of 1995 shall continue to receive such location pay under the conditions and at the rates specified by such subdivision.

3. Notwithstanding section four of this act or any other law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating unit designated as the professional, scientific and technical services unit, who is receiving location pay pursuant to section four of this act shall continue to be eligible for such location pay if as the result of a reduction or redeployment of staff, such officer or employee is reassigned to or otherwise appointed or promoted to a different position at another work location within the Hudson Valley developmental disabilities services office. The rate of such continued location pay shall not exceed the rate such officer or employee is receiving on the date of such reassignment, appointment or promotion.

§ 6. Assignment to duty pay. Notwithstanding any inconsistent provisions of law, effective April 1, 2007, where and to the extent that, an agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides, an assignment to duty lump sum shall be paid each year to an employee who is serving in a particular assignment deemed qualified pursuant to such agreement. Such payment shall be in an amount negotiated for those employees assigned to qualifying work assignments and who work such assignments for the minimum periods of time in a year provided in the negotiated agreement. Assignment to duty pay shall not be paid in

any year an employee does not meet the minimum period of time in such qualifying assignment required by the agreement or upon cessation of the assignment to duty program on March 31, 2011 unless an extension is negotiated by the parties. Such lump sum shall be considered salary only for final average salary retirement purposes.

§ 7. Long term seasonal employees. Notwithstanding any inconsistent provisions of law, effective April 1, 2004, where and to the extent that, an agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides, a lump sum shall be paid each year to an employee who is serving in a qualifying long term seasonal position. Such payment shall be in an amount negotiated and pursuant to negotiated qualifying criteria and shall be considered salary only for final average salary retirement purposes. Such benefit shall be available until March 31, 2011.

§ 8. Notwithstanding any inconsistent provision of law, where and to the extent that any agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides on behalf of employees in the collective negotiating unit designated as the professional, scientific and technical services unit established pursuant to article 14 of the civil service law, the state shall contribute an amount designated in such agreement and for the period covered by such agreement to the accounts of such employees enrolled for dependent care deductions pursuant to subdivision 7 of section 201-a of the state finance law. Such amounts shall be from funds appropriated in this act and shall not be part of basic annual salary for overtime or retirement purposes.

§ 9. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment and publication of grievance and arbitration settlements and awards pursuant to articles 33 and 34 of the collective negotiating agreement between the state and the employee organization representing the collective negotiating unit designated as the professional, scientific and technical services unit established pursuant to article 14 of the civil service law.

§ 10. During period April 2, 2007 through April 1, 2011, there shall be a statewide labor-management committee continued and administered pursuant to the terms of the agreement negotiated between the state and an employee organization representing employees in the collective negotiating unit designated as the professional, scientific and technical services unit established pursuant to article 14 of the civil service law which shall after April 2, 2007, have the responsibility of studying, making recommendations concerning the major issues of productivity, the quality of work life and implementing the agreements reached.

§ 11. Inconvenience pay program. Pursuant to chapter 333 of the laws of 1969, as amended, and an agreement negotiated between the state and an employee organization representing employees in the professional, scientific and technical services unit established pursuant to article 14 of the civil service law, an eligible employee shall be paid five hundred seventy-five dollars per year for working four or more hours between the hours of 6:00 p.m. and 6:00 a.m. effective April 2, 2007.

§ 12. The salary increases and benefit modifications provided for by this act for state employees in the collective negotiating unit designated as the professional, scientific and technical services unit established pursuant to article 14 of the civil service law shall not be implemented until the director of employee relations shall have delivered to the director of the budget and the comptroller a letter certify-

ing that there is in effect with respect to such negotiating units collectively negotiated agreements, ratified by the membership, which provide for such increases and modifications and which are fully executed in writing with the state pursuant to article 14 of the civil service law.

§ 13. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal years commencing April 1, 2007 and April 1, 2008 by the foregoing provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal year. To the extent that such appropriations in any fund are insufficient to accomplish the purposes herein set forth, the director of the budget is authorized to allocate to the various departments and agencies, from any appropriations available in any fund, the amounts necessary to pay such amounts.

§ 14. Effect of participation in special annuity program. No officer or employee participating in a special annuity program pursuant to the provisions of article 8-C of the education law shall, by reason of an increase in compensation pursuant to this act, suffer any reduction of the salary adjustment to which he or she would otherwise be entitled by reason of participation in such program, and such salary adjustment shall be based upon the salary of such officer or employee without regard to the reduction authorized by such article.

§ 15. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, upon request of the director of the budget, the comptroller is hereby authorized and directed to transfer up to $41,517,000 from the general fund to the dedicated highway and bridge trust fund (072), on or before March 31, 2009, to carry out the provisions of section seventeen of this act.

§ 16. Deferred payment of salary increase. Notwithstanding the provisions of any other section of this act, or any other law, pending payment pursuant to this act of the basic annual salaries of incumbents of positions subject to this act, such incumbents shall receive, as partial compensation for services rendered, the rate of compensation otherwise payable in their respective positions. An incumbent holding a position subject to this act at any time during the period from April 1, 2007, until the time when basic annual salaries are first paid pursuant to this act for such services in excess of the compensation actually received therefor, shall be entitled to a lump sum payment for the difference between the salary to which such incumbent is entitled for such services and the compensation actually received therefor. Such lump sum payment shall be made as soon as practicable.

§ 17. The several amounts as hereinafter set forth, or so much thereof as may be necessary, are hereby appropriated from the fund so designated for use by any state department or agency for the fiscal years beginning April 1, 2007 and April 1, 2008 to supplement appropriations from each respective fund available for personal service, other than personal service and fringe benefits, and to carry out the provisions of this act. No money shall be available for expenditure from this appropriation until a certificate of approval has been issued by the director of the budget and a copy of such certificate or any amendment thereto has been filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

1 ALL STATE DEPARTMENT AND AGENCIES
2 SPECIAL PAY BILLS

3 General Fund / State Operations
4 State Purposes Account - 003

5 Personal Service

6 Personal service-regular 83,720,000
7 Temporary service 1,041,000
8 Other compensation, including but not limit-
9 ed to, overtime and holiday pay 9,622,000

10 Nonpersonal Service

11 Fringe benefits 22,283,000
12 Professional development and quality of
13 working life committee 860,000
14 Health and Safety 826,000
15 PSPT Program 9,353,000
16 Joint Funded Programs 1,697,000
17 Multi-Funded Programs 1,594,000
18 Professional Development for Nurses 1,000,000
19 Property Damage 37,000
20 Family Benefits 3,338,000
21 Employee Assistance Program 754,000
22 Joint Committee on Health Benefits 1,000,000
23 Dental and Vision Study 600,000
24 NYSCOPBA Legal Defense Fund 100,000
25 NYSCOPBA Quality of Work Life Committee 400,000
26 Contract administration 150,000

27 Special Revenue Funds - Federal
28 Federal USDA - Food and Nutritional Services Fund - 261

29 Personal Service

30 Personal Service 1,521,000

31 Nonpersonal Service

32 Fringe Benefits 751,000

33 Federal Health and Human Services Fund - 265

34 Personal Service

35 Personal Service 10,359,000

36 Nonpersonal Service

37 Fringe Benefits 5,117,000

38 Federal Education Fund - 267

1 Personal Service

2 Personal Service 6,326,000

3 Nonpersonal Service

4 Fringe Benefits 3,125,000

5 Federal Health and Human Services Block Grant Fund - 269

6 Personal Service

7 Personal Service 2,509,000

8 Nonpersonal Service

9 Fringe Benefits 1,239,000

10 Federal Operating Grants Fund - 290

11 Personal Service

12 Personal Service 4,790,000

13 Nonpersonal Service

14 Fringe Benefits 2,366,000

15 Unemployment Insurance Administration Fund - 480

16 Personal Service

17 Personal Service 11,258,000

18 Nonpersonal Service

19 Fringe Benefits 5,561,000

20 Special Revenue Funds - Other
21 Combined Expendable Trust Fund - 20

22 Personal Service

23 Personal Service 47,000

24 Nonpersonal Service

25 Fringe Benefits 23,000

26 NYS Archives Partnership Trust - 024

27 Personal Service

28 Personal Service 21,000

1 Nonpersonal Service

2 Fringe Benefits 10,000

3 Tuition Reimbursement Fund - 050

4 Personal Service

5 Personal Service 90,000

6 Nonpersonal Service

7 Fringe Benefits 44,000

8 Records Management Improvement Fund - 052

9 Personal Service

10 Personal Service 151,000

11 Nonpersonal Service

12 Fringe Benefits 75,000

13 Health Care Reform - 061

14 Personal Service

15 Personal Service 1,311,000

16 Nonpersonal Service

17 Fringe Benefits 648,000

18 State Lottery Fund - 160

19 Personal Service

20 Personal Service 666,000

21 Nonpersonal Service

22 Fringe Benefits 329,000

23 Sewage Treatment Management and Administration Fund -
24 300

25 Personal Service

26 Personal Service 206,000

27 Nonpersonal Service

28 Fringe Benefits 102,000

29 Environmental Conservation Special Revenue Fund - 301

1 Personal Service

2 Personal Service 2,267,000

3 Nonpersonal Service

4 Fringe Benefits 1,120,000

5 Conservation Fund - 302

6 Personal Service

7 Personal Service 890,000

8 Nonpersonal Service

9 Fringe Benefits 440,000

10 Environmental Protection and Oil Spill Compensation Fund
11 - 303

12 Personal Service

13 Personal Service 850,000

14 Nonpersonal Service

15 Fringe Benefits 420,000

16 OSHA - Training and Education Occupational Safety Fund -
17 305

18 Personal Service

19 Personal Service 1,372,000
20 Nonpersonal Service

21 Fringe Benefits 678,000

22 Mass Transportation Operating Assistance Fund - 313

23 Personal Service

24 Personal Service 290,000
25 Nonpersonal Service

26 Fringe Benefits 143,000

27 Clean Air Fund - 314

1 Personal Service

2 Personal Service 1,778,000
3 Nonpersonal Service

4 Fringe Benefits 878,000

5 Miscellaneous Special Revenue Fund - 339

6 Personal Service

7 Personal Service 118,846,000

8 Nonpersonal Service

9 Fringe Benefits 58,710,000

10 Employee Training - 341

11 Personal Service

12 Personal Service 11,000

13 Nonpersonal Service

14 Fringe Benefits 5,000

15 State University Income Fund - 345

16 Personal Service

17 Personal Service 22,596,000

18 Nonpersonal Service

19 Fringe Benefits 11,162,000

20 Lake George Park Trust Fund - 349

21 Personal Service

22 Personal Service 15,000

23 Nonpersonal Service

24 Fringe Benefits 7,000

25 Motor Vehicle Law Enforcement - 354

26 Personal Service

27 Personal Service 20,000

1 Nonpersonal Service

2 Fringe Benefits 10,000

3 Drinking Water Program Management and Administration -
4 366

5 Personal Service

6 Personal Service 359,000

7 Nonpersonal Service

8 Fringe Benefits 177,000

9 Internal Service Funds
10 Centralized Services Fund - 323

11 Personal Service

12 Personal Service 2,596,000

13 Nonpersonal Service

14 Fringe Benefits 1,282,000

15 Miscellaneous Internal Services Fund - 334

16 Personal Service

17 Personal Service 3,170,000

18 Nonpersonal Service

19 Fringe Benefits 1,566,000

20 Mental Hygiene Community Stores Fund - 343

21 Personal Service

22 Personal Service 29,000

23 Nonpersonal Service

24 Fringe Benefits 14,000

25 Audit and Control Internal Service Fund - 395

26 Personal Service

27 Personal Service 29,000

28 Nonpersonal Service

29 Fringe Benefits 14,000

1 Health Insurance Internal Service Fund - 396

2 Personal Service

3 Personal Service 108,000

4 Nonpersonal Service

5 Fringe Benefits 53,000

6 Correctional Industries Internal Services Fund - 397

7 Personal Service

8 Personal Service 262,000

9 Nonpersonal Service

10 Fringe Benefits 129,000

11 Private Purpose Trust Fund
12 Agriculture Product Security Fund - 021

13 Personal Service

14 Personal Service 1,000

15 Nonpersonal Service

16 Fringe Benefits 0

17 Milk Product Security Fund - 022

18 Personal Service

19 Personal Service 17,000

20 Nonpersonal Service

21 Fringe Benefits 8,000

22 Pension Trust Fund
23 Common Retirement Fund - 400

24 Personal Service

25 Personal Service 1,794,000

26 Nonpersonal Service

27 Fringe Benefits 886,000

28 Agency Trust Funds
29 Correction - Family Benefit Fund - 329

1 Personal Service

2 Personal Service 307,000

3 Nonpersonal Service

4 Fringe Benefits 152,000

5 Agencies Enterprise Funds - 331

6 Personal Service

7 Personal Service 26,000

8 Nonpersonal Service

9 Fringe Benefits 13,000

10 Mental Health and Mental Retardation
11 Community Stores Fund - 353

12 Personal Service

13 Personal Service 9,000

14 Nonpersonal Service

15 Fringe Benefits 4,000

16 Capital Projects Funds - Other
17 Dedicated Highway and Bridge Trust Fund - 072

18 Personal Service

19 Personal Service 27,789,000

20 Nonpersonal Service

21 Fringe Benefits 13,728,000

22 § 18. This act shall take effect immediately and shall be deemed to
23 have been in full force and effect on and after April 2, 2007. Appropri-
24 ations made by this act shall remain in full force and effect for
25 liabilities incurred through March 31, 2009.

REPEAL NOTE.--Subparagraphs 1, 2, 3 and 4, and 5 of paragraph c of subdivision 1 of section 130 of the civil service law, repealed by section one of this act, provided salary schedules for state employees in the professional, scientific and technical services unit and are replaced by revised salary schedules in new subparagraphs 1, 2, 3, and 4.

Chapter 133 Signed June 30, 2008

STATE OF NEW YORK

S. 8473 - A. 11201-A

IN SENATE

June 11, 2008

Introduced by Sen. LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the Patriot Plan, in relation to extending the applicability of a provision thereof for the suspension of public retirement system loan repayment obligations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of section 43 of chapter 106 of the
2 laws of 2003, constituting the Patriot Plan, as amended by section 1 of
3 part H of chapter 56 of the laws of 2006, is amended to read as follows:
4 This act shall take effect immediately; provided, however, that
5 section forty-two of this act shall be deemed repealed [~~five~~] **seven**
6 years after it shall have become a law; provided further that:
7 § 2. This act shall take effect immediately, except that if this act
8 shall become a law on or after July 1, 2008 this act shall be deemed to
9 have been in full force and effect on and after July 1, 2008.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

Insofar as this bill will affect the New York State and Local Employees' Retirement System, it will extend, for two additional years, Section 43 of Chapter 106 of the Laws of 2003 as amended by Chapter 56 of the Laws of 2006, which suspends any loan repayments during any period of military service, and extends the period of loan repayment by the same period of military service.

If this bill is enacted, there will be a minimal cost to the State of New York and to the participating employers in the New York State and Local Employees' Retirement System.

This estimate, dated June 6, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-284, prepared by the Actuary for the New York State and Local Employees' Retirement System.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend Section 43 of Chapter 106 of the Laws of 2003 by extending the provisions of Section 42 of this act for an additional two years. This section allows the New York State Teachers' Retirement System to suspend the obligation to repay a loan by a member during any

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD16672-03-8

period such member is absent for military duty. Any suspension of loan repayments based on absence for military duty shall extend the time for repayment of the unpaid balance of the loan for the same period of time as the loan is suspended.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2008-86 dated June 9, 2008 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2008 Legislative Session.

Chapter 173 Signed July 7, 2008

STATE OF NEW YORK

A. 8858—A - S. 5966-A

Cal. No. 615

2007-2008 Regular Sessions

IN ASSEMBLY

June 1, 2007

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Judiciary -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the estates, powers and trusts law, in relation to revocatory effect of divorce, annulment or declaration of nullity, or dissolution of marriage on disposition, appointment or other provision in will to former spouse and repealing section 5-1.4 of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 5-1.4 of the estates, powers and trusts law is REPEALED and a new section 5-1.4 is added to read as follows:

§ 5-1.4 Revocatory effect of divorce, annulment or declaration of nullity, or dissolution of marriage on disposition, appointment, provision, or nomination regarding a former spouse

(a) Except as provided by the express terms of a governing instrument, a divorce (including a judicial separation as defined in subparagraph (f)(2)) or annulment of a marriage revokes any revocable (1) disposition or appointment of property made by a divorced individual to, or for the benefit of, the former spouse, including, but not limited to, a disposition or appointment by will, by security registration in beneficiary form (TOD), by beneficiary designation in a life insurance policy or (to the extent permitted by law) in a pension or retirement benefits plan, or by revocable trust, including a bank account in trust form, (2) provision conferring a power of appointment or power of disposition on the former spouse, and (3) nomination of the former spouse to serve in any fiduciary or representative capacity, including as a personal representative, executor, trustee, conservator, guardian, agent, or attorney-in-fact.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD13274-05-8

(b)(1) Provisions of a governing instrument are given effect as if the former spouse had predeceased the divorced individual as of the time of the revocation.

(2) A disposition, appointment, provision, or nomination revoked solely by this section shall be revived by the divorced individual's remarriage to the former spouse.

(c) Except as provided by the express terms of a governing instrument, a divorce (including a judicial separation as defined in subparagraph (f)(2)) or annulment of a marriage severs the interests of the divorced individual and the former spouse in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship, transforming their interests into interests as tenants in common.

(d)(1) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary (including a former spouse) designated in a governing instrument affected by a divorce, annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the divorce, annulment, or remarriage.

(2) Written notice of a divorce, annulment, or remarriage under subparagraph (1) must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action and may be filed with the secretary of state if real property or a cooperative apartment is affected. Upon receipt of written notice of the divorce, annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction over the divorce, the real property or cooperative apartment, securities, bank accounts or other assets affected by the divorce or annulment under this section. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(e) A person who purchases property from a former spouse or any other person for value and without notice, or who receives from a former spouse or any other person, a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit, nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property or benefit, with interest thereon, to the person who is entitled to it under this section.

(f) For purposes of this section, the following terms shall have the following meaning and effect:

(1) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(2) "Divorce or annulment" means a final decree or judgment of divorce or annulment, or a final decree, judgment or order declaring the nullity of a marriage or dissolving such marriage on the ground of absence, recognized as valid under the law of this state, or a "judicial separation," which means a final decree or judgment of separation, recognized as valid under the law of this state, which was rendered against the spouse.

(3) "Divorced individual" includes an individual whose marriage has been annulled or subjected to a judicial separation.

(4) "Former spouse" means a person whose marriage to the divorced individual has been the subject of a divorce, annulment, or judicial separation.

(5) "Governing instrument" includes, but is not limited to, a will, testamentary instrument, trust agreement (including, but not limited to a totten trust account under 7-5.1(d)), insurance policy, thrift, savings, retirement, pension, deferred compensation, death benefit, stock bonus or profit-sharing plan, account, arrangement, system or trust, agreement with a bank, brokerage firm or investment company, registration of securities in beneficiary form pursuant to part 4 of article 13 of this chapter, a court order, or a contract relating to the division of property made between the divorced individuals before or after the marriage, divorce, or annulment.

(6) "Revocable," with respect to a disposition, appointment, provision, or nomination, means one under which the divorced individual, at the time of the divorce or annulment, was empowered, by law or under governing instrument, either alone or in conjunction with any other person who does not have a substantial adverse interest, to cancel the designation in favor of the former spouse, whether or not the divorced individual was then empowered to designate himself or herself in place of the former spouse and whether or not the divorced individual then had the capacity to exercise the power.

§ 2. This act shall take effect immediately and shall apply only where the marriage of a person executing a disposition, appointment, provision or nomination in a governing instrument, as defined in EPTL 5-1.4(f)(5), such section as added by section one of this act, to or for the benefit of a former spouse ends in a divorce or annulment, as defined in EPTL 5-1.4(f)(2), on or after such effective date or, where such a marriage ends prior to such effective date, only where such a disposition, appointment, provision or nomination takes effect only at the death of the person who executes it and such person dies on or after the effective date of this act.

Chapter 218 Signed July 7, 2008

STATE OF NEW YORK

A. 11491—A - S.8058-B

IN ASSEMBLY

June 6, 2008

Introduced by COMMITTEE ON RULES -- (at request of M. of A. K. Zebrowski) -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT authorizing John Lawless, Anthony Akers, Manfredo Figueroa, Richard Spatta, David Kryger, Michael Freeman and Concepcion Crespo to file for retroactive membership in the optional twenty year retirement plan of the New York state and local police and fire retirement system pursuant to section 384-d of the retirement and social security law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Notwithstanding any other provision of law to the contrary, the town of Haverstraw, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty year retirement plan established pursuant to section 384-d of the retirement and social security law, to police officers employed by such town, is hereby authorized to make participation in such plan available to John Lawless, Anthony Akers, Manfredo Figueroa, Richard Spatta, David Kryger, Michael Freeman and Concepcion Crespo, police officers employed by the town of Haverstraw, who, for reasons not ascribable to their own negligence failed to make timely application to participate in such optional twenty year retirement plan. The town of Haverstraw may so elect by filing with the state comptroller, on or before December 31, 2008, a resolution of the Haverstraw town board together with certification that such police officers did not bar themselves from participation in such retirement plan as a result of their own negligence. Thereafter, such police officers may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2009.

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the town of Haverstraw.

§ 3. This act shall take effect immediately.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD16208-08-8

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the Town of Haverstraw to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for seven (7) police officers who can then elect coverage under such Section by filing a request to that effect with the State Comptroller by June 30, 2009.

If this bill is enacted, and these officers become covered under Section 384-d, we anticipate that there will be an increase of approximately $34,200 in the annual contributions of the Town of Haverstraw for the fiscal year ending March 31, 2009.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $752,000 which would be borne by the Town of Haverstraw as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2009.

This estimate, dated June 12, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-293, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 271 Signed July 7, 2008

STATE OF NEW YORK

S. 8066 - A. 11112

IN SENATE

April 28, 2008

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to pension credit for annual sick leave

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph 1 of subdivision j of section 41 of the retirement and social security law, as amended by chapter 115 of the laws of 2007, is amended to read as follows:

1. In addition to any other service credit to which he or she is entitled, a member who meets the requirements set forth in paragraphs two and three of this subdivision shall be granted one day of additional service credit for each day of accumulated unused sick leave which he or she has at time of retirement for service, but such credit shall not (a) exceed one hundred sixty-five days, (b) be considered in meeting any service or age requirements prescribed in this chapter, and (c) be considered in computing final average salary. However, for an executive branch member designated managerial or confidential pursuant to article fourteen of the civil service law or in the collective negotiating units established by article fourteen of the civil service law designated the professional, scientific and technical services unit, the rent regulation services negotiating unit, the security services negotiating unit, the security supervisors negotiating unit, the state university professional services negotiating unit, the administrative services negotiating unit, the institutional services negotiating unit, the operational services negotiating unit and the division of military and naval affairs negotiating unit such service credit limitation provided in subparagraph (a) of this paragraph shall not exceed two hundred days. For a nonjudicial officer or employee of the unified court system not in a collective negotiating unit or in a collective negotiating unit specified in section one of chapter two hundred three of the laws of two thousand four, for employees of the New York state dormitory authority [~~and~~]**,** for employees of the New York state thruway authority and the New York state canal corporation **and for employees of the New York liqui-**

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14863-02-8

1 **dation bureau** such service credit limitation provided in subparagraph
2 (a) of this paragraph shall not exceed two hundred days.
3 § 2. Notwithstanding any other provision of law, the past service cost
4 associated with section one of this act shall be paid by the New York
5 state liquidation bureau over a period not to exceed five years.
6 § 3. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after March 19, 2007.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend Section 41(j) of the Retirement and Social Security Law to allow employees of the New York State Liquidation Bureau who are members of the New York State and Local Employees' Retirement System to be granted additional service credit for up to a maximum of 200 days of accumulated unused sick leave. Currently, the maximum is 165 days. This would be deemed to be in effect as of March 19, 2007.

If this bill is enacted, there will be a total past service cost of approximately $57,100 which would be borne by the New York State Liquidation Bureau. If this cost is amortized over a period of 5 years, the cost for the first year, including interest, would be approximately $13,200. In addition to the past service cost, there could be future increases in the annual contributions of the New York State Liquidation Bureau.

This estimate, dated April 21, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-152 prepared by the Actuary for the New York State and Local Employees' Retirement System.

Chapter 279 Signed July 7, 2008

STATE OF NEW YORK

S. 8376—A - A. 11752

IN SENATE

June 3, 2008

Introduced by Sens. FUSCHILLO, MORAHAN, FLANAGAN, ALESI, DeFRANCISCO, GOLDEN, LANZA, LARKIN, LAVALLE, LEIBELL, LITTLE, MALTESE, PADAVAN, RATH, SEWARD, VOLKER, YOUNG -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, the general business law, the public officers law, the labor law, the penal law, and the criminal procedure law, in relation to identity theft; and to amend the penal law, in relation to establishing the crime of unlawful possession of a skimmer device

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs d and e of subdivision 2 of section 553 of the executive law, paragraph d as added and paragraph e as relettered by chapter 472 of the laws of 2007, paragraph e as added by chapter 691 of the laws of 2003, are amended and a new paragraph f is added to read as follows:

d. on behalf of the board and in conjunction with the office of the airline consumer advocate, initiate, investigate, attempt to resolve and, if necessary, refer to the attorney general any matters or complaints received pursuant to article fourteen-A of the general business law as provided in such article; [~~and~~]

e. on behalf of the board, initiate, investigate, attempt to resolve, and if necessary refer to the attorney general any matters or complaints received pursuant to article twenty-four-B of the general business law as provided in such article[~~.~~]**; and**

f. on behalf of the board, establish a process by which victims of identity theft will receive assistance and information to resolve complaints. To implement the process the board shall have the authority to:

(i) promulgate rules and regulations to administer the identity theft prevention and mitigation program; and

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD12077-08-8

(ii) act as a liaison between the victim and any state agency, public authority, or any municipal department or agency, the division of state police, and county or municipal police departments, and any non-governmental entity, including but not limited to, consumer credit reporting agencies, to facilitate the victim obtaining such assistance and data as will enable the program to carry out its duties to help consumers resolve the problems that have resulted from the identity theft. Trade secrets and proprietary business information contained in the documents or records that may be received by the board shall be exempt from disclosure to the extent allowed by article six of the public officers law.

§ 1-a. Section 380-k of the general business law, as added by chapter 867 of the laws of 1977, is amended to read as follows:

§ 380-k. Compliance procedures. Every consumer or reporting agency shall maintain reasonable procedures designed to avoid violations of sections three hundred eighty-b [~~and~~]**,** three hundred eighty-j **and three hundred eighty-t** of this article and to limit the furnishing of consumer reports to the purposes listed under said section three hundred eighty-b. These procedures shall require all prospective users of the information to identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section three hundred eighty-b of this article.

§ 1-b. Section 380-m of the general business law, as added by chapter 867 of the laws of 1977, is amended to read as follows:

§ 380-m. Civil liability for negligent noncompliance. Any consumer reporting agency or user of information who or which is negligent in failing to comply with any requirement imposed under this article**, other than a violation of section three hundred eighty-t of this article,** with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(a) Any actual damages sustained by the consumer as a result of the failure;

(b) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

§ 2. Section 380-t of the general business law, as added by chapter 63 of the laws of 2006, is amended to read as follows:

§ 380-t. Security freeze. (a) A consumer may request that a security freeze be placed on his or her consumer credit report by sending a request in writing [~~by certified mail or by overnight mail~~] **with confirmation of delivery requested or via telephone, secure electronic means, or other methods developed by the consumer credit reporting agency** to a consumer credit reporting agency at an address**, telephone number or secure website** designated by [~~the consumer credit reporting~~] **such** agency to receive such requests. **Consumer credit reporting agencies shall have a secure website and a separately dedicated toll-free number to offer information, to process requests and deliver the services provided for under this section.**

(b) A consumer credit reporting agency that receives from a consumer a [~~written~~] request in accordance with subdivision (a) of this section

shall, provided such [~~written~~] request is accompanied by proper identification and payment of any applicable fee, [~~place a security freeze on the consumer credit report of or relating to such consumer no later than five business days after receiving such written request, provided, however, that for written requests received on or after January first, two thousand eight, such consumer credit reporting agency shall~~] place a security freeze on the consumer credit report of or relating to such consumer no later than four business days after receiving such [~~written~~] request, provided further, however, that for [~~written~~] requests received on or after January first, two thousand nine, such consumer credit reporting agency shall place a security freeze on the consumer credit report of or relating to such consumer no later than three business days after receiving such [~~written~~] request **and for requests received on or after January first, two thousand ten, such consumer credit reporting agency shall place a security freeze on the consumer credit report of or relating to such consumer no later than one business day after receiving such request**. Nothing in this subdivision shall be construed to prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer credit report of or relating to such consumer.

(c) The consumer credit reporting agency shall send a written confirmation of the placement of a security freeze to the consumer within [~~ten~~] **five** business days of placing such freeze. Upon placing the security freeze on the consumer credit report of or relating to such consumer, the consumer credit reporting agency shall provide the consumer with a unique personal identification number or password, or other device [~~to~~] **which shall only** be used by the consumer when providing authorization for the release of his or her consumer credit report for a specific party or specific period of time. **The unique personal identification number or password, or other device to be used by the consumer shall not be a social security number or a sequential portion thereof. Any use of the unique personal identification number or password or other device other than provided for in this section is prohibited.**

(d) If the consumer wishes to allow his or her consumer credit report to be accessed for a specific party or a specific period of time while a freeze is in place, he or she shall contact the consumer credit reporting agency via [~~certified~~] mail[~~, overnight mail,~~] **with confirmation of delivery,** telephone**, secure electronic means** or other method developed by such consumer credit reporting agency pursuant to subdivision (f) of this section using a point of contact designated by such consumer credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) proper identification;

(2) the unique personal identification number or password provided by the consumer credit reporting agency pursuant to subdivision (c) of this section;

(3) the proper information regarding the party to which the consumer credit report should be available or the time period for which the consumer credit report shall be available to users of such report; and

(4) payment of any applicable fee.

(e) **(1)** A consumer credit reporting agency that receives a request from a consumer to temporarily lift a freeze on a consumer credit report pursuant to subdivision (d) of this section, shall comply with the request**: (i)** no later than three business days after receiving such request[~~.~~]**; (ii) as of September first, two thousand nine, a consumer credit reporting agency that receives a request via the use of a tele-**

phone or secure electronic method provided by the agency, pursuant to subdivision (d) of this section, shall release a consumer's credit report as requested by the consumer within fifteen minutes after the request is received by the consumer credit reporting agency.

(2) A consumer credit reporting agency is not required to temporarily lift a security freeze within the time provided in subparagraph (ii) of paragraph one of this subdivision if:

(i) the consumer fails to meet the requirements of subdivision (b) of this section; or

(ii) the consumer credit reporting agency's ability to temporarily lift the security freeze within fifteen minutes is prevented by:

(A) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena;

(B) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

(C) operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption;

(D) governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives;

(E) regularly scheduled maintenance, during other than normal business hours, of, or updates to, the consumer reporting agency's systems; or

(F) commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.

(f) A consumer credit reporting agency may develop procedures involving other **secure** methods of communication, including the use of the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a consumer credit report pursuant to subdivision (d) of this section in an expedited manner.

(g) The consumer protection board shall monitor the state of technology relating to the means available to process requests for the lifting or removal of a security freeze, and shall report to the legislature when it is determined that the technology to process requests for the lifting or removal of a security freeze in a shorter period of time than that set forth in subdivision (e) of this section is available.

(h) A consumer credit reporting agency shall remove or temporarily lift a freeze placed on the consumer credit report of or relating to a consumer only in the following cases:

(1) upon consumer request, pursuant to subdivision (d) or (k) of this section; or

(2) if the consumer credit report of or relating to such consumer was frozen due to a material misrepresentation of fact by the consumer. If a consumer credit reporting agency intends to remove a freeze upon a consumer credit report pursuant to this paragraph, the consumer credit reporting agency shall notify the consumer in writing**, by first class mail, within three business days** prior to removing the freeze on such consumer credit report.

(i) If a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his or her consumer credit report to be accessed for that period of time, the third party may treat the application as incomplete.

(j) If a consumer requests a security freeze, the consumer credit reporting agency shall disclose the process of placing and temporarily

lifting a freeze, and the process for allowing access to information from such consumer credit report for a specific party or a period of time while the freeze is in place.

(k) (1) A security freeze shall remain in place until the consumer requests, using a point of contact designated by the consumer credit reporting agency, that the security freeze be removed and provides the following:

(i) proper identification;

(ii) the unique personal identification number or password or similar device provided by the consumer credit reporting agency pursuant to subdivision (c) of this section; and

(iii) a fee, if applicable.

(2) A consumer credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer pursuant to paragraph one of this subdivision.

(l) A consumer credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(m) The provisions of this section do not apply to the use of a consumer credit report by any of the following:

(1) a person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;

(3) any state or local agency, law enforcement agency, court, private collection agency, or person acting pursuant to a court order, warrant, or subpoena;

(4) a child support agency acting pursuant to title iv-d of the social security act (42 U.S.C. et seq.);

(5) the state or its political subdivisions or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities provided such responsibilities are consistent with a permissible purpose under 15 U.S.C. section 1681b;

(6) the use of credit information for the purposes of prescreening as provided for by the federal fair credit reporting act;

(7) any person or entity administering a credit file monitoring subscription or similar service to which the consumer has subscribed; or

(8) any person or entity for the purpose of providing a consumer with a copy of his or her consumer credit report or score upon the request of such consumer.

(n) (1) No consumer credit reporting agency shall charge a fee to a victim of identity theft who [~~**has submitted**~~] **submits** a copy of a signed federal trade commission ID theft victim's affidavit, or a [~~**valid**~~

~~police~~] report **of ID theft from a law enforcement agency** to such consumer credit reporting agency.

(2) No consumer credit reporting agency shall charge a fee to a consumer requesting the placement of a security freeze when such consumer has not previously requested the placement of a security freeze from such consumer credit reporting agency. Except as provided for in paragraph one of this subdivision, a consumer credit reporting agency may charge a consumer a fee not to exceed five dollars for the placement of a second or subsequent freeze or for the removal of a freeze or the temporary lift of a freeze for a specific party or period of time or for the issuance of a replacement personal identification number or password when the consumer fails to retain the personal identification number or password provided to such consumer by such consumer credit reporting agency pursuant to subdivision (c) of this section.

(o) If a security freeze is in place, a consumer credit reporting agency shall not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within thirty days of the change being posted to the file of or relating to such consumer: name, date of birth, social security number, and address. Written confirmation is not required for technical modifications of the official information of or relating to such consumer, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

(p) The following entities are not required to place a security freeze on a consumer credit report:

(1) a consumer credit reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer credit reporting agency or multiple consumer credit reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced. However, a consumer credit reporting agency acting as a reseller shall honor any security freeze placed on a consumer credit report by another consumer credit reporting agency;

(2) a check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; or

(3) a deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

(q) (1) Any time a consumer credit reporting agency is required to send a summary of rights required under 15 U.S.C. section 1681g, to a consumer residing in this state the following notice shall be included with such summary of rights:

"NEW YORK CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE.

YOU HAVE A RIGHT TO PLACE A "SECURITY FREEZE" ON YOUR CREDIT REPORT, WHICH WILL PROHIBIT A CONSUMER CREDIT REPORTING AGENCY FROM RELEASING INFORMATION IN YOUR CREDIT REPORT WITHOUT YOUR EXPRESS AUTHORIZATION. A SECURITY FREEZE MUST BE REQUESTED IN WRITING [~~BY CERTIFIED OR OVERNIGHT MAIL~~] **DELIVERY CONFIRMATION REQUESTED OR VIA TELEPHONE, SECURE ELECTRONIC MEANS, OR OTHER METHODS DEVELOPED BY THE CONSUMER CREDIT REPORTING**

AGENCY. THE SECURITY FREEZE IS DESIGNED TO PREVENT CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN YOUR NAME WITHOUT YOUR CONSENT. HOWEVER, YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO TAKE CONTROL OVER WHO GETS ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR CREDIT REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, GOVERNMENT SERVICES OR PAYMENTS, INSURANCE, RENTAL HOUSING, EMPLOYMENT, INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE. WHEN YOU PLACE A SECURITY FREEZE ON YOUR CREDIT REPORT, YOU WILL BE PROVIDED A PERSONAL IDENTIFICATION NUMBER OR PASSWORD TO USE IF YOU CHOOSE TO REMOVE THE FREEZE ON YOUR CREDIT REPORT OR AUTHORIZE THE RELEASE OF YOUR CREDIT REPORT TO A SPECIFIC PARTY OR FOR A PERIOD OF TIME AFTER THE FREEZE IS IN PLACE. TO PROVIDE THAT AUTHORIZATION YOU MUST CONTACT THE CONSUMER CREDIT REPORTING AGENCY AND PROVIDE ALL OF THE FOLLOWING:

(1) THE PERSONAL IDENTIFICATION NUMBER OR PASSWORD;

(2) PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY;

(3) THE PROPER INFORMATION REGARDING THE PARTY OR PARTIES WHO ARE TO RECEIVE THE CREDIT REPORT OR THE PERIOD OF TIME FOR WHICH THE REPORT SHALL BE AVAILABLE TO USERS OF THE CREDIT REPORT; AND

(4) PAYMENT OF ANY APPLICABLE FEE.

A CONSUMER CREDIT REPORTING AGENCY MUST AUTHORIZE THE RELEASE OF YOUR CREDIT REPORT NO LATER THAN THREE BUSINESS DAYS AFTER RECEIVING THE ABOVE INFORMATION. **EFFECTIVE SEPTEMBER FIRST, TWO THOUSAND NINE, A CONSUMER CREDIT REPORTING AGENCY THAT RECEIVES A REQUEST VIA TELEPHONE OR SECURE ELECTRONIC METHOD SHALL RELEASE A CONSUMER'S CREDIT REPORT WITHIN FIFTEEN MINUTES WHEN THE REQUEST IS RECEIVED.**

A SECURITY FREEZE DOES NOT APPLY TO CIRCUMSTANCES IN WHICH YOU HAVE AN EXISTING ACCOUNT RELATIONSHIP AND A COPY OF YOUR REPORT IS REQUESTED BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES FOR CERTAIN TYPES OF ACCOUNT REVIEW, COLLECTION, FRAUD CONTROL OR SIMILAR ACTIVITIES.

IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD UNDERSTAND THAT THE PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR APPLICATION FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A FREEZE, EITHER COMPLETELY IF YOU ARE SHOPPING AROUND, OR SPECIFICALLY FOR A CERTAIN CREDITOR, BEFORE APPLYING FOR NEW CREDIT. **WHEN SEEKING CREDIT OR PURSUING ANOTHER TRANSACTION REQUIRING ACCESS TO YOUR CREDIT REPORT, IT IS NOT NECESSARY TO RELINQUISH YOUR PIN OR PASSWORD TO THE CREDITOR OR BUSINESS; YOU CAN CONTACT THE CONSUMER CREDIT REPORTING AGENCY DIRECTLY. IF YOU CHOOSE TO GIVE OUT YOUR PIN OR PASSWORD TO THE CREDITOR OR BUSINESS, IT IS RECOMMENDED THAT YOU OBTAIN A NEW PIN OR PASSWORD FROM THE CONSUMER CREDIT REPORTING AGENCY.**"

(2) If a consumer requests information about a security freeze, such consumer shall be provided with the notice set forth in paragraph one of this subdivision and with any other information necessary to place, temporarily lift or permanently lift a security freeze, including but not limited to the address, telephone number or point of contact at which the consumer credit reporting agency receives such requests.

(r) When a consumer credit reporting agency erroneously releases a consumer credit report subject to a security freeze or any information contained in such consumer credit report, the consumer credit reporting agency shall send written notification to the affected consumer within [~~five~~] **three** business days following discovery or notification of such erroneous release. Such notification shall also inform the consumer of the nature of the information released and identify and provide contact

information for the recipient of such information or consumer credit report.

(s) Whenever there shall be a violation of this section, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than five thousand dollars for each violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

§ 3. The public officers law is amended by adding a new section 96-a to read as follows:

§ 96-a. Prohibited conduct. 1. Beginning on January first, two thousand ten the state and its political subdivisions shall not do any of the following, unless required by law:

(a) Intentionally communicate to the general public or otherwise make available to the general public in any manner an individual's social security account number. This paragraph shall not apply to any individual intentionally communicating to the general public or otherwise making available to the general public his or her social security account number.

(b) Print an individual's social security account number on any card or tag required for the individual to access products, services or benefits provided by the state and its political subdivisions.

(c) Require an individual to transmit his or her social security account number over the internet, unless the connection is secure or the social security account number is encrypted.

(d) Require an individual to use his or her social security account number to access an internet web site, unless a password or unique personal identification number or other authentication device is also required to access the internet website.

(e) Include an individual's social security account number, except the last four digits thereof, on any materials that are mailed to the individual, or in any electronic mail that is copied to third parties, unless state or federal law requires the social security account number to be on the document to be mailed. Notwithstanding this paragraph, social security account numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the social security account number. A social security account number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(f) Encode or embed a social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number as required by this section.

(g) Nothing in this section shall prohibit a county clerk or court from making available a document publicly recorded or filed prior to the effective date of this section, provided that if any individual requests redaction of a social security number from a publicly recorded document available to the public online, such number shall be promptly redacted by the county clerk. Nothing in this section shall limit disclosure of criminal history record information currently permitted.

2. As used in this section "social security account number" shall include the nine digit account number issued by the federal social security administration and any number derived therefrom. Such term shall not include any number that has been encrypted.

3. This section does not prevent the collection, use or release of a social security account number as required by state or federal law, or the use of a social security account number for internal verification, fraud investigation or administrative purposes.

§ 4. Subdivision 2 of section 399-dd of the general business law, as added by chapter 676 of the laws of 2006, is amended by adding a new paragraph (f) to read as follows:

(f) Encode or embed a social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number as required by this section.

§ 5. Subdivision 6 of section 399-dd of the general business law, as added by chapter 676 of the laws of 2006, is renumbered subdivision 7 and a new subdivision 6 is added to read as follows:

6. No person may file any document available for public inspection with any state agency, political subdivision, or in any court of this state that contains a social security account number of any other person, unless such other person is a dependent child, or has consented to such filing, except as required by federal or state law or regulation, or by court rule.

§ 6. The labor law is amended by adding a new section 203-d to read as follows:

§ 203-d. Employee personal identifying information. 1. An employer shall not unless otherwise required by law:

(a) Publicly post or display an employee's social security number;

(b) Visibly print a social security number on any identification badge or card, including any time card;

(c) Place a social security number in files with unrestricted access; or

(d) Communicate an employee's personal identifying information to the general public. For purposes of this section, "personal identifying information" shall include social security number, home address or telephone number, personal electronic mail address, Internet identification name or password, parent's surname prior to marriage, or drivers' license number.

2. A social security number shall not be used as an identification number for purposes of any occupational licensing.

3. The commissioner may impose a civil penalty of up to five hundred dollars on any employer for any knowing violation of this section. It shall be presumptive evidence that a violation of this section was knowing if the employer has not put in place any policies or procedures to

safeguard against such violation, including procedures to notify relevant employees of these provisions.

§ 7. Subdivision 1 of section 60.27 of the penal law, as amended by chapter 619 of the laws of 2002, is amended to read as follows:

1. In addition to any of the dispositions authorized by this article, the court shall consider restitution or reparation to the victim of the crime and may require restitution or reparation as part of the sentence imposed upon a person convicted of an offense, and after providing the district attorney with an opportunity to be heard in accordance with the provisions of this subdivision, require the defendant to make restitution of the fruits of his or her offense or reparation for the actual out-of-pocket loss caused thereby and, in the case of a violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, any costs or losses incurred due to any adverse action taken against the victim. The district attorney shall where appropriate, advise the court at or before the time of sentencing that the victim seeks restitution or reparation, the extent of injury or economic loss or damage of the victim, and the amount of restitution or reparation sought by the victim in accordance with his or her responsibilities under subdivision two of section 390.50 of the criminal procedure law and article twenty-three of the executive law. The court shall hear and consider the information presented by the district attorney in this regard. In that event, or when the victim impact statement reports that the victim seeks restitution or reparation, the court shall require, unless the interests of justice dictate otherwise, in addition to any of the dispositions authorized by this article that the defendant make restitution of the fruits of the offense and reparation for the actual out-of-pocket loss and, in the case of a violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, any costs or losses incurred due to any adverse action, caused thereby to the victim. In the event that restitution or reparation are not ordered, the court shall clearly state its reasons on the record. Adverse action as used in this subdivision shall mean and include actual loss incurred by the victim**, including an amount equal to the value of the time reasonably spent by the victim attempting to remediate the harm incurred by the victim from the offense,** and the consequential financial losses from such action.

§ 8. Subdivision 1 of section 190.77 of the penal law, as added by chapter 619 of the laws of 2002, is amended to read as follows:

1. For the purposes of sections 190.78, 190.79 [~~and~~]**,** 190.80 **and 190.85** of this article "personal identifying information" means a person's name, address, telephone number, date of birth, driver's license number, social security number, place of employment, mother's maiden name, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, taxpayer identification number, computer system password, signature or copy of a signature, electronic signature, unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person, telephone calling card number, mobile identification number or code, electronic serial number or personal identification number, or any other name, number, code or information that may be used alone or in conjunction with other such information to assume the identity of another person.

§ 9. The penal law is amended by adding a new section 190.85 to read as follows:

§ 190.85 Unlawful possession of a skimmer device in the second degree.

1. A person is guilty of unlawful possession of a skimmer device in the second degree when he or she possesses a skimmer device with the intent that such device be used in furtherance of the commission of the crime of identity theft or unlawful possession of personal identification information as defined in this article.

2. For purposes of this article, "skimmer device" means a device designed or adapted to obtain personal identifying information from a credit card, debit card, public benefit card, access card or device, or other card or device that contains personal identifying information.

Unlawful possession of a skimmer device in the second degree is a class A misdemeanor.

§ 10. The penal law is amended by adding a new section 190.86 to read as follows:

§ 190.86 Unlawful possession of a skimmer device in the first degree.

A person is guilty of unlawful possession of a skimmer device in the first degree when he or she commits the crime of unlawful possession of a skimmer device in the second degree and he or she has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in this section, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter.

Unlawful possession of a skimmer device in the first degree is a class E felony.

§ 11. Subdivision 4 of section 190.79 of the penal law, as added by chapter 619 of the laws of 2002, is amended to read as follows:

4. commits the crime of identity theft in the third degree as defined in section 190.78 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in this section, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, **unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86,** grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter.

§ 12. Subdivision 4 of section 190.80 of the penal law, as added by chapter 619 of the laws of 2002, is amended to read as follows:

4. commits the crime of identity theft in the second degree as defined in section 190.79 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in this section, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, **unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86,** grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter.

§ 13. Subdivision 2 of section 190.83 of the penal law, as added by chapter 619 of the laws of 2002, is amended to read as follows:

2. he or she has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in this section, **unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86,** grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter.

§ 14. Section 190.30 of the criminal procedure law is amended by adding a new subdivision 8 to read as follows:

8. (a) A business record may be received in such grand jury proceedings as evidence of the following facts and similar facts stated therein:

(i) a person's use of, subscription to and charges and payments for communication equipment and services including but not limited to equipment or services provided by telephone companies and internet service providers, but not including recorded conversations or images communicated thereby; and

(ii) financial transactions, and a person's ownership or possessory interest in any account, at a bank, insurance company, brokerage, exchange or banking organization as defined in section two of the banking law.

(b) Any business record offered for consideration by a grand jury pursuant to paragraph (a) of this subdivision must be accompanied by a written statement, under oath, that (i) contains a list or description of the records it accompanies, (ii) attests in substance that the person making the statement is a duly authorized custodian of the records or other employee or agent of the business who is familiar with such records, and (iii) attests in substance that such records were made in

the regular course of business and that it was the regular course of such business to make such records at the time of the recorded act, transaction, occurrence or event, or within a reasonable time thereafter. Such written statement may also include a statement identifying the name and job description of the person making the statement, specifying the matters set forth in subparagraph (ii) of this paragraph and attesting that the business has made a diligent search and does not possess a particular record or records addressing a matter set forth in paragraph (a) of this subdivision, and such statement may be received at grand jury proceedings as evidence of the fact that the business does not possess such record or records. When records of a business are accompanied by more than one sworn written statement of its employees or agents, such statements may be considered together in determining the admissibility of the records under this subdivision. For the purpose of this subdivision, the term "business records" does not include any records prepared by law enforcement agencies or prepared by any entity in anticipation of litigation.

(c) Any business record offered to a grand jury pursuant to paragraph (a) of this subdivision that includes material beyond that described in such paragraph (a) shall be redacted to exclude such additional material, or received subject to a limiting instruction that the grand jury shall not consider such additional material in support of any criminal charge.

(d) No such records shall be admitted when an adversarial examination of such a records custodian or other employee of such business who was familiar with such records has been previously ordered pursuant to subdivision eight of section 180.60 of this chapter, unless a transcript of such examination is admitted.

(e) Nothing in this subdivision shall affect the admissibility of business records in the grand jury on any basis other than that set forth in this subdivision.

§ 14-a. Subdivision 3 of section 210.30 of the criminal procedure law, as amended by chapter 209 of the laws of 1990, is amended to read as follows:

3. Unless good cause exists to deny the motion to inspect the grand jury minutes, the court must grant the motion. It must then proceed to examine the minutes and to determine the motion to dismiss or reduce the indictment. If the court, after examining the minutes, finds that release of the minutes, or certain portions thereof, to the parties is necessary to assist the court in making its determination on the motion, it may release the minutes or such portions thereof to the parties. Provided, however, such release shall be limited to that grand jury testimony which is relevant to a determination of whether the evidence before the grand jury was legally sufficient to support a charge or charges contained in such indictment. Prior to such release the district attorney shall be given an opportunity to present argument to the court that the release of the minutes, or any portion thereof, would not be in the public interest. **For purposes of this section, the minutes shall include any materials submitted to the grand jury pursuant to subdivision eight of section 190.30 of this chapter.**

§ 15. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 16. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that section three of this act shall take effect January 1, 2010; provided, however, that sections eight, nine, ten, eleven, twelve and thirteen of this act shall take effect on the first of November next succeeding the date on which it shall have become law; and provided, further, that section fourteen of this act shall take effect on the thirtieth day after it shall have become a law; provided, further, however, that the amendments to paragraphs d and e of subdivision 2 of section 553 of the executive law made by section one of this act shall not affect the repeal of such paragraphs and shall be deemed repealed therewith; provided, further that paragraph f of subdivision 2 of section 553 of the executive law as added by section one of this act shall survive the expiration and reversion of such subdivision as provided in section 3 of chapter 691 of the laws of 2003, as amended.

Chapter 351 Signed July 21, 2008

STATE OF NEW YORK

S. 3850 - A. 582

2007-2008 Regular Sessions

IN SENATE

March 16, 2007

Introduced by Sens. FLANAGAN, GOLDEN, HANNON, LARKIN, LIBOUS, MORAHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to making information that is subject to the freedom of information law accessible electronically

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 89 of the public officers law is amended by adding a new subdivision 9 to read as follows:

9. When records maintained electronically include items of information that would be available under this article, as well as items of information that may be withheld, an agency in designing its information retrieval methods, whenever practicable and reasonable, shall do so in a manner that permits the segregation and retrieval of available items in order to provide maximum public access.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD03087-01-7

Chapter 381 Signed July 21, 2008

STATE OF NEW YORK

S. 8306 - A. 11342

IN SENATE

May 27, 2008

Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to authorize the city of Schenectady, in the county of Schenectady, to offer an optional twenty year retirement plan to police officer Michael Kelly

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Notwithstanding any other provision of law to the contrary, the city of Schenectady, in the county of Schenectady, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty year retirement plan, established pursuant to section 384-d of the retirement and social security law, to police officers employed by such city, is hereby authorized to make participation in such plan available to Michael Kelly, a police officer employed by the city of Schenectady, who, for reasons not ascribable to his own negligence failed to make a timely application to participate in such optional twenty year retirement plan. The city of Schenectady may so elect by filing with the state comptroller, on or before December 31, 2008, a resolution of its governing body together with certification that such police officer did not bar himself from participation in such retirement plan as a result of his own negligence. Thereafter, such police officer may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2009.

§ 2. All employer costs associated with implementing the provisions of this act shall be borne by the city of Schenectady.

§ 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow Officer Michael G. Kelly of the City of Schenectady police to become covered by the provisions of Section 384-d of the Retirement and Social Security Law.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD16842-02-8

If this bill were enacted, we anticipate that there will be an increase of approximately $2,500 in the annual contributions of the City of Schenectady for the fiscal year ending March 31, 2009.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $22,900 which would be borne by the City of Schenectady as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2009.

This estimate, dated May 22, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-271, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 489 Signed August 5, 2008

STATE OF NEW YORK

S. 8676 - A. 11730

IN SENATE

June 20, 2008

Introduced by Sens. GOLDEN, MALTESE, PADAVAN, LANZA, TRUNZO, FLANAGAN, HANNON, O. JOHNSON, MARCELLINO, MORAHAN, LAVALLE, SKELOS, LEIBELL, FUSCHILLO -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, the administrative code of the city of New York and the workers' compensation law, in relation to accidental disability benefits for persons who participated in World Trade Center rescue, recovery or cleanup operations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2 of the retirement and social security law is amended by adding a new subdivision 36 to read as follows:

36. (a) "Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period, as those terms are defined below, provided the following conditions have been met: (i) such member, or eligible beneficiary in the case of the member's death, must have filed a written and sworn statement with the member's retirement system on a form provided by such system indicating the underlying dates and locations of employment not later than September eleventh, two thousand ten; and (ii) such member has either successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if the member did not undergo a physical examination for entry into public service; and (iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one.

(b) "Qualifying condition or impairment of health" shall mean a qualifying physical condition, or a qualifying psychological condition, or both, except that for any member identified in paragraph (vi) of paragraph (e) of this subdivision, it shall only mean a qualifying psychological condition.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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(c) "Qualifying physical condition" shall mean one or more of the following: (i) diseases of the upper respiratory tract and mucosae, including conditions such as rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, and upper airway hyper-reactivity, or a combination of such conditions; (ii) diseases of the lower respiratory tract, including but not limited to tracheo-bronchitis, bronchitis, chronic obstructive pulmonary disease, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic; (iii) diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure; (iv) diseases of the skin such as conjunctivitis, contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or (v) new onset diseases resulting from exposure as such diseases occur in the future including cancer, asbestos-related disease, heavy metal poisoning, and musculoskeletal disease.

(d) "Qualifying psychological condition" shall mean one or more of the following: (i) diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions; or (ii) new onset diseases resulting from exposure as such diseases occur in the future including chronic psychological disease.

(e) "Participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who: (i) participated in the rescue, recovery, or cleanup operations at the World Trade Center site, as defined in paragraph (f) of this subdivision; (ii) worked at the Fresh Kills Land Fill in New York; (iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan; (iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York; (v) repaired, cleaned or rehabilitated vehicles or equipment, including emergency vehicle radio equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, as defined in paragraph (f) of this subdivision, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, provided such work was performed prior to decontamination of such vehicles or equipment; or (vi) worked in the following departments, worksites and titles: (A) New York City Police Department at 11 Metrotec Center in Brooklyn or 1 Police Plaza in Manhattan as a Police Communication Technician (PCT), Supervisor Police Communication Technician (SPCT), Principal Police Communication Technician I, Principal Police Communication Technician II, Principal Police Communication Technician III, Administrative Manager - Communications, or in the Police Administrative Aide title series; (B) Fire Department of the City of New York at 35 Empire Boulevard in Brooklyn, 79th Street Transverse in Manhattan, 83-98 Woodhaven Boulevard in Queens, 1129 East 180 Street in the Bronx, 65 Slosson Avenue in Staten Island, 9 Metrotec Center in Brooklyn, or 25 Rockaway Avenue in Brooklyn as Fire Alarm Dispatchers (FAD), Supervising Fire Alarm Dispatchers I (SFAD), Supervising Fire Alarm Dispatchers II (Borough Supervisor), Deputy Director & Director Fire Dispatch Operations, or Assistant Commissioner for Communications; (C) for the Fire Department of the City of New York's Emergency Medical Service at 1 or 9 Metrotec Centers in Brooklyn, or 55-30 58 Street in Maspeth Queens as Emergency Medical Specialist-Level I (EMT), Emergency Medical Specialist Level II-(Paramedic), Supervising Emergency Medical Specialist Level I (LT), Supervising Emergency Medical Specialist Level

II (Capt), Deputy Chief EMS Communications, or Division Commander EMS Communications.

(f) "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.

(g) "Qualifying period" shall mean: (i) any period of time within the forty-eight hours after the first airplane hit the towers, for any member identified in paragraphs (i) through (v) of paragraph (e) of this subdivision; (ii) a total of forty hours accumulated any time between September eleventh, two thousand one and September twelfth, two thousand two, for any member identified in subparagraphs (i) through (v) of paragraph (e) of this subdivision; or (iii) any period of time within the twenty-four hours after the first airplane hit the towers, for any member identified in subparagraph (vi) of paragraph (e) of this subdivision.

§ 2. Subdivisions a, g, h and i of section 63 of the retirement and social security law, subdivision a as amended by chapter 690 of the laws of 1987, subdivision g as amended by chapter 93 of the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision g as amended by chapter 495 of the laws of 2007 and subdivision h as amended and subdivision i as added by chapter 5 of the laws of 2007, are amended to read as follows:

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his membership is based.

However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, **and provided that the member meets the requirements of paragraph one of this subdivision,** application may be made **either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this article at any time, or (b)** not later than two years after the member is first discontinued from service [~~and provided that the member meets the requirements of paragraph one of this subdivision~~].

g. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **World Trade Center condition as defined in section two of this article, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a~~

~~documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal~~

~~Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~]**, as defined in section two of this article**, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which~~] **is determined by** the comptroller [~~determines to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **to have a qualifying World Trade Center condition, as defined in section two of this article**, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the~~

~~qualifying condition or impairment of health that formed the basis for the disability.~~

[~~(c)~~] **(b)** The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

[~~(f)~~] **(e)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

h. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision g of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision g of this~~] section **two of this article**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision g of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section sixty-one of this title, shall be entitled to an accidental death benefit as provided by section sixty-one of this title, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section sixty-one of this title requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision g of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision g of this~~

~~section~~], **as defined in section two of this article**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~subparagraph (d) of paragraph one of subdivision g of this~~] section **two of this article**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section sixty-one of this title, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section sixty-one of this title.

§ 3. Subdivisions a, g, h and i of section 363 of the retirement and social security law, subdivision a as amended by chapter 690 of the laws of 1987, subdivision g as amended by chapter 93 of the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision g as amended by chapter 495 of the laws of 2007 and subdivision h as amended and subdivision i as added by chapter 5 of the laws of 2007, are amended to read as follows:

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his own willful negligence sustained in such service and while actually a member of the policemen's and firemen's retirement system, and

2. Actually in service upon which his membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, **and provided that the member meets the requirements of paragraph one of this subdivision,** application may be made**, either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b)** not later than two years after the member is first discontinued from service [~~and provided that the member meets the requirements of paragraph one of this subdivision~~].

g. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **World Trade Center condition as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in~~

~~disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~]**, as defined in section two of this chapter**, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which~~] **is determined by** the comptroller [~~determines to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **to have a qualifying World Trade Center condition, as defined in section two of this chapter**, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

[~~(c)~~] **(b)** The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

[~~(f)~~] **(e)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

h. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision g of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision g of this~~] section **two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision g of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section three hundred sixty-one of this title, shall be entitled to an accidental death benefit as provided by section three hundred sixty-one of this title, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section three hundred sixty-one of this title requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision g of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision g of this section~~]**, as defined in section two of this chapter**, [~~that is~~] **as** deter-

mined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~subparagraph (d) of paragraph one of subdivision g of this~~] section **two of this chapter**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section three hundred sixty-one of this title, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section three hundred sixty-one of this title.

§ 4. Subdivisions a, b, g, h and i of section 507 of the retirement and social security law, subdivision a as amended by chapter 559 of the laws of 2005, subdivision b as added by chapter 890 of the laws of 1976, subdivision g as amended by chapter 93 of the laws of 2005, subparagraph (d) of paragraph 1 of subdivision g as amended by chapter 214 of the laws of 2007, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision g as amended by chapter 495 of the laws of 2007 and subdivision h as amended and subdivision i as added by chapter 5 of the laws of 2007, are amended to read as follows:

a. A member in active service**, or a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter,** who is not eligible for a normal service retirement benefit shall be eligible for the accidental disability benefit described in subdivision c of this section if such member has been determined to be eligible for primary social security disability benefits and was disabled as the natural and proximate result of an accident sustained in such active service and not caused by such member's own willful negligence; provided, however, that no member of the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system who is otherwise eligible for accidental disability benefits pursuant to this section shall be deemed to be ineligible for such benefits because such member is eligible for a normal service retirement benefit.

b. A police/fire member in active service**, or a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter,** who is not eligible for a normal service retirement benefit shall be eligible for the accidental disability benefit either as provided in subdivision a or if such member is physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident sustained in such active service and not caused by such member's own willful negligence.

g. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **World Trade Center condition as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~A member shall be eligible for the~~

~~presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(v) repaired, cleaned or rehabilitated vehicles or equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, between September eleventh, two thousand one and September twelfth, two thousand two, provided such work was performed prior to decontamination of such vehicles or equipment. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The comptroller or applicable retirement system board of trustees are hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

2. (a)(1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~]**, as defined in section two of this chapter**, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which~~] **is determined by** the comptroller [~~determines to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **or applicable retirement system board of trustees to have a qualifying World Trade Center condition, as defined in section two of this chapter**, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

[~~(2) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement incurred a disability caused by any qualifying condition or impairment of the health which the applicable board of trustees~~

~~determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations upon such determination by the applicable board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.~~

~~(3) A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~]

(c)] **(b)** The comptroller or applicable retirement system board of trustees shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller or applicable retirement system board of trustees according to procedures developed by the comptroller or applicable retirement system board of trustees.

[~~(f)~~] **(e)** The comptroller or applicable retirement system board of trustees is hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

h. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or

regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision g of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~**or impairment of health**~~], as defined in [~~**subparagraph (c) of paragraph one of subdivision g of this**~~] section **two of this chapter**, [~~**that is**~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~**to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision g of this section**~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision g of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~**or impairment of health**~~], as defined in [~~**subparagraph (c) of paragraph one of subdivision g of this**~~] section **two of this chapter**, [~~**that is**~~] **as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~**subparagraph (d) of paragraph one of subdivision g of this**~~] section **two of this chapter**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 5. Section 507-b of the retirement and social security law is amended by adding three new subdivisions d, e and f to read as follows:

d. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

(e) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who:

1. has met the criteria of subdivision d of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and

2. has not been retired for more than twenty-five years; and

3. dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article,

however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary shall be reduced by any amounts paid or payable to any other beneficiary.

f. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision d of this section; and (2) dies in active service from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 6. Subdivisions c, d and e of section 507-c of the retirement and social security law, subdivision c as separately amended by chapters 102 and 445 of the laws of 2006, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision c as amended by chapter 495 of the laws of 2007, subdivision d as amended and subdivision e as added by chapter 5 of the laws of 2007, are amended to read as follows:

c. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **World Trade Center condition as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence unless the contrary be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery or cleanup operations at the World Trade Center site between September eleventh, two thousand one and~~

~~September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease.~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or cleanup operations at the World Trade Center between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a~~

~~line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than three years following the effective date of chapter one hundred two of the laws of two thousand six.~~

~~(f)~~] **(b)** The [~~NYCERS board of trustees~~] **head of the retirement system** is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph. [~~For the purposes of this subdivision, "NYCERS" shall mean the New York city employees' retirement system.~~]

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~]**, as defined in section two of this chapter,** and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of health~~] which **is determined by** the [~~NYCERS board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **head of the retirement system to have been a qualifying World Trade Center condition, as defined in section two of this chapter**, upon such determination by the [~~NYCERS board of trustees~~] **head of the retirement system**, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proved by competent evidence. [~~A member shall be eligible for the presumption provided under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted unless:~~

~~(i) the member files a written and sworn statement with NYCERS on a form provided by such system indicating the dates and location of employment within three years following the effective date of chapter one hundred two of the laws of two thousand six; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c)~~] **(b)** The [~~NYCERS board of trustees~~] **head of the retirement system** shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the [~~NYCERS board of trustees~~] **head of the retirement system** according to procedures developed by the [~~NYCERS board of trustees~~] **head of the retirement system**.

[~~(f)~~] **(e)** The **head of the** retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision c of this~~] section **two of this chapter**, that is determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision c of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or bene-

fits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~**or impairment of health**~~], as defined in [~~**subparagraph (c) of paragraph one of subdivision c of this**~~] section **two of this chapter**, that is determined by the applicable head of the retirement system or applicable medical board [~~**to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision c of this section**~~], then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 7. Subdivisions a, h, i and j of section 556 of the retirement and social security law, subdivision a as added by chapter 165 of the laws of 1995, subdivision h as amended by chapter 93 of the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision h as amended by chapter 495 of the laws of 2007, subdivision i as amended and subdivision j as added by chapter 5 of the laws of 2007, are amended to read as follows:

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, **and provided that the member meets the requirements of paragraph one of this subdivision,** application may be made **either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b)** not later than two years after the member is first discontinued from service and provided that the member meets the requirements of paragraph one of this subdivision.

h. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~**condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours**~~] **World Trade Center condition as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary

be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~]**, as defined in section two of this chapter**, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which~~] **is determined by** the comptroller [~~determines to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **to have a qualifying World Trade Center condition, as defined in section two of this chapter**, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

[~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment~~

~~of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

[~~(c)~~] **(b)** The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

[~~(f)~~] **(e)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision h of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision h of this~~] section **two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision h of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit

(including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

j. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision h of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~**or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision h of this section**~~], **as defined in section two of this chapter**, [~~**that is**~~] **as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~**subparagraph (d) of paragraph one of subdivision h of this**~~] section **two of this chapter**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 8. Paragraph 2 of subdivision b of section 558 of the retirement and social security law, as added by chapter 165 of the laws of 1995, is amended and three new subdivisions j, k and l are added to read as follows:

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, [~~**either voluntarily or involuntarily, subsequent to sustaining a disability in such service**~~] **and provided that the member meets the requirements of paragraph one of this subdivision**, application may be made**, either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b)** not later than two years after the member is discontinued from service and provided that the member meets the requirements of subdivision a of this section and this subdivision.

j. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller to have a qualifying World Trade Center condition, as defined in

1 section two of this chapter, upon such determination by the comptroller
2 it shall be presumed that such disability was incurred in the perform-
3 ance and discharge of duty as the natural and proximate result of an
4 accident not caused by such member's own willful negligence, and that
5 the member would have been physically or mentally incapacitated for the
6 performance and discharge of duty of the position from which he or she
7 retired had the condition been known and fully developed at the time of
8 the member's retirement, unless the contrary is proven by competent
9 evidence.
10 (b) The comptroller shall consider a reclassification of the member's
11 retirement as an accidental disability retirement effective as of the
12 date of such reclassification.
13 (c) Such member's retirement option shall not be changed as a result
14 of such reclassification.
15 (d) The member's former employer at the time of the member's retire-
16 ment shall have an opportunity to be heard on the member's application
17 for reclassification by the comptroller according to procedures devel-
18 oped by the comptroller.
19 (e) The comptroller is hereby authorized to promulgate rules and regu-
20 lations to implement the provisions of this paragraph.
21 k. Notwithstanding any other provision of this chapter or of any
22 general, special or local law, charter, administrative code or rule or
23 regulation to the contrary, if a retiree who:
24 (1) has met the criteria of subdivision j of this section and retired
25 on a service or disability retirement, or would have met the criteria if
26 not already retired on an accidental disability; and
27 (2) has not been retired for more than twenty-five years; and
28 (3) dies from a qualifying World Trade Center condition, as defined in
29 section two of this chapter, as determined by the applicable head of the
30 retirement system or applicable medical board, then unless the contrary
31 be proven by competent evidence, such retiree shall be deemed to have
32 died as a natural and proximate result of an accident sustained in the
33 performance of duty and not as a result of willful negligence on his or
34 her part. Such retiree's eligible beneficiary, as set forth in section
35 five hundred one of this article, shall be entitled to an accidental
36 death benefit as provided by section five hundred nine of this article,
37 however, for the purposes of determining the salary base upon which the
38 accidental death benefit is calculated, the retiree shall be deemed to
39 have died on the date of his or her retirement. Upon the retiree's
40 death, the eligible beneficiary shall make a written application to the
41 head of the retirement system within the time for filing an application
42 for an accidental death benefit as set forth in section five hundred
43 nine of this article requesting conversion of such retiree's service or
44 disability retirement benefit to an accidental death benefit. At the
45 time of such conversion, the eligible beneficiary shall relinquish all
46 rights to the respective benefits payable under the service or disabili-
47 ty retirement benefit, including any post-retirement death benefits,
48 since the retiree's death. If the eligible beneficiary is not the only
49 beneficiary receiving or entitled to receive a benefit under this
50 service or disability retirement benefit (including, but not limited to,
51 post-retirement death benefits or benefits paid or payable pursuant to
52 the retiree's option selection), the accidental death benefit payments
53 to the eligible beneficiary will be reduced by any amounts paid or paya-
54 ble to any other beneficiary.

l. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who:

(1) has met the criteria of subdivision j of this section; and

(2) dies in active service from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part.

Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

§ 9. Subdivisions b, h, i and j of section 605 of the retirement and social security law, subdivision b as added by chapter 414 of the laws of 1983, paragraph 2 of subdivision b as amended by chapter 330 of the laws of 1998, subdivision h as amended by chapter 93 of the laws of 2005, subparagraph (d) of paragraph 1 of subdivision h as amended by chapter 214 of the laws of 2007, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision h as amended by chapter 495 of the laws of 2007 and subdivision i as amended and subdivision j as added by chapter 5 of the laws of 2007, are amended to read as follows:

b. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. The application must be filed **either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, at any time, or (b)** within three months from the last date the member was being paid on the payroll or, **(c)** in the case of a member who was placed on a leave of absence for medical reasons without pay, either voluntarily or involuntarily, at the time he ceased being paid, application may be made not later than twelve months after the date the employee receives notice that his employment status has been terminated. In the case of a member of the New York state teachers' retirement system, the application must be filed not later than twelve months after the last date the member was being paid on the payroll or, where the member was placed on leave of absence for medical reasons without pay, either voluntarily or involuntarily at the time the member ceased being paid, not later than twelve months after the date the member receives notice that the member's employment status has been terminated.

3. Provided, however, if the retirement system determines that such member was physically or mentally incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by his own willful negligence sustained in the performance of his duties in active service while actually a member of the retirement system the requirement that the member should have ten years of credited service shall be inapplicable.

h. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is**

caused by a qualifying [~~condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **World Trade Center condition as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(v) repaired, cleaned or rehabilitated vehicles or equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, between September eleventh, two thousand one and September twelfth, two thousand two, provided such work was performed prior to decontamination of such vehicles or equipment. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The [~~comptroller or applicable retirement system board of trustees~~] **head of each retirement system** is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a)(1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~], **as defined in section two of this chapter,** and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement or a state police disability retirement pursuant to section three hundred sixty-three-b of this title and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which the medical board determines to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter**, upon such determination by the [~~medical board~~] **head of the retirement system** it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully

developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(2) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement incurred a disability caused by any qualifying condition or impairment of the health which the applicable board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, upon such determination by the applicable board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(3) A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.

(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:

(i) the member files a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and

(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.

(c) The [~~**comptroller or applicable retirement system board of trustees**~~] **head of the retirement system** shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(d) Such member's retirement option shall not be changed as a result of such reclassification.

(e) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the [~~comptroller or applicable retirement system board of trustees~~] **head of the retirement system** according to procedures developed by the [~~comptroller or applicable retirement system board of trustees~~] **head of the retirement system**.

(f) The [~~comptroller or applicable retirement system board of trustees~~] **head of the retirement system** is hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision h of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision h of this~~] section **two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision h of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

j. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision h of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision h of this section~~]**, as defined in section two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the

World Trade Center rescue, recovery or cleanup operations, as defined in [~~subparagraph (d) of paragraph one of subdivision h of this~~] section **two of this chapter**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 10. Subdivisions a, h, i and j of section 605-a of the retirement and social security law, subdivision a as added by chapter 422 of the laws of 1995, the opening paragraph of subdivision a as amended by chapter 602 of the laws of 2000, subdivision h as amended by chapter 93 of the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision h as amended by chapter 495 of the laws of 2007, subdivision i as amended and subdivision j as added by chapter 5 of the laws of 2007, are amended to read as follows:

a. A member employed as a uniformed court officer or peace officer in the unified court system shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, such member is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident, not caused by his own willful negligence, sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, **and provided that the member meets the requirements of paragraph one of this subdivision,** application may be made **either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b)** not later than two years after the member is first discontinued from service [~~and provided that the member meet the requirements of paragraph one of this subdivision~~].

h. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **World Trade Center condition as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand~~

~~one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~], **as defined in section two of this chapter,** and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which~~] **is determined by** the comptroller [~~determines to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **to have a qualifying World Trade Center condition, as defined in section two of this chapter**, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

[~~(c)~~] **(b)** The comptroller shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller according to procedures developed by the comptroller.

[~~(f)~~] **(e)** The comptroller is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision h of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision h of this~~] section **two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision h of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

j. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision h of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision h of this section~~]**, as defined in section two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable

medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~subparagraph (d) of paragraph one of subdivision h of this~~] section **two of this chapter**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 11. Subdivisions c, d, e and f of section 605-b of the retirement and social security law, subdivision c as added by chapter 504 of the laws of 2002, subdivision d as amended by chapter 93 of the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision d as amended by chapter 495 of the laws of 2007, subdivision e as amended and subdivision f as added by chapter 5 of the laws of 2007, are amended to read as follows:

c. 1. Notwithstanding the provisions of paragraphs one and two of subdivision b of this section or any other provision of law to the contrary, any eligible prior uniformed sanitation disability retiree (as defined in paragraph three of subdivision a of this section) shall be eligible to apply for accidental disability retirement pursuant to subdivision b of this section **either (a) if the member is vested and is incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, or (b)** by filing an application with NYCERS within one year of the effective date of this section.

2. Any eligible prior uniformed sanitation disability retiree who files a timely application for accidental disability retirement pursuant to paragraph one of this subdivision, and who retired either for disability pursuant to section six hundred five of this article with less than ten years of credited service, or for accidental disability pursuant to section five hundred seven of this chapter, shall be granted accidental disability retirement benefits pursuant to subdivision b of this section, with payability of those benefits to begin on the earlier of (a) January first, two thousand five, or (b) a date certified as the payability date for all persons entitled to accidental disability retirement benefits pursuant to this subdivision by the commissioner of labor relations for the city of New York in a letter to the executive director of NYCERS.

3. Any eligible prior uniformed sanitation disability retiree who files a timely application for accidental disability retirement pursuant to paragraph one of this subdivision, and who retired for disability pursuant to section six hundred five of this article with ten or more years of credited service, shall have that application processed in accordance with the applicable provisions which govern the processing of accidental disability retirement applications filed pursuant to subdivision b of this section by or on behalf of active New York city uniformed sanitation members of NYCERS. NYCERS shall use its best efforts to make its determinations on such applications as soon as practicable. Where NYCERS determines that any such prior uniformed sanitation disability retiree is entitled to accidental disability retirement benefits pursuant to subdivision b of this section, payability of those benefits shall begin on the earlier of (a) January first, two thousand five, or (b) a date certified as the payability date for all persons entitled to acci-

dental disability retirement benefits pursuant to this subdivision by the commissioner of labor relations for the city of New York in a letter to the executive director of NYCERS.

4. The accidental disability retirement allowance payable pursuant to this section to any eligible prior uniformed sanitation disability retiree determined by NYCERS to be entitled to such benefit shall be in lieu of any other disability retirement benefit which such member may have been receiving or entitled to receive from NYCERS. Any such person who was receiving disability retirement benefits from NYCERS pursuant to any statutory provision other than this section shall continue to receive payment of such benefits until accidental disability retirement benefits become payable pursuant to this section on the applicable date specified in paragraphs two and three of this subdivision. On and after such date he or she shall no longer be entitled to receive disability benefits from NYCERS pursuant to such other statutory provisions.

5. Any eligible prior uniformed sanitation disability retiree who becomes entitled to accidental disability retirement benefits pursuant to this section shall have the same method of payment applied to such benefits as was applicable to the disability retirement benefits he or she was receiving from NYCERS pursuant to a statutory provision other than this section, and such person shall not be permitted to change such method of payment from the maximum retirement allowance to an option or from the option selected previously to another option or to the maximum retirement allowance.

6. Notwithstanding any other provision of law to the contrary, for the purposes of calculating the cost-of-living adjustment which may otherwise become payable pursuant to section 13-696 of the administrative code of the city of New York to an eligible prior uniformed sanitation disability retiree for any period of time after such person has begun receiving accidental disability retirement benefits pursuant to this section, the year of retirement of such person shall be deemed to be the year in which he or she retired for disability pursuant to section five hundred seven or six hundred five of this chapter, as the case may be.

d. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~**condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours**~~] **World Trade Center condition as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~**A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury**~~

~~that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two.~~

~~For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with NYCERS on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years~~

~~following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The [~~NYCERS board of trustees~~] **head of the retirement system** is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~], **as defined in section two of this chapter,** and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health~~] which [~~the NYCERS board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, upon such determination by NYCERS board of trustees, it shall be presumed that such disability~~] **is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system it shall be presumed that such disability** was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with NYCERS on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the~~

~~qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c)~~] **(b)** The [~~NYCERS board of trustees~~] **head of the retirement system** shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the [~~NYCERS board of trustees~~] **head of the retirement system** according to procedures developed by the [~~NYCERS board of trustees~~] **head of the retirement system**.

[~~(f)~~] **(e)** The [~~NYCERS board of trustees~~] **head of the retirement system** is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision d of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision d of this~~] section **two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision d of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

f. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of

subdivision d of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision d of this~~] section[~~, that is~~] **two of this chapter, as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~subparagraph (d) of paragraph one of subdivision d of this~~] section **two of this chapter**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 12. Subdivisions b, c and d of section 605-c of the retirement and social security law, subdivision b as amended by chapter 93 of the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision b as amended by chapter 495 of the laws of 2007, subdivision c as amended and subdivision d as added by chapter 5 of the laws of 2007, are amended to read as follows:

b. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **World Trade Center condition, as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with New York city employees' retirement system (NYCERS) on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The [~~NYCERS board of trustees~~] **head of the retirement system** is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. **(a)** Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~] **as defined in section two of this chapter**, and subsequently

retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which the NYCERS board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **is determined by the head of the retirement system to have a qualifying World Trade Center condition as defined in section two of this chapter**, upon such determination by the [~~NYCERS board of trustees~~] **head of the retirement system**, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with the NYCERS on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c)~~] **(b)** The [~~NYCERS board of trustees~~] **head of the retirement system** shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the [~~NYCERS board of trustees~~] **head of**

the retirement system according to procedures developed by the [~~**NYCERS board of trustees**~~] **comptroller**.

[~~**(f)**~~] **(e)** The **head of the** retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

c. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision b of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying [~~**condition or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision b of this section, that is**~~] **World Trade Center condition as defined in section two of this chapter, as** determined by the applicable head of the retirement system or applicable medical board [~~**to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision b of this section**~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision b of this section; and (2) dies in active service from a qualifying [~~**condition or impairment of health, as defined in subparagraph (c) of paragraph one of subdivision b of this section, that is**~~] **World Trade Center condition, as defined in section two of this chapter, as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~**subparagraph (d) of paragraph one of subdivision b of this**~~] section **two of this chapter**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance

of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 13. Section 607-c of the retirement and social security law is amended by adding three new subdivisions c, d and e to read as follows:

c. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the comptroller.

(e) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the

applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; and (2) dies in active service from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 14. Subdivisions c, d and e of section 607-b of the retirement and social security law, subdivision c as amended by chapter 93 of the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision c as amended by chapter 495 of the laws of 2007, subdivision d as amended and subdivision e as added by chapter 5 of the laws of 2007, are amended to read as follows:

c. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying **World Trade Center** condition [~~**or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours**~~] **as defined in section two of this chapter, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary

be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under subparagraph (a) of this paragraph, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two.~~

~~For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the New York city employees' retirement system (NYCERS) on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** the [~~NYCERS board of trustees~~] **head of each retirement system** is hereby authorized to promulgate rules and [~~regualtions~~] **regulations** to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~] **as defined in section two of this chapter**, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health, which~~] **is determined by** the [~~NYCERS board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations, for a minimum of forty hours~~] **comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter**, upon such determination by the [~~NYCERS board of trustees~~] **head of the retirement system**, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations~~

~~for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in subparagraph (a) of this paragraph shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with NYCERS on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c)~~] **(b)** The [~~NYCERS board of trustees~~] **head of the retirement system** shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCERS board of trustees according to procedures developed by the NYCERS board of trustees.

[~~(f)~~] **(e)** The [~~NYCERS board of trustees~~] **head of each retirement system** is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~subparagraph (c) of paragraph one of subdivision c of this~~] section **two of this chapter**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision c of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including

any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~**or impairment of health**~~], as defined in [~~**subparagraph (c) of paragraph one of subdivision c of this**~~] section **two of this chapter**, [~~**that is**~~] **as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (d) of paragraph one of subdivision c of this section, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

§ 15. Section 13-252.1 of the administrative code of the city of New York, as amended by chapter 93 of the laws of 2005, paragraph (e) of subdivision 1 and subparagraph (i) of paragraph (b) of subdivision 2 as amended by chapter 495 of the laws of 2007, subdivision 3 as amended and subdivision 4 as added by chapter 5 of the laws of 2007, is amended to read as follows:

§ 13-252.1 Accidental disability retirement; World Trade Center presumption. 1. (a) Notwithstanding any provisions of this code or of any general, special or local law, charter or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying **World Trade Center** condition [~~**or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours**~~] **as defined in section two of the retirement and social security law, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~**A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations**~~

~~for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under paragraph (a) of this subdivision, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two. For the purposes of this section, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the member's retirement system on a form provided by such system indicating the dates~~

~~and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The [~~NYCFDPF~~] **New York City Police Pension Fund (NYCPPF)** board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~] **as defined in section two of the retirement and social security law**, and subsequently retired on a service retirement, an ordinary disability retirement**, an accidental disability retirement,** or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of the health which~~] **is determined by** the NYCFDPF board of trustees [~~determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law**, upon such determination by the NYCFDPF board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) The reclassification provided for in paragraph (a) of this subdivision shall not be granted, unless:~~

~~(i) the member files a written and sworn statement with the NYCPPF on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the~~

~~qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c)~~] **(b)** The NYCPPF board of trustees shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(d)~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(e)~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCPPF board of trustees according to procedures developed by the NYCPPF board of trustees.

[~~(f)~~] **(e)** The NYCPPF board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

3. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision one of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~paragraph (c) of subdivision one of this~~] section **two of the retirement and social security law**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in paragraph (d) of subdivision one of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section 13-244 of this subchapter, shall be entitled to an accidental death benefit as provided by section 13-244 of this subchapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-244 of this subchapter requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

4. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision one of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~paragraph (c)~~

~~of subdivision one of this~~] section **two of the retirement and social security law**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [~~paragraph (d) of subdivision one of this~~] section **two of the retirement and social security law**, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section 13-244 of this subchapter, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-244 of this subchapter.

§ 16. Section 13-353.1 of the administrative code of the city of New York, as amended by chapter 93 of the laws of 2005, paragraph (e) of subdivision 1 and subparagraph (i) of paragraph (b) of subdivision 2 as amended by chapter 495 of the laws of 2007, subdivision 3 as amended and subdivision 4 as added by chapter 5 of the laws of 2007, is amended to read as follows:

§ 13-353.1 Accidental disability retirement; World Trade Center presumption. 1. (a) Notwithstanding any provisions of this code or of any general, special or local law, charter or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying **World Trade Center** condition [~~or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **as defined in section two of the retirement and social security law, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(b) In order to be eligible for the presumption provided for under paragraph (a) of this subdivision, a member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(c) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(d) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(i) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(ii) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two.~~

~~For the purposes of this section, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(e) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the New York city fire department pension fund (NYCFDPF) on a form provided by such system indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(f)~~] **(b)** The [~~NYCFDPF~~] **New York City Fire Department Pension Fund (NYCFDPF)** board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~] **as defined in section two of the retirement and social security**

law, and subsequently retired on a service retirement, an ordinary disability retirement**, an accidental disability retirement,** or a performance of duty disability retirement and subsequent to such retirement [~~**incurred a disability caused by any qualifying condition or impairment of health which the NYCFDPF board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours**~~] **is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law**, upon such determination by the NYCFDPF board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~**A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.**~~

~~**(b) The reclassification provided for in paragraph (a) of this subdivision shall not be granted, unless:**~~

~~**(i) the member files a written and sworn statement with the NYCFDPF on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and**~~

~~**(ii) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.**~~

~~**(c)**~~] **(b)** The NYCFDPF shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~**(d)**~~] **(c)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~**(e)**~~] **(d)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCFDPF board of trustees according to procedures developed by the NYCFDPF.

[~~(f)~~] **(e)** The NYCFDPF board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

3. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision one of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~paragraph (c) of subdivision one of this~~] section **two of the retirement and social security law**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in paragraph (d) of subdivision one of this section~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section 13-347 of this subchapter, shall be entitled to an accidental death benefit as provided by sections 13-347 and 13-348 of this subchapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in sections 13-347 and 13-348 of this subchapter requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

4. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision one of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~or impairment of health~~], as defined in [~~paragraph (c) of subdivision one of this~~] section **two of the retirement and social security law**, [~~that is~~] **as** determined by the applicable head of the retirement system or applicable medical board [~~to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in paragraph (d) of subdivision one of this section~~], then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section 13-347 of this subchapter, shall be entitled to an accidental death benefit provided he or she makes written

application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-347 of this subchapter.

§ 17. Section 13-168 of the administrative code of the city of New York, as amended by chapter 785 of the laws of 1986, subdivision a as amended by chapter 271 of the laws of 1989, paragraph 5 of subdivision b as amended by chapter 93 of the laws of 2005, item 4 of subparagraph (a) of paragraph 5 of subdivision b as amended by chapter 214 of the laws of 2007, clause 5 of subparagraph (a) of paragraph 5 of subdivision b and item (A) of clause 2 of subparagraph (b) of paragraph 5 of subdivision b as amended by chapter 495 of the laws of 2007, subdivision c as amended and subdivision d as added by chapter 5 of the laws of 2007, is amended to read as follows:

§ 13-168 Retirement; for accident disability. a. Medical examination of a member in city-service for accident disability and investigation of all statements and certifications by him or her or on his behalf in connection therewith shall be made upon the application of the head of the agency in which the member is employed, or upon the application of a member or of a person acting in his or her behalf, stating that such member is physically or mentally incapacitated for the performance of city-service, as a natural and proximate result of such city-service, and certifying the time, place and conditions of such city-service performed by such member resulting in such alleged disability and that such alleged disability was not the result of wilful negligence on the part of such member and that such member should, therefore, be retired. Such application shall be filed within two years from the happening of such accident, except, however, that such requirement as to time of filing shall not apply to any such application which (1) is filed by or with respect to a member who is a member of the uniformed force of the department of sanitation (as such force is defined in subdivision a of section 13-154 of this chapter) and [~~(2)~~] is based on an accident occurring wholly on or after July first, nineteen hundred sixty-three**, or (2) if filed by a vested member incapacitated as a result of a qualifying World trade Center condition as defined in section two of the retirement and social security law**. If such medical examination and investigation shows that any member, by whom or with respect to whom an application is filed under this section, is physically or mentally incapacitated for the performance of city-service as a natural and proximate result of an accidental injury received in such city-service while a member, and that such disability was not the result of wilful negligence on the part of such member and that such member should be retired, the medical board shall so certify to the board stating the time, place and conditions of such city-service performed by such member resulting in such disability. The board shall review such certification with respect to any issues other than the existence or non-existence of physical or mental incapacitation and shall determine the member's eligibility with respect to any such issues. Upon such certification by the medical board of the member's physical or mental incapacitation and a determination by the board finding the member otherwise eligible, such member shall be retired for accident disability effective the date the application is filed or the date immediately following the last date the member was on the payroll, whichever is later.

b. 1. If such application is denied solely on the ground that such member is not, at the time of such examination, physically or mentally incapacitated for the performance of city-service, such application may thereafter be renewed during such member's city-service at any time

within five years from the happening of the accident but preceding the date on which such member shall have reached his or her minimum service retirement age, provided he or she submits himself or herself to such further examinations as the medical board may require.

2. Such further application or applications shall be considered on the same basis as the original application.

3. The medical board may at any time within five years of the happening of the accident, upon findings that such member is eligible for and should be retired for accident disability in accordance with the provisions of this section, certify to the board said fact. The board shall review such certification with respect to any issues other than the existence or non-existence of physical or mental incapacitation and shall determine the member's eligibility with respect to any such issues. Upon such certification by the medical board of the member's physical or mental incapacitation and a determination by the board finding the member otherwise eligible, such member shall be retired for accident disability forthwith.

4. The provisions of paragraphs one, two and three of this subdivision b shall not apply in the case of **(1)** any member who is a member of the uniformed force of the department of sanitation and who files an application under subdivision a of this section based on an accident occurring wholly on or after July first, nineteen hundred sixty-three**, or (2) any vested member incapacitated as a result of a qualifying World Trade Center condition as defined in section two of the retirement and social security law**.

5. (a) (1) Notwithstanding any provisions of this code or of any general, special or local law, charter or rule or regulation to the contrary, **if** any condition or impairment of health **is** caused by a qualifying [~~**condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours**~~] **World Trade Center condition as defined in section two of the retirement and social security law, it** shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence. [~~**A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center recovery and cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.**~~

~~**(2) In order to be eligible for the presumption provided for under subparagraph one of this paragraph, a member must have successfully**~~

~~passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

~~(3) For purposes of this subdivision, "qualifying condition or impairment of health" shall include:~~

~~(i) Diseases of the upper respiratory tract and mucosae, including conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, upper airway hyper-reactivity and tracheo-bronchitis, or a combination of such conditions;~~

~~(ii) Diseases of the lower respiratory tract, including but not limited to bronchitis, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic;~~

~~(iii) Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure;~~

~~(iv) Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions;~~

~~(v) Diseases of the skin such as contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or non-specific reactive in nature, caused by exposure or aggravated by exposure; or~~

~~(vi) New onset diseases resulting from exposure as such diseases occur in the future including cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, musculoskeletal disease and chronic psychological disease;~~

~~(4) For purposes of this subdivision, "participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who:~~

~~(A) participated in the rescue, recovery, or clean up operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(B) worked at the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(C) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(D) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York between September eleventh, two thousand one and September twelfth, two thousand two, or~~

~~(E) repaired, cleaned or rehabilitated vehicles or equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, between September eleventh, two thousand one and September twelfth, two thousand two, provided such work was performed prior to decontamination of such vehicles or equipment.~~

~~For the purposes of this subdivision, "World Trade Center site" shall mean anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.~~

~~(5) In order to be eligible for consideration for such presumption, such member must file a written and sworn statement with the New York city employees' retirement system (NYCERS) on a form provided by such system indicating the dates and locations of employment. Such statement~~

~~must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.~~

~~(6)~~] **(2)** The NYCERS board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

(b) (1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations [~~for a minimum of forty hours~~] **as defined in section two of the retirement and social security law**, and subsequently retired on a service retirement, an ordinary disability retirement**, an accidental disability retirement,** or a performance of duty disability retirement and subsequent to such retirement [~~incurred a disability caused by any qualifying condition or impairment of health which the NYCERS board of trustees determines, after a determination of disability by the applicable medical board, to have been caused by such member's having participated in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours~~] **is determined by the board of trustees to have a qualifying World Trade Center condition as defined by section two of the retirement and social security law**, upon such determination by the NYCERS board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence. [~~A member shall be eligible for the presumption provided for under this paragraph notwithstanding the fact that the member did not participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours, provided that: (i) the member participated in the rescue, recovery, or cleanup operations at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one; (ii) the member sustained a documented physical injury at the World Trade Center site between September eleventh, two thousand one and September twelfth, two thousand one that is a qualifying condition or impairment of health resulting in disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours; and (iii) the documented physical injury that resulted in a disability to the member that prevented the member from continuing to participate in World Trade Center rescue, recovery or cleanup operations for a minimum of forty hours is the qualifying condition or impairment of health which the member seeks to be eligible for the presumption provided for under this paragraph.~~

~~(2) The reclassification provided for in subparagraph one of this paragraph shall not be granted, unless:~~

~~(A) the member files a written and sworn statement with NYCERS on a form provided by such system indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and~~

~~(B) the member must have successfully passed a physical examination for entry into public service which failed to disclose evidence of the qualifying condition or impairment of health that formed the basis for the disability.~~

[~~(3)~~] **(2)** The NYCERS board of trustees shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

[~~(4)~~] **(3)** Such member's retirement option shall not be changed as a result of such reclassification.

[~~(5)~~] **(4)** The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCERS board of trustees according to procedures developed by the retirement system.

[~~(f)~~] **(c)** The NYCERS board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

c. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision b of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying **World Trade Center** condition [~~**or impairment of health, as defined in subparagraph (a) of paragraph five of subdivision b of this section, that is**~~] **as defined in section two of the retirement and social security law, as** determined by the applicable head of the retirement system or applicable medical board [~~**to have been caused by such retiree's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (a) of paragraph five of subdivision b of this section**~~], then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's eligible beneficiary, as set forth in section 13-149 of this chapter, shall be entitled to an accidental death benefit as provided by section 13-149 of this chapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of his or her retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-149 of this chapter requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

d. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision b of this section; and (2) dies in active service from a qualifying **World Trade Center** condition [~~**or impairment of health, as defined in subparagraph (a) of paragraph five of subdivision b of this section, that is**~~] **as defined in**

section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board [~~**to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in subparagraph (a) of paragraph five of subdivision b of this section**~~], then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section 13-149 of this chapter, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-149 of this chapter.

§ 18. Section 162 of the workers' compensation law, as amended by chapter 199 of the laws of 2007, is amended to read as follows:

§ 162. Registration of participation in World Trade Center rescue, recovery and clean-up operations. In order for the claim of a participant in World Trade Center rescue, recovery and clean-up operations to come within the application of this article, such participant must file a written and sworn statement with the board on a form promulgated by the chair indicating the dates and locations of such participation and the name of such participant's employer during the period of participation. Such statement must be filed not later than [~~**two years after the effective date of this article**~~] **September eleventh, two thousand ten**. The board shall transmit a copy of such statement to the employer or carrier named therein. The filing of such a statement shall not be considered the filing of a claim for benefits under this chapter.

§ 19. Section 164 of the workers' compensation law, as added by chapter 446 of the laws of 2006, is amended to read as follows:

§ 164. Disablement of a participant in World Trade Center rescue, recovery and clean-up operations treated as an accident. The date of disablement of a participant in World Trade Center rescue, recovery and clean-up operations resulting from a qualifying condition that is causally related to such participant shall be treated as the happening of an accident within the meaning of this chapter and the procedure and practice provided in this chapter shall apply to all proceedings under this article, except where otherwise specifically provided herein. **The board shall determine the date of disablement that is most beneficial to the claimant.**

§ 20. The workers' compensation law is amended by adding a new section 168 to read as follows:

§ 168. Additional period for filing certain claims. A claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand three, and September eleventh, two thousand eight, shall not be disallowed as barred by section eighteen or section twenty-eight of this chapter if such claim is filed on or before September eleven, two thousand ten. Any such claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand three, and September eleventh, two thousand eight, and was disallowed by section eighteen or twenty-eight of this chapter shall be reconsidered by the board.

§ 21. Subdivision a of section 509 of the retirement and social security law, as added by chapter 890 of the laws of 1976 and the closing

paragraph as added by chapter 105 of the laws of 2005, is amended to read as follows:

a. The eligible beneficiary of a member in service**, or a vested member that dies as a result of a qualifying World Trade Center condition as defined in section two of this chapter,** shall be entitled to an accidental death benefit in the form of a pension equal to fifty percent of such member's final average salary if, upon application filed within two years after the death of the member, the head of the retirement system determines that such member:

1. Died before the effective date of retirement, as the natural and proximate result of an accident sustained in the performance of duty in the service upon which membership was based, and

2. Did not cause such accident by his or her own willful negligence.

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty, other than for training purposes, pursuant to Title 10 of the United States Code, with the armed forces of the United States and died while on such active duty on or after the effective date of [~~the~~] chapter **one hundred five** of the laws of two thousand five which added this paragraph.

§ 22. Subdivision b of section 363-b of the retirement and social security law, as added by chapter 684 of the laws of 1971 and paragraph 3 of subdivision b as amended by chapter 507 of the laws of 1983, is amended to read as follows:

b. Eligibility. A member or officer shall be entitled to a state police disability retirement allowance if, at the time application therefor is filed, he is:

1. Under age sixty, and

2. (a) Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his own willful negligence sustained in such service and while actually a member of the policemen's and firemen's retirement system, or

(b) Physically or mentally incapacitated for performance of duty as a result of a disability that was not sustained in such service, and has at least five years of total service credit in the division, and

3. Actually in service upon which his membership is based, or, have been discontinued from service, either voluntarily or involuntarily for not more than ninety days provided the member was disabled prior to such discontinuance**, or is a vested member incapacitated as a result of a qualifying World Trade Center condition as defined in section two of this chapter**. However, in a case where a member is discontinued from service, either voluntarily or involuntarily, subsequent to sustaining a disability in such service, application may be made not later than two years after the member is discontinued from service and provided that the member meets the requirements of subdivisions a and b of this section.

§ 23. Subdivision a of section 607 of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

a. The eligible beneficiary of a member in service**, or of a vested member who dies as a result of a qualifying World Trade Center condition**

1 **as defined in section two of this chapter,** shall be entitled to an acci-
2 dental death benefit in the form of a pension equal to fifty percent of
3 such member's wages earned during his or her last year of actual service
4 or his or her annual wage rate if he or she was credited with less than
5 one year of service since last becoming a member, if, upon application
6 filed within sixty days after the death of the member, the head of the
7 retirement system determines that such member died before the effective
8 date of retirement, as the natural and proximate result of an accident
9 not caused by his or her own willful negligence sustained in the
10 performance of his or her duties in active service and while actually a
11 member of the retirement system.
12 Notwithstanding the provisions of section two hundred forty-two, two
13 hundred forty-three or two hundred forty-four of the military law or the
14 provisions of any other law to the contrary and solely for the purpose
15 of determining eligibility for an accidental death benefit, a member
16 shall be considered to have died as the natural and proximate result of
17 an accident sustained in the performance of duty provided such member
18 was on the payroll in the service upon which membership is based at the
19 time he or she was ordered to active duty, other than for training
20 purposes, pursuant to Title 10 of the United States Code, with the armed
21 forces of the United States and died while on such active duty on or
22 after the effective date of [~~the~~] chapter **one hundred five** of the laws
23 of two thousand five which added this paragraph.
24 Provided, however, the head of the retirement system in its sole
25 discretion may accept an application for an accidental death benefit
26 after the expiration of the sixty day filing period, where, but only
27 where, an ordinary death benefit has not been previously paid.
28 § 24. This act shall take effect immediately and shall be deemed to
29 have been in full force and effect on and after September 11, 2001;
30 provided, however, that:
31 (a) the amendments to sections 507, 507-b, 507-c, 605, 605-a, 605-b,
32 605-c, 607-c, 607-b, 509 and 607 of the retirement and social security
33 law made by sections four, five, six, nine, ten, eleven, twelve, thir-
34 teen, fourteen, twenty-one and twenty-three of this act, respectively,
35 shall expire on the same date as such sections expire pursuant to
36 section 615 of such law; and
37 (b) the amendments to sections 162 and 164 of the workers' compen-
38 sation law and the provisions of section 168 of the workers' compen-
39 sation law made by sections eighteen, nineteen and twenty of this act,
40 respectively, shall apply to all open and closed claims coming within
41 its purview.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend chapter 93 of the Laws of 2005 and chapter 445 of the Laws of 2006, which provided members of public retirement systems who contract any form of disease or disability related to exposure to any elements in connection with the World Trade Center tragedy of September 11, 2001 to be presumptive evidence that such disability, or death as a result of such disability was the result of an accident and was sustained in the performance of duty. This bill would:

1. Allow certain members to qualify for this benefit if they participated in the World Trade Center rescue, recovery or cleanup operation within the first 48 hours at the site following the attack. Certain members would be required to have worked at the site during the first 24 hours after the attack. Currently, a member must have worked at least 40 hours during the period of September 11, 2001 through September 12, 2002. This coverage would also apply to those who retire after September

11, 2001 and subsequently contract such disease or disability by allowing the retirement benefit to be replaced with an accidental disability or death benefit.

2. Provide a 75% of final average salary less workers compensation performance of duty disability benefit and a 50% of final salary accidental death benefit for certain Tier 3 State correction officers and certain Tier 3 and Tier 4 county sheriffs and correction officers who meet these criteria. Under current law, they are not eligible for this benefit.

3. Extend the deadline for filing notice regarding the eligibility for benefits for certain members who participated in the World Trade Center rescue, recovery or cleanup operation to September 11, 2010.

4. Remove the requirement that the member must have successfully passed a physical exam prior to entry into public service, provided that relevant medical records are provided and show no evidence of any such disqualifying condition.

5. Allow vested members who have not attained age 55 and who have been discontinued from service subsequent to the accident who have been incapacitated by a qualifying World Trade Center condition to become eligible immediately for benefits under this Chapter. Under current law, they have to wait until age 55 to file for this benefit.

If this bill is enacted, it would lead to more disabilities being classified as "in performance of duty" or "accidental". For the disabilities so classified due to this bill, the cost would depend on the age, service, salary and plan of the affected member or retiree, as well as whether such person would have otherwise been eligible for, or has been receiving an ordinary disability, a performance of duty disability or a service retirement. For those who contract such disease prior to retirement, it is estimated that there could be per person one-time costs of as much as four (4) times salary. For those who contract such disease subsequent to a service retirement, it is estimated that there would be an average per person cost of approximately 150% of final average salary. For those who contract such disease subsequent to an ordinary disability retirement, it is estimated that there would be an average per person cost of approximately four (4) times final average salary.

This bill would also lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary and plan of the affected individual, as well as whether such person was an active member or has been receiving an ordinary disability, a performance of duty disability, an accidental disability or a service retirement. It is estimated that the cost for each ERS and PFRS individual affected would average approximately three (3) times final average salary and seven (7) times final average salary, respectively.

These costs would be borne by the State of New York and all the participating employers in the ERS and the PFRS.

This estimate, dated June 13, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-270, prepared by the Actuary for the New York State and Local Employees' Retirement and the New York State and Local Police and Fire Retirement System.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York City Retirement Systems ("NYCRS"), this proposed legislation would amend Retirement and Social Security Law ("RSSL") Sections 2, 507, 507-c, 605, 605-b, 605-c, 607-b and 607-c, Administrative Code of the City of New York ("ACNY") Sections 13-252.1, 13-353.1 and 13-168.5 and Workers'

Compensation Law Sections 162, 164 and 168 to simplify the language and to expand and clarify certain provisions relating to eligibility, coverage and benefits payable to certain members who participated in the Rescue, Recovery or Cleanup ("RRC") operations related to the World Trade Center ("WTC") attack on September 11, 2001.

The Effective Date of this proposed legislation would be retroactive to September 11, 2001.

Note, RSSL Section 2 is generally reserved for definitions applicable to the New York State and Local Employees' Retirement System ("NYSLERS"). However, under the proposed legislation, each of the sections of law applicable to the NYCRS refer to such RSSL Section 2 to derive their meaning. Such references would normally be found in the ACNY or other sections of the RSSL, as appropriate.

COVERAGE AND BENEFITS UNDER EXISTING WTC-RELATED PROVISIONS: Under current law (i.e., Chapter 93 of the Laws of 2005, Chapter 104 of the Laws of 2005, Chapter 5 of the Laws of 2007 and Chapter 214 of the Laws of 2007), active members and retirees of the following NYCRS could potentially be eligible for WTC-Related benefits ("WTC Potential Recipients"):

* Certain Tier I, Tier II, Tier III and Tier IV members of the New York City Employees' Retirement System ("NYCERS"),
* Certain Tier III and Tier IV members of the New York City Teachers' Retirement System ("NYCTRS"),
* Certain Tier III and Tier IV members of the New York City Board of Education Retirement System ("BERS"),
* Certain members of the New York City Police Pension Fund ("POLICE"), and
* Certain members of the New York City Fire Pension Fund ("FIRE").

Minimum Eligibility Criteria

Under current law, to be considered eligible, those WTC Potential Recipients must meet each of the following minimum requirements ("WTC Eligible"):

1. Must have passed a physical examination upon entry into public service which failed to disclose any "WTC-Related Malady",
2. Must meet the Qualifying Period criteria:

Must have worked at least 40 hours in the RRC operations at the "WTC Site" (defined later) between September 11, 2001 and September 12, 2002, or

Worked less than 40 hours in the RRC at the "WTC Site" and sustained a documented "WTC-Related Malady" between September 11, 2001 and September 12, 2001 and that such "WTC-Related Malady" is the one that is used to apply for WTC benefits.

3. Must register with the applicable NYCRS on a specified document before June 14, 2009 attesting to the time and location of employment at the WTC Site.

For this purpose, "WTC-Related Malady" is any of the following physical or psychological conditions:

1. Diseases of the Upper Respiratory Tract and Mucosae,
2. Diseases of the Lower Respiratory Tract,
3. Diseases of the Gastroesophageal Tract,
4. Diseases of the Psychological Axis,
5. Diseases of the Skin, and
6. New Onset Diseases resulting from exposure as such diseases occur in the future, including chronic psychological disease.

Under current law, "WTC Site" refers to:

1. Anywhere below a line starting from the Hudson River and Canal Street, extending east on Canal Street to Pike Street and then south on Pike Street to the East River and extending to the lower tip of Manhattan, or

2. The Fresh Kills Land Fill ("FKLF"), or

3. The New York City Morgue (including the temporary Morgue at the Pier), or

4. On barges between Manhattan and the FKLF, or

5. Locations where vehicles or equipment owned by the City of New York contaminated by WTC debris were repaired, cleaned or rehabilitated.

Accidental Disability Retirement Benefits

Under current law, if an active WTC Potential Recipient becomes partially or totally disabled due to a WTC-Related Malady, such condition or impairment of health incurred by the member will be considered presumptive evidence that it was sustained in the line-of-duty as the result of an accident unless the contrary can be proven by competent evidence.

Once such member's application is approved by the respective NYCRS Medical Board and the respective NYCRS Board of Trustees ("BOT"), then such member will be entitled to the applicable Accidental Disability Retirement ("ADR") Benefit ("ACCDIS") that is payable for a member in such NYCRS at such Tier and based upon a respective job title, if applicable. Such ACCDIS are generally subject to offset from any Workers' Compensation benefits payable.

Under current law, if an active WTC Potential Recipient who retires initially for Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR") or Performance of Duty Disability Retirement ("PODR") becomes partially or totally disabled due to a WTC-Related Malady, then such WTC-Related Malady would be considered presumptive evidence that it was incurred in the line-of-duty as the result of an accident.

Such retiree would be permitted to apply with the respective NYCRS for a reclassification of his retirement to a WTC-ADR. Upon the approval of the respective NYCRS Medical Board and the respective NYCRS BOT, such retiree would be entitled to receive an ACCDIS, based on the salaries and service at initial retirement date and determined under the respective NYCRS, payable from date of reclassification. There would be no change in optional form of payment elected at initial retirement date.

Under current law, in general, there is no reclassification permitted for ADR retirees.

It is the understanding of the Actuary that there may be an exception for certain Corrections and Emergency Medical Technicians ("EMT") members of NYCERS whose ADR was the result of HIV-related causes and which are denoted as Performance of Duty Retirements in the RSSL.

Accidental Death Benefits

Under current law, beneficiaries of those active WTC Potential Recipients who die either while actively employed or while on an approved leave of absence and whose cause of death was from a WTC-Related Malady may apply with the respective NYCRS within the applicable filing window for Accidental Death Benefits ("ACCDTH"). Once such application is approved by the respective NYCRS Medical Board and respective NYCRS BOT, then such beneficiaries would be entitled to the respective ACCDTH payable based on the NYCRS, Tier and job title, if applicable.

In addition, if such deceased NYCRS members were in any of the following:

* POLICE,
* FIRE,

* NYCERS in certain Triboro Bridge and Tunnel Authority job titles,
* NYCERS in certain Uniformed Department of Corrections job titles, or
* NYCERS in certain EMT job titles.

then such deceased member's beneficiaries could also be entitled to a Special Accidental Death Benefit ("SADB") provided under General Municipal Law Section 208-f. Such SADB is generally based on the member's salary at date of death, reduced by the ACCDTH benefits payable and any Social Security and Workers' Compensation death benefits. SADB is subject to annual cost-of-living increases.

Under current law, the beneficiaries of those active WTC Potential Recipients who retire for SERV, ODR or ADR and die, whose cause of death was from a WTC-Related Malady and who have not been retired for more than 25 years, may apply with the respective NYCRS within the applicable filing period for receipt of an ACCDTH and SADB, if eligible. Once such application is approved by the respective NYCRS Medical Board and respective NYCRS BOT, then such beneficiaries would be entitled to the applicable benefits from the date of death.

To receive the ACCDTH, beneficiaries must relinquish their rights to any death benefits that would have otherwise been payable under the retiree's initial form of payment election.

These ACCDTH would replace the existent death benefits that are available for active, inactive and retired NYCRS members based on NYCRS, Tier and job title, if applicable.

IMPACT OF PROPOSED LEGISLATION ON WTC ELIGIBILITY PROVISIONS: Under the proposed legislation, there are three proposed changes to the current WTC eligibility provisions:

* Pre-Employment Physical,
* 40-Hour Rule, and
* Extension of Time to Qualify.

Pre-Employment Physical

The proposed legislation, if enacted, would permit an alternative method for satisfying the existing requirement for a pre-employment physical upon entry into public employment.

This alternative method provides that a NYCRS member must authorize release of all relevant pre-September 11, 2001 medical records. Those records would be intended to provide evidence of the non-existence of pre-existing conditions of a claimed WTC-Related Malady.

40-Hour Rule

The proposed legislation, if enacted, would liberalize the conditions needed to become WTC Potential Recipients by revising the Qualifying Period to be:

1. For members identified with the currently-defined WTC Sites, any period of time within the first 48 hours after the first plane hit the WTC, or
2. A total of 40 hours accumulated at the currently-defined WTC Sites between September 11, 2001 and September 12, 2002, or
3. For certain WTC Responders identified with newly-defined WTC Site locations described later, any period of time within the first 24 hours after the first plane hit the WTC.

Extension of Time to Qualify

Under current law, a WTC Potential Recipient must register by June 14, 2009 in order to ever become eligible to qualify for WTC ACCDIS or ACCDTH provisions.

Under the proposed legislation, if enacted, the deadline for registering for WTC ACCDIS or ACCDTH provisions would be extended to September 11, 2010.

Also, certain claims for Workers' Compensation benefits that arose due to a WTC-Related Malady had a limited window of time in which a claim had to be filed.

Additionally, the two-year limitation for Workers' Compensation coverage would be extended to September 11, 2010. The Workers' Compensation Board would be empowered to determine the most beneficial date of disablement for the member. Certain claims for Workers' Compensation filed between September 11, 2003 and September 11, 2008 that were otherwise disallowed would be reconsidered by the Workers' Compensation Board.

IMPACT OF PROPOSED LEGISLATION ON WTC COVERAGE PROVISIONS: Under the proposed legislation, there are three proposed changes to the current WTC coverage provisions:

1. Coverage for certain Vested Terminations,
2. Expanded WTC Site Locations, and
3. Additional Coverage for certain WTC Responders.

Coverage for Certain Vested Terminations

Under current law, WTC Potential Recipients who leave active employment status other than for retirement no longer retain eligibility to apply for WTC-Related ACCDIS or ACCDTH.

Under the proposed legislation, if enacted, certain WTC Potential Recipients who terminate employment with a vested right to deferred benefits and who become incapacitated due to a WTC-Related Malady would become eligible to apply for WTC-Related ACCDIS and ACCDTH.

This provision would be extended to:

1. Tier I, II, III and IV members of NYCERS, including the ACCDIS benefits of Tier IV Uniformed Sanitation members,
2. Tier III and IV members of NYCTRS, and
3. Tier III and IV members of BERS.

Note: For purposes of this Fiscal Note, the Actuary has assumed that all potential terminated vested members of any NYCRS who are WTC Potential Recipients would be covered by this proposed legislation, even though the proposed legislation may not have included them (i.e., terminated vested of POLICE and FIRE).

Expanded WTC Site Locations

Under current law, there are five general locations that are included within the definition of the WTC Site.

Under the proposed legislation, if enacted, the number of WTC Site locations would be expanded to include those locations where certain WTC Responders may have been situated during the first 24 hours after the first plane hit the WTC.

These new locations are under three distinct departments:

New York City Police Department-2 Sites

1) 11 Metrotech Center, Brooklyn, and
2) 1 Police Plaza, Manhattan.

New York City Fire Department-7 Sites

1) 35 Empire Boulevard, Brooklyn,
2) 9 Metrotech Center, Brooklyn,
3) 25 Rockaway Boulevard, Brooklyn,
4) 79th Street Transverse, Manhattan,
5) 83-98 Woodhaven Boulevard, Queens,
6) 1129 East 180 Street, Bronx, and
7) 65 Slosson Avenue, Staten Island.

New York City Fire Department Emergency Medical Services-3 Sites

1) 1 Metrotech Center, Brooklyn,
2) 9 Metrotech Center, Brooklyn, and
3) 55-30 58th Street, Maspeth, Queens.

Additional Coverage for Certain WTC Responders

Under current law, NYCRS members who are WTC Responders are covered to the extent they would otherwise meet the qualifying conditions for a WTC Potential Recipient and become subject to a disabling WTC-Related Malady.

Under the proposed legislation, certain job titles under the three separate departments, shown below, would have eligibility to qualify for one specific WTC-Related Malady (i.e., diseases and conditions relating to the Psychological Axis which includes chronic psychological disease). These job titles are as follows:

New York City Police Department-7 Titles

a. Police Communication Technician,
b. Supervisor Police Communication Technician,
c. Principal Police Communication Technician I,
d. Principal Police Communication Technician II,
e. Principal Police Communication Technician III,
f. Administrative Manager-Communications, and
g. Police Administrative Aide title series.

New York City Fire Department-5 Titles

a. Fire Alarm Dispatcher,
b. Supervising Fire Alarm Dispatcher I,
c. Supervising Fire Alarm Dispatcher I (Borough Supervisor),
d. Deputy Director & Director of Fire Dispatch Operations, and
e. Assistant Commissioner for Communications.

New York City Fire Department Emergency Medical Services-6 Titles

a. Emergency Medical Specialist-Level I (EMT),
b. Emergency Medical Specialist-Level II (Paramedic),
c. Supervising Emergency Medical Specialist-Level I (LT),
d. Supervising Emergency Medical Specialist-Level II (Capt),
e. Deputy Chief EMS Communications, and
f. Division Commander EMS Communications.

GROUPING OF ELIGIBLE NYCRS MEMBERS: With respect to the NYCRS, it is the understanding of the Actuary that the enactment of this proposed legislation could result in changes in the number of members who would become WTC Potential Recipients and as a result become eligible to receive WTC-ADR benefits payable to the following groups of members:

Group A:

All active WTC Potential Recipients who, on June 30, 2007, were:

* Tier I, Tier II, Tier III and Tier IV members of NYCERS,
* Tier I, Tier II, Tier III and Tier IV members of NYCTRS,
* Tier I, Tier II, Tier III and Tier IV member of BERS,
* Tier I and Tier II members of POLICE,
* Tier I and Tier II Members of FIRE.

Group B: All retired WTC Potential Recipients of NYCERS, NYCTRS, BERS, POLICE and FIRE.

All terminated vested WTC Potential Recipients of NYCERS, NYCTRS, BERS, POLICE and FIRE.

All other inactive (i.e., not on payroll but not otherwise classified) WTC Potential Recipients of NYCERS, NYCTRS, BERS, POLICE and FIRE.

Group A members are assumed to retire under the eligibility and benefit provisions for Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR") or Accidental Disability Retirement ("ADR") and to reclassify to WTC-ADR under assumptions described under the Actuarial Assumptions and Methods section.

Group B members who are currently retired are assumed to reclassify to WTC-ADR under assumptions described in the Actuarial Assumptions and

Methods section. Insufficient data exists on which to explicitly assume that other Group B members will reclassify to WTC-ADR. Liabilities for these members' benefits have been estimated as also described in the Actuarial Assumptions and Methods section.

ADDITIONAL ACTUARIAL PRESENT VALUE OF BENEFITS AND COSTS: Insofar as this proposed legislation relates to certain NYCRS, the additional Actuarial Present Value of Benefits ("APVB") cannot be readily determined. It would depend on the number, salaries, ages and lengths of service of members who would be affected by this proposed legislation.

These APVB would be offset, to some extent as described later in this Fiscal Note, by the possible prospective cessation of VSF benefits.

Employer contributions could also potentially be impacted by the Asset Cushions, if any, of certain VSFs as discussed later in this Fiscal Note.

Based upon the assumptions for reclassification of certain Service Retirements, certain Ordinary Disability Retirements, and certain Accidental Disability Retirements used for this Fiscal Note, the enactment of this proposed legislation would increase the APVB for NYCERS, NYCTRS, BERS, POLICE and FIRE and decrease the Actuarial Present Value ("APV") of Future SKIM payable from NYCERS, POLICE and FIRE to their respective VSFs. If the net APVB is funded over the future working lifetimes of the active members of each Retirement System on June 30, 2007, increased annual costs to each System are shown in the following Table I:

TABLE I

INCREASES IN APVB AND ANNUAL COST OF INCLUDING
CERTAIN RECOMMENDATIONS OF THE SEPTEMBER 11
WORKERS PROTECTION TASK FORCE
FOR CERTAIN MEMBERS OF NYCERS, NYCTRS, BERS, POLICE AND FIRE*

($ Millions)

ITEM	NYCERS	NYCTRS	BERS	POLICE#	FIRE#	TOTAL
Net Increase in APVB						
Group A	$10.7	$3.6	$0.2	$0.0	$0.0	$14.5
Group B	6.7	1.3	0.1	3.0	0.5	11.6
Total	$17.4	$4.9	$0.3	$3.0	$0.5	$26.1
Estimated Annual Costs						
Increase in Annual Employer Costs**	$ 2.2	$0.5	***	$0.4	$0.1	$ 3.2

* For purposes of this Fiscal Note, the Actuary has presumed that reclassification of certain retired members to WTC-Related Accidental Disability Retirement from Service Retirement or Ordinary Disability Retirement would result in changes in benefits, prospectively only, from date of reclassification and in the cessation of future VSF payments.

\# Net increase in APVB is shown but, given possible incorrect statutory reference, may not apply.

** Assumes Net Increases in APV of Future Employer Normal Costs are financed over the future working lifetimes of active members.
*** Less than $50,000.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

ADDITIONAL EMPLOYER CONTRIBUTIONS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

However, the timing and amount of additional employer contributions attributable to the enactment of this proposed legislation will depend primarily upon five factors:

* The point in time when the Actuary revises actuarial assumptions to reflect whether certain active members who now would be expected to receive Service Retirement benefits, Ordinary Disability Retirement benefits, or Accidental Disability Retirement benefits would in the future be eligible for World Trade Center Accidental Disability Retirement and/or Accidental Death benefits.

* The point in time at which the Actuary revises actuarial assumptions to reflect possible, further, increased expectations for Accidental Disability Retirements.

* The points in time after retirement, when diseases deemed to be disabling and attributable to WTC-related activities could result in reclassification of Service Retirements, Ordinary Disability Retirement or Accidental Disability Retirements to World Trade Center Accidental Disability Retirements.

* The points in time after retirement subsequent to reclassification, or in the application process, to a WTC-Related Accidental Disability Retirement which could result in Accidental Death from a WTC-Related Malady.

* The impact on employer contributions of any actuarial gains or losses attributable to additional Accidental Disability Retirements and Accidental Deaths.

FINANCIAL IMPACT - VSF BENEFITS: Under current law and not generally impacted by the proposed legislation, certain POLICE, FIRE and NYCERS Correction members who receive Service Retirement benefits are also eligible for Variable Supplements Fund ("VSF") benefits from their respective VSFs, namely:

* Police Officers' Variable Supplements Fund ("POVSF"),
* Police Superior Officers' Variable Supplements Fund ("PSOVSF"),
* Firefighters' Variable Supplements Fund ("FFVSF"),
* Fire Officers' Variable Supplements Fund ("FOVSF"), and
* Correction Officers' Variable Supplements Fund ("COVSF")

In the event a Service Retiree was to become afflicted with a WTC-Related Malady, that retiree would be able to apply for reclassification as a WTC-ADR.

Once reclassified, it is the understanding of the Actuary that WTC-ADR benefits would replace SERV benefits. Therefore, any VSF payments would cease since VSF benefits are only payable to certain Service Retirees.

It is also the understanding of the Actuary that amounts already paid from the applicable VSFs to Service Retirees prior to reclassification would not be repaid by the retiree. This includes any VSF DROP benefits paid under Chapter 216 of the Laws of 2002.

FINANCIAL IMPACT - VSF ASSET CUSHION AS OF JUNE 30, 2007: Under the Liability Valuation Method implemented by the Actuary, whenever the APVB of a VSF exceeds the assets of that VSF, an Actuarial Present

Value ("APV") of the Future SKIM is established as a liability in the related NYCRS.

Over time, transfers of excess earnings on equities ("SKIM") from the NYCRS to their VSFs, together with greater than expected investment earnings, actuarial gains on plan experience and the cessation of VSF payments on reclassification, may result in VSF assets exceeding their respective APV of future VSF benefits.

Consequently, a VSF Asset Cushion can exist whenever the Actuarial Asset Value of a VSF exceeds the APVB of that VSF.

If a VSF Asset Cushion exists in a particular VSF, then no APV of Future SKIM for that VSF would be included as a liability in the calculation of employer contributions for the related NYCRS.

With respect to the VSFs of POLICE, there was no VSF Asset Cushion in either the POVSF or the PSOVSF as of June 30, 2007.

With respect to the VSFs of FIRE, there was no VSF Asset Cushion in either the FFVSF or the FOVSF as of June 30, 2007.

With respect to the VSF of NYCERS Correction members, there was no Asset Cushion in the COVSF as of June 30, 2007.

The decrease in the APVB of a VSF would decrease the APV of Future SKIM to be paid from the related NYCRS by a comparable amount except when a VSF has an Asset Cushion.

In the event the APV of Future SKIM did decrease by less than the decrease in the APVB of a VSF, then the increase in employer contributions would be somewhat greater than the increase in annual employer costs shown in Table I.

ADDITIONAL EMPLOYER CONTRIBUTIONS - FISCAL YEARS 2009 AND LATER: Assuming that this proposed legislation is enacted during the current Legislative Session before June 30, 2008 or after June 30, 2008 and before June 30, 2009, then the enactment of this proposed legislation would increase annual employer contributions beginning Fiscal Year 2009 as follows:

* To NYCERS by approximately $2.2 million and by a comparable percentage of payroll thereafter,
* To NYCTRS by approximately $0.5 million and by a comparable percentage of payroll thereafter,
* To BERS by approximately less than $50,000 and by a comparable percentage of payroll thereafter,
* To POLICE by approximately $0.4 million and by a comparable percentage of payroll thereafter, and
* To FIRE by approximately $0.1 million and by a comparable percentage of payroll thereafter.

UNMEASURED ADDITIONAL COSTS: The additional APVB and employer costs and contributions attributable to additional World Trade Center Accidental Disability Retirements and World Trade Center Accidental Deaths shown herein are based only upon the additional Group A and Group B benefits described in the GROUPING OF ELIGIBLE NYCRS MEMBERS section of this Fiscal Note using the actuarial assumptions and methods described herein.

Additional APVB and employer costs attributable to any other benefits have not been estimated.

No estimate has been made for non-vested, terminated members or for other possible WTC Potential Recipients who are not currently participants in the NYCRS.

No estimate has been made for the possible, initial reduction in payroll costs due to Additional Disability Retirements or Additional Deaths.

No estimate has been made for additional administrative expenses, for possible increases in Workers Compensation costs or for expected, increased medical and insurance related costs.

CENSUS DATA: With respect to the NYCRS, the calculation of estimated changes in APVB and changes in employer costs are in part based on the active census data used in June 30, 2007 (Lag) actuarial valuation. Such census was adjusted for employees who were hired on or after September 13, 2002 and could not be WTC Potential Recipients.

With respect to NYCERS, from the total active membership of 180,482 members with salaries of approximately $10.6 billion used in the June 30, 2007 (Lag) actuarial valuation to determine Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs are based on the adjusted active census data which included:

Department of Corrections active members - 13 Tier I with salaries totaling approximately $1.2 million, 5 Tier II with salaries totaling approximately $0.5 million and 7,124 Tier III with salaries totaling approximately $577.4 million.

Emergency Medical Technician active members - 5 Tier I with salaries totaling approximately $0.3 million, 10 Tier II with salaries totaling approximately $0.6 million and 1,905 Tier IV with salaries totaling approximately $107.7 million.

Department of Sanitation active members - 23 Tier I with salaries totaling approximately $2.4 million, 28 Tier II with salaries totaling approximately $3.0 million and 5,490 Tier IV with salaries totaling approximately $469.7 million.

New York City Transit Authority ("Transit") Members - 290 Tier I with salaries totaling approximately $23.5 million, 245 Tier II with salaries totaling approximately $18.7 million and 30,255 Tier IV with salaries totaling approximately $2.0 billion.

Triboro Bridge and Tunnel Authority ("TBTA") members - 10 Tier I with salaries totaling approximately $1.0 million, 18 Tier II with salaries totaling approximately $1.9 million and 1,181 Tier IV with salaries totaling approximately $91.2 million.

Certain other NYCERS members - 2,385 Tier I with salaries totaling approximately $161.2 million, 1,707 Tier II with salaries totaling approximately $115.5 million and 95,883 Tier IV with salaries totaling approximately $5.6 billion.

With respect to NYCTRS, from the total active membership of 109,868 members with salaries of approximately $7.2 billion, used in the June 30, 2007 (Lag) actuarial valuation to determine the Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs are based on the adjusted active census data which included:

Certain active NYCTRS pedagogical and non-pedagogical members - 3,606 Tier I with salaries totaling approximately $340.3 million, 1,643 Tier II with salaries totaling approximately $159.8 million and 60,180 Tier IV with salaries totaling approximately $4.4 billion.

With respect to BERS, from the total active membership of 21,947 members with salaries of approximately $777.5 million used in the June 30, 2007 (Lag) actuarial valuation to determine the Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs are based on the adjusted active census data which included:

Certain active BERS pedagogical and nonpedagogical members - 202 Tier I with salaries totaling approximately $10.9 million, 109 Tier II

with salaries totaling approximately $6.3 million and 15,009 Tier IV with salaries totaling approximately $536.2 million.

With respect to POLICE, from the total active membership of 34,956 members with salaries of approximately $2.9 billion used in the June 30, 2007 (Lag) actuarial valuation to determine Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs and contributions are based upon the adjusted census which included:

Certain active POLICE members - 87 Tier I with salaries totaling approximately $12.0 million and 25,436 Tier II with salaries totaling approximately $2.4 billion.

With respect to FIRE, from the total active membership of approximately 11,528 members with salaries of $968.8 million used in the June 30,2007 (Lag) actuarial valuation to determine Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs and contributions are based upon the adjusted census which included:

Certain active FIRE members - 66 Tier I with salaries totaling approximately $8.8 million and 8,340 Tier II with salaries totaling approximately $779.2 million.

The calculation of estimated changes in APVB and changes in employer costs are in part based on the census data of retired members used in the June 30, 2007 (Lag) actuarial valuation used to determine the Preliminary Fiscal Year 2009 employer contributions. Such census data was adjusted to include post-9/11 retirees.

* With respect to NYCERS, 27,065 post-9/11 retirees were included out of 129,281 retirees and beneficiaries as of June 30, 2007.

* With respect to NYCTRS, 19,970 post-9/11 retirees were included out of 68,492 retirees and beneficiaries as of June 30, 2007.

* With respect to BERS, 4,473 post-9/11 retirees were included out of 12,991 retirees and beneficiaries as of June 30, 2007.

* With respect to POLICE, 10,477 post-9/11 retirees were included out of 43,731 retirees and beneficiaries as of June 20, 2007.

* With respect to FIRE, 2,044 post-9/11 retirees were included out of 17,479 retirees and beneficiaries as of June 30, 2007.

Also, based on June 30, 2007 census information, the following numbers of current Inactive members (including vested terminations between September 11, 2001 and June 30, 2007) were included to the extent that they were WTC Potential Recipients, could become incapacitated due to a WTC-Related Malady and reclassify as WTC-ADR:

* 37,649 Inactive members of NYCERS.
* 16,670 Inactive members of NYCERS.
* 4,342 Inactive members of BERS.
* 3,413 Inactive members of POLICE.
* 63 Inactive members of FIRE.

ACTUARIAL ASSUMPTIONS AND METHODS: The actuarial assumptions and methods used to determine additional APVB and employer costs and contributions are generally the same as the actuarial assumptions and methods used in the June 30, 2007 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE to determine Preliminary Employer Contributions for Fiscal Year 2009.

In order to develop an estimate of the increase in APVB for NYCERS Emergency Medical Technician members, NYCERS Corrections members, NYCERS Sanitation members, NYCERS Transit members and NYCERS TBTA members, the following probabilities of reclassification from Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR") and Acci-

dental Disability Retirement ("ADR"), respectively, to WTC-ADR were used at the ages shown:

RECLASSIFICATION TO ADR FROM

AGE	SERV	ODR	ADR
60	5%	5%	10%
70	10%	10%	10%
80	15%	15%	10%
90	15%	20%	10%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 5%
ORD 10%
ADR 20%

In order to develop an estimate of the increase in APVB for other NYCERS members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM

AGE	SERV	ODR	ADR
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%
ODR 4%
ADR 4%

In order to develop an estimate of the increase in APVB for NYCTRS members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM

AGE	SERV	ODR	ADR
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%
ODR 4%
ADR 4%

In order to develop an estimate of the increase in APVB for BERS members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM

AGE	SERV	ODR	ADR
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%
ODR 4%
ADR 4%

In order to develop an estimate of the increase in APVB for POLICE members, the following probabilities of reclassification to WTC-ADR at the ages shown:

	RECLASSIFICATION TO ADR FROM		
AGE	**SERV**	**ODR**	**ADR**
60	5%	5%	10%
70	10%	10%	10%
80	15%	15%	10%
90	15%	20%	0%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 5%
ODR 10%
ADR 50%

In order to develop an estimate of the increase in APVB for FIRE members, the following probabilities of reclassification to WTC-ADR at the ages shown:

	RECLASSIFICATION TO ADR FROM		
AGE	**SERV**	**ODR**	**ADR**
60	10%	10%	10%
70	15%	15%	10%
80	20%	20%	10%
90	20%	25%	0%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 10%
ODR 20%
ADR 60%

It has also been assumed that Accidental Disability Retirees who die within 25 years of date of initial retirement date would die from a WTC-Related Malady.

Due to limitations of time, resources and expected, limited impact on overall results, the following estimates were made relative to the June 30, 2007 (Lag) actuarial valuation to determine the Preliminary Fiscal Year 2009 employer contributions:

For Terminated Vested and Inactive members, the APVB was developed as the ratio of the respective liability to the total liability of all active members.

For certain active and retired members, APVB was estimated based on the number of the respective active or retired members to the APVB for such members in the total population for that NYCRS.

Terminated Vested and Inactive liabilities were also adjusted to reflect both the difference in the magnitude of a WTC-ACCDIS relative to the SERV benefit otherwise payable and in the payability date of such benefits.

In developing estimates of additional APVB upon reclassification after retirement, the increases in WTC-ADR benefits are assumed to be prospective from the date of reclassification.

Additionally, because the mortality expectation for an individual does not change just because that individual receives a different type of benefit, the measurement of the increase in APVB for Service Retirees who reclassify as WTC-ADR has been calculated based on post-disablement retirement mortality.

In order to measure the cost implications of the change in benefit structures, the Actuary has assumed that the value of COVSF payments are computed on the same actuarial assumptions as are used to determine the costs of NYCERS disability retirement benefits.

To provide an estimate of the percentage of NYCRS active members who could be eligible for the benefits of this proposed legislation as a consequence of a WTC-Related Malady, approximately 10% of NYCERS non-uniform clerical members, approximately 10% of NYCERS Correction members, approximately 10% of NYCERS Emergency Medical Technician members, approximately 10% of NYCERS Sanitation members, approximately 10% of NYCERS WTC-Vehicle Repairer members, approximately 10% of NYCERS Other Uniformed Members, approximately 10% of NYCTRS pedagogical members, approximately 10% of BERS pedagogical members, approximately 10% of POLICE members and 10% of FIRE members are assumed to have met the conditions to become WTC Eligible members and, hence, be potentially eligible for ADR under this proposed legislation.

To the extent that the enactment of this proposed legislation would cause a greater (lesser) number of members to be reclassified from Service Retirement or Ordinary Disability Retirement to Accidental Disability Retirement, then the additional APVB and employer contributions shown herein would also be greater (lesser).

To the extent that the enactment of this proposed legislation would cause a greater (lesser) number of members to retire, become reclassified, or in the application process for WTC-Related Accidental Disability Retirement and then die from a WTC-Related Malady, then the additional APVB and employer contributions shown herein would also be greater (lesser).

With respect to COLA benefits which become payable under Chapter 125 of the Laws of 2000 for SERV or ODR retirees, the Actuary has assumed the eligibility for COLA would be determined from original retirement date but would be paid prospectively upon reclassification to WTC-ADR.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualifications Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2008 Legislative Session. It is Fiscal Note 2008-09, dated June 18, 2008, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York City Fire Pension Fund.

Chapter 524 Signed September 4, 2008

STATE OF NEW YORK

A. 11137—A - S. 8285-A

IN ASSEMBLY

May 19, 2008

Introduced by M. of A. FARRELL -- (at request of the State Comptroller) -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to making certain technical changes for the purpose of bringing certain provisions of such law into compliance with the government accounting standards board (GASB) rules and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 4 of section 122-a of the state finance law, as added by section 41-k of part F of chapter 405 of the laws of 1999, is amended to read as follows:

4. The scope of any audit performed pursuant to this section shall be an audit of all of the [~~general purpose~~] **basic** financial statements and all of the supporting schedules required by generally accepted accounting principles to be included in a comprehensive annual financial report.

§ 2. Subdivision 11-b of section 2 of the state finance law, as added by chapter 476 of the laws of 1984, is amended to read as follows:

11-b. Governmental funds. A group of fund types that includes those funds that are classified as the general fund, special revenue funds, debt service funds [~~and~~]**,** capital project funds **and permanent funds** as defined in this chapter.

§ 3. Section 2 of the state finance law is amended by adding a new subdivision 13-b to read as follows:

13-b. "Permanent funds". Funds that report resources that are legally restricted in that only earnings, and not principal, may be used to support the government or its citizens.

§ 4. Subdivision 7 of section 2 of the state finance law, as separately added by chapters 405 and 957 of the laws of 1981, is amended to read as follows:

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD15604-06-8

7. "Fiduciary funds". Funds used to account for assets held by the state in a trustee capacity or as an agent for individuals, private organizations, and other governmental units. **Fiduciary funds include pension trust funds, private-purpose trust funds and agency funds.**

§ 5. Subdivision 1 of section 70 of the state finance law, as separately added by chapters 405 and 957 of the laws of 1981, is amended to read as follows:

1. The comptroller shall establish the [~~following seven fund types according to which all funds of the state shall be classified: (a) a general fund to account for all moneys except for moneys required to be accounted for in another fund, (b) special revenue funds, (c) capital projects funds, (d) debt service funds, (e) enterprise funds, (f) internal service funds, and (g) fiduciary funds~~] **necessary fund types required to comply with generally accepted accounting principles. When the establishment or elimination of a fund type would be required to implement a change in generally accepted accounting principles, the comptroller shall designate an effective date for the establishment or elimination of the fund type to coincide with the date of implementation of new accounting principles**.

§ 6. Subdivision 9-c of section 8 of the state finance law is REPEALED.

§ 7. Subdivision 5 of section 4 of the state finance law, as amended by chapter 260 of the laws of 1993, is amended to read as follows:

5. No money or other financial resources shall be transferred or temporarily loaned from one fund to another without specific statutory authorization for such transfer or temporary loan, except that the comptroller is hereby authorized to temporarily loan money from the general fund or any other fund to the fund/accounts that are authorized to receive a loan. Such loans shall be limited to the amounts immediately required to meet disbursements, made in pursuance of an appropriation by law and authorized by a certificate of approval issued by the director of the budget with copies thereof filed with the comptroller and the chair of the senate finance committee and the chair of the assembly ways and means committee. The director of the budget shall not issue such a certificate unless he **or she** shall have determined that the amounts to be so loaned are receivable on account. When making loans, the comptroller shall establish appropriate accounts and if the loan is not repaid by the end of the month, provide on or before the fifteenth day of the following month to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee, an accurate accounting and report of the financial resources of each such fund at the end of such month. Within ten days of the receipt of such accounting and reporting, the director of the budget shall provide **the comptroller and** the chair of the senate finance committee and the chair of the assembly ways and means committee an expected schedule of repayment by fund and by source for each outstanding loan. Repayment shall be made by the comptroller from the first cash receipt of this fund.

§ 8. Subdivision 1 of section 92-u of the state finance law, as added by chapter 766 of the laws of 1992, is amended to read as follows:

1. Pursuant to article fifteen of the state constitution, there is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "New York state canal system development fund".

§ 9. Subdivision 1 of section 94 of the state finance law, as amended by chapter 62 of the laws of 1988, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "court facilities incentive aid fund."

Within such fund there is hereby established a special account for each political subdivision of the state to which state assistance is apportioned and payable pursuant to section fifty-four-j of this chapter.

§ 10. Subdivision 1 of section 94-a of the state finance law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "New York city county clerks' operations offset fund."

§ 11. Subdivision 1 of section 94-b of the state finance law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "judiciary data processing offset fund."

§ 12. Subdivision 1 of section 94-d of the state finance law, as added by chapter 205 of the laws of 1996, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "New York state collectible series fund."

§ 13. Subdivision 1 of section 97-h of the state finance law, as added by chapter 617 of the laws of 1987, is amended to read as follows:

1. There is hereby established in the **joint** custody of the state comptroller **and the commissioner of taxation and finance** a [~~special revenue~~] fund to be known as the Lake George park trust fund.

§ 14. Subdivision 1 of section 97-hh of the state finance law, as amended by chapter 434 of the laws of 1999, is amended to read as follows:

1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "tuition reimbursement fund".

§ 15. Subdivision 1 of section 97-l of the state finance law, as added by chapter 565 of the laws of 1989, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "sewage treatment program management and administration fund".

§ 16. Subdivision 1 of section 97-n of the state finance law, as added by chapter 748 of the laws of 1991, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the Hudson river valley greenway fund.

§ 17. Subdivision 1 of section 97-o of the state finance law, as added by chapter 262 of the laws of 1993, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the Pine Barrens fund.

§ 18. Subdivision 1 of section 97-oo of the state finance law, as added by chapter 608 of the laws of 1993, is amended to read as follows:

1. There is hereby established in the **joint** custody of the state comptroller **and the commissioner of taxation and finance** a [~~special revenue~~] fund to be known as the "clean air fund" which shall consist of an "operating permit program account" and a "mobile source account".

§ 19. Subdivision 1 of section 97-bb of the state finance law, as added by chapter 62 of the laws of 1989, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of the department of taxation and finance a [~~special revenue~~] fund to be known as the "criminal justice improvement account".

§ 20. Subdivision 1 of section 97-mm of the state finance law, as added by section 387 of chapter 55 of the laws of 1992, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~miscellaneous special revenue~~] fund to be known as the "state police motor vehicle law enforcement account".

§ 21. Subdivision 1 of section 97-oo of the state finance law, as added by chapter 554 of the laws of 1993, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the biodiversity stewardship and research fund which shall consist of a state land biodiversity stewardship account and a biodiversity research account.

§ 22. Subdivision 1 of section 97-qq of the state finance law, as added by section 37 of part E of chapter 58 of the laws of 1998, is amended to read as follows:

1. There is hereby established in the **joint** custody of the state comptroller **and the commissioner of taxation and finance** a [~~special revenue~~] fund to be known as the "New York state wireless telephone emergency service account".

§ 23. Subdivision 1 of section 97-ddd of the state finance law, as added by chapter 432 of the laws of 1997, is amended to read as follows:

1. There is hereby established in **the** joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "drinking water program management and administration fund".

§ 24. Subdivision 1 of section 97-eee of the state finance law, as added by chapter 432 of the laws of 1997, is amended to read as follows:

1. There is hereby established in **the** joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "clean water/clean air implementation fund."

§ 25. Subdivision 1 of section 97-lll of the state finance law, as added by section 88 of part A of chapter 436 of the laws of 1997, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of the department of taxation and finance a [~~special revenue~~] fund to be known as the vocational rehabilitation fund.

§ 26. Subdivision 1 of section 99-d of the state finance law, as added by chapter 309 of the laws of 1996, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance an account [~~in the miscellaneous special revenue fund~~] to be known as the city university stabilization account.

§ 27. Subdivision 1 of section 99-f of the state finance law, as amended by chapter 612 of the laws of 1999, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "spinal cord injury research trust fund".

§ 28. Subdivision 1 of section 97-vvv of the state finance law, as added by section 65-a of part A of chapter 60 of the laws of 2000, is amended to read as follows:

1. There is hereby established in the [~~sole~~] **joint** custody of the comptroller **and the commissioner of taxation and finance** a [~~special~~] fund, to be known as the "universal prekindergarten reserve fund".

§ 29. Subdivision 1 of section 97-www of the state finance law, as added by chapter 416 of the laws of 2000, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a [~~special revenue~~] fund to be known as the "quality child care and protection fund".

§ 30. Subdivision 1 of section 98-c of the state finance law, as added by section 19 of part J of chapter 62 of the laws of 2003, is amended to read as follows:

1. There is hereby established in the joint custody of the state comptroller and the commissioner of the department of taxation and finance a [~~special revenue~~] fund to be known as the legal services assistance fund.

§ 31. Subdivision 7 of section 92-z of the state finance law is REPEALED.

§ 32. Section 85 of the state finance law is REPEALED.

§ 33. Section 97-nn of the state finance law, as amended by chapter 138 of the laws of 1998, subdivisions 1 and 2 as amended by section 1 of part K1 of chapter 62 of the laws of 2003, is amended to read as follows:

§ 97-nn. "I love NY waterways" [~~boating safety~~] fund. 1. There is hereby established in the joint custody of the commissioner of [~~parks, recreation and historic preservation~~] **taxation and finance** and the state comptroller a special fund to be known as the "I love NY waterways" [~~boating safety~~] fund. [~~The moneys in such fund~~]

2. The "I love NY waterways" fund shall consist of two accounts: (a) the "I love NY waterways" boating safety account; and (b) the "I love NY waterways" vessel access account. Moneys in each account shall be kept separate and not commingled with any other moneys of the state.

3. The "I love NY waterways" boating safety account shall consist of the revenues required to be deposited pursuant to the provisions of sections seventy-eight and two hundred one of the navigation law, and all other moneys credited or transferred thereto from any other fund or source pursuant to law and shall be available [~~upon appropriation to the office of parks, recreation and historic preservation for: (a)~~] **for** the administration and enforcement of the boating safety program including payments to counties for expenditures incurred in connection with such county's waterway boating safety program pursuant to section seventy-nine-b of the navigation law, including costs and expenses incidental and appurtenant thereto[~~; and~~

~~(b) the creation, enhancement or maintenance of state or municipal facilities or services to provide boating access to the waters of the state, provided that the state share of the cost of any project for the creation, enhancement or maintenance of municipal facilities or services shall not exceed fifty percent of such cost~~].

[~~2~~] **4**. The "I love NY waterways" [~~boating safety fund~~] **vessel access account** shall consist of[~~: (a) the revenues required to be deposited therein pursuant to the provisions of sections seventy-eight and two~~

~~hundred one of the navigation law, and all other moneys credited or transferred thereto from any other fund or source pursuant to law; and (b) the vessel access subaccount consisting of~~] the revenues derived from the vessel access surcharge collected upon the registration of vessels pursuant to section twenty-two hundred fifty-one of the vehicle and traffic law **and shall be available for the creation, enhancement or maintenance of state or municipal facilities or services to provide boating access to the waters of the state, provided that the state share of the cost of any project for the creation, enhancement or maintenance of municipal facilities or services shall not exceed fifty percent of such cost**.

[~~3~~] **5**. The moneys in such fund shall be paid out as appropriated by the legislature. No moneys in the "I love NY waterways" [~~boating safety~~] fund shall be paid except upon the audit and warrant of the state comptroller on vouchers certified by the commissioner of parks, recreation and historic preservation.

§ 34. This act shall take effect immediately.

Chapter 543 Signed September 4, 2008

STATE OF NEW YORK

S. 6856—A - A. 9970

Cal. No. 335

IN SENATE

January 31, 2008

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to authorize the county of Washington to offer an optional twenty-five year retirement plan to deputy sheriffs Gregory Danio, Kristen Frasier, Scott McFarren and Robert Sullivan

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Notwithstanding any other provision of law to the contrary, the county of Washington, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty-five year retirement plan established pursuant to section 551 of the retirement and social security law, to sheriffs employed by such county, is hereby authorized to make participation in such plan available to Gregory Danio, Kristen Frasier, Scott McFarren and Robert Sullivan, deputy sheriffs employed by the county of Washington, who, for reasons not ascribable to their own negligence failed to make timely application to participate in such optional twenty-five year retirement plan. The county of Washington may so elect by filing with the state comptroller, on or before December 31, 2008, a resolution of the Washington county board of supervisors together with certification that such deputy sheriffs did not bar themselves from participation in such retirement plan as a result of their own negligence. Thereafter, such deputy sheriffs may elect to be covered by the provisions of section 551 of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2009.

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the county of Washington.

§ 3. This act shall take effect immediately.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD14635-03-8

FISCAL NOTE.-- This bill will reopen the provisions of Section 551 of the Retirement and Social Security Law for four law enforcement deputy sheriffs with Washington County.

If this bill were enacted, we anticipate that there will be an increase of approximately $5,400 in the annual contributions of Washington County.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $16,000 which would be borne by Washington County as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2009.

This estimate, dated January 29, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-143, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 550 Signed September 4, 2008

STATE OF NEW YORK

S. 7920 - A. 11270

IN SENATE

April 28, 2008

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to authorize the town of Saugerties, in the county of Ulster, to offer an optional twenty year retirement plan to police officers Christopher Helsmoortel and Kenneth Swart

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Notwithstanding any other provision of law to the contrary, the town of Saugerties, in the county of Ulster, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty year retirement plan, established pursuant to section 384-d of the retirement and social security law, to police officers employed by such town, is hereby authorized to make participation in such plan available to Christopher Helsmoortel and Kenneth Swart, police officers employed by the town of Saugerties, who, for reasons not ascribable to their own negligence failed to make a timely application to participate in such optional twenty year retirement plan. The town of Saugerties may so elect by filing with the state comptroller, on or before December 31, 2008, a resolution of its town board together with certification that such police officers did not bar themselves from participation in such retirement plan as a result of their own negligence. Thereafter, such police officers may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2009.

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the town of Saugerties.

§ 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow Officers Kenneth Swart and Christopher Helsmoortel of the Town of Saugerties police to become covered by the provisions of Section 384-d of the Retirement and Social Security Law.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD16158-02-8

If this bill were enacted, we anticipate that there will be an increase of approximately $6,100 in the annual contributions of the Town of Saugerties for the fiscal year ending March 31, 2009.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $55,200 which would be borne by the Town of Saugerties as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2009.

This estimate, dated April 25, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-233, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

APPROVAL MEMORANDUM - No. 34 Chapter 585

MEMORANDUM filed with Assembly Bill Number 10252-A, entitled:

"AN ACT to amend the retirement and social security law, in relation to the mandatory retirement age of police officers and firefighters who have elected to contribute to the New York state policemen's and firemen's retirement system"

APPROVED

Outside of New York City, most police officers participate in the pension plan set forth under Retirement and Social Security Law Section 384-d. Under this plan, an officer must retire at age 62 or transfer to a different retirement plan that would require more years of work to receive a comparable benefit. As a result, for almost all such officers, 62 has become the de facto retirement age unless a lower mandatory age is provided for by law for a specific locality.

This bill would raise the age at which an officer can participate in a Section 384-d plan to 65, provided that an officer over the age of 62 is "capable of performing the duties" of the position. I am highly sympathetic to the policy that underlies this bill. Older workers have much to contribute. They have years of experience and training, and the State and localities should be wary before compelling them to leave public service prematurely. Further, while it is important to make certain that officers are physically fit to perform their jobs, advances in medical technology mean that many individuals can perform demanding tasks at a later age than was once the case. For these reasons, I approve this legislation.

Nonetheless, several concerns have been raised about this bill by local governments and advocacy groups, and they warrant serious consideration. After a careful review, however, I have determined that these concerns do not warrant disapproval of this bill.

First, some have characterized this bill as a "pension enhancement." I do not believe that is an accurate characterization. Undoubtedly, officers who work longer will be able to accrue more pension credits, and thus receive higher benefits. Those same officers, however, will also need to forego their pensions during the years they remain on the force, resulting in a savings to the pension system. Thus, the fiscal note to the bill indicates that it will not require added pension contributions by localities. Further, the pension system has graciously provided data on those officers who presently continue to work past the age of 60, which indicates that the number of individuals likely to be impacted by this bill is quite limited. I am very concerned in this time of extreme fiscal constraint to avoid placing additional financial burdens on localities, but I do not believe that this bill will create such burdens.

Second, a concern has been raised that this bill will allow officers to work two twenty-year stints for different police forces to thereby receive two separate pensions. I am grateful to those who are exploring

these issues. Since pension benefits are constitutionally protected, the State must be vigilant as to potential unintended impacts on the pension system. Nonetheless, after careful consideration of this complex question, I have concluded that this bill will not have this result. Section 384-d does not grant any additional benefit when an officer accrues 20 years of service. Thus, under present law an officer can already take a second pension under this section; the bill does not add to that. I note that the pension system is unaware of any individual who has actually done that. That is because, for a variety of reasons, there is a significant financial advantage to a public employee combining pension credits from different employers, so as to receive a single, higher pension benefit. In any event, I believe that this particular fear is not justified.

Third, local governments express the legitimate concern that disabled officers, who receive full salary under General Municipal Law Section 207-c yet are not able to carry out the duties of their position, will be able to remain on a police force for three additional years under this bill. Last year, my predecessor vetoed a similar bill for just this reason. As noted above, however, the sponsors have recognized this issue, and have added language to address it.

Finally, I note that this bill would leave in place any mandatory retirement age that a locality may have under a different statute, thus preserving local autonomy and prerogatives. This is different from another bill I vetoed today (A.10508/S.7332), which raised the mandatory retirement age for every police officer in the State to 65. That bill also did not address the Section 207-c concerns noted above. As that veto indicates, I believe any effort to allow officers to work longer, even if warranted by the important policy considerations I have described, must be carefully scrutinized for unintended consequences and costs. After such a careful review, I have concluded that this bill is worthy of enactment.

The bill is approved. (signed) DAVID A. PATERSON

Chapter 585 Signed September 25, 2008

STATE OF NEW YORK

A. 10252—A - S. 7990

IN ASSEMBLY

March 12, 2008

Introduced by M. of A. HOOPER -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the mandatory retirement age of police officers and firefighters who have elected to contribute to the New York state policemen's and firemen's retirement system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision i of section 384-d of the retirement and social security law, as added by chapter 1064 of the laws of 1968, is amended to read as follows:

i. Every member contributing on the basis of this section shall be separated from the service on the last day of the calendar month next succeeding the calendar month in which he **or she** attains age [~~sixty-two~~] **sixty-five**, provided, however, that such a member who attained the age of [~~sixty-two~~] **sixty-five** before his **or her** employer elected to make the benefits provided herein available to him **or her**, or who attains the age of [~~sixty-two~~] **sixty-five** within one month after his **or her** employer makes such benefits available, to be eligible for a pension computed in accordance with the provisions of subdivision e of this section, shall be separated from the service within three months after his **or her** employer makes such benefits available, or on or before December thirty-first, nineteen hundred sixty-eight, whichever shall last occur**, provided further, however, to be eligible to remain on payroll under this section after attaining the age of sixty-two, such members must be capable of performing the duties of their position**.

§ 2. This act shall take effect immediately.

FISCAL NOTE.--This bill would allow members covered under Sections 384-d and 384-e of the Retirement and Social Security Law to accrue additional service credit and salary increases from age 62 through age 65. In order to be eligible to remain on the payroll until age 65, they must be performing the full duties of their position.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD15145-04-8

If this bill is enacted, there would be additional benefits for certain members who remain employed beyond age 62. However, if some members delay retirement due to enactment of this bill, we would not anticipate that there would be an increase in the annual contribution rates as a percentage of payroll of the participating employers in the New York State and Local Police and Fire Retirement System.

This estimate, dated February 26, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-184, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 614 Signed September 25, 2008

STATE OF NEW YORK

S. 7002—A A. 11196-A

IN SENATE

February 25, 2008

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize the village of Lloyd Harbor to offer an optional twenty year retirement plan to a certain police officer employed by such village

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Notwithstanding any other provision of law to the contrary, the village of Lloyd Harbor, in the county of Suffolk, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty year retirement plan, established pursuant to section 384-d of the retirement and social security law, to police officers employed by such village, is hereby authorized to make participation in such plan available to Carl R. Kieninger, a police officer employed by the village of Lloyd Harbor, who, for reasons not ascribable to his own negligence, failed to make a timely application to participate in such optional twenty year retirement plan. The village of Lloyd Harbor may so elect by filing with the state comptroller, on or before December 31, 2008, a resolution of its local legislative body together with certification that such police officer did not bar himself from participation in such retirement plan as a result of his own negligence. Thereafter, such police officer may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2009.

§ 2. All employer costs associated with implementing the provisions of this act shall be borne by the village of Lloyd Harbor over a period of 5 years.

§ 3. This act shall take effect immediately.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [—] is old law to be omitted.

LBD15196-05-8

FISCAL NOTE.--This bill will allow Officer Carl R. Kieninger of the Village of Lloyd Harbor police to become covered by the provisions of Section 384-d of the Retirement and Social Security Law.

If this bill were enacted, we anticipate that there will be an increase of approximately $5,100 in the annual contributions of the Village of Lloyd Harbor for the fiscal year ending March 31, 2009.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $54,400 which will be borne by the Village of Lloyd Harbor over a period of five years. The cost for the first year, including interest, will be approximately $12,600. This estimate is based on the assumption that the first payment will be made on February 1, 2009.

This estimate, dated June 10, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-290, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

APPROVAL MEMORANDUM - No. 46 Chapter 640

MEMORANDUM filed with Senate Bill Number 8699, entitled:

"AN ACT to amend the education law and the retirement and social security law, in relation to professional services providers"

APPROVED

During the past year, an investigation by the New York State Attorney General revealed significant abuses in the New York State pension system. Such abuses included independent contractors participating in our employee pension system, and recently retired school district employees returning to their same positions and receiving both pension and salary. This bill was introduced in response to the findings of the Attorney General's investigation, and institutes a wide variety of important reforms to the public pension system. Among other provisions, it forbids attorneys from acting both as employees and independent contractors of school districts and boards of cooperative education; fosters greater disclosure through additional reporting requirements; creates additional civil and criminal enforcement remedies; and clarifies the requirements that must be met before a public employer may hire an individual who continues to receive a New York public pension. I am grateful to the Attorney General for having brought these issues to light, and to the sponsors for having so quickly advanced a legislative response. I am proud to be a part of this reform effort, and to sign this legislation into law.

One section of the bill amends Retirement and Social Security Law (RSSL) Section 211, which allows state agencies and local governments to obtain permission (via a so-called "211 waiver") to employ an individual while that individual also receives a New York State or local government pension. This provision has played an important role in New York's workforce management, particularly in the law enforcement arena, although it is also crucial for filling other jobs, such as nurses and school bus drivers. Some parties have sought assurance that the bill would allow for continued use of 211 waivers when necessary. I believe the sponsors have been careful to ensure that it does, while at the same time addressing the abuses found in the investigation.

The import of this portion of the legislation is clear and unmistakable: the public must be protected from improper "double-dipping," especially in these trying economic times, while employers must perform their governmental functions using the best available talent, giving careful thought and consideration to all factors in hiring. I trust that the Civil Service Commission and other officers, commissions and boards authorized to approve waivers will fulfill their obligations to see that the public is served by the implementation of this legislation and that the agencies of government continue to have the tools necessary to protect the public interest.

Already under present law, 211 waivers may only be obtained under limited circumstances. They may only be granted for periods of up to two years, and the prospective employer must show that qualified, non-retired persons are not readily available for recruitment. Some have expressed concerns, however, that the hiring of retirees under a 211 waiver, when their services are legitimately needed, will be unduly restrained by a provision in the bill that would bar a retiree from

"return(ing) to work in the same or similar position for a period of one year following retirement." Here, the specific abuse uncovered in the Attorney General's investigation was that employees retired and then immediately returned to a position with essentially the same functions. When this occcurs, the employee is able to have his or her cake and eat it - to retire and continue in the same capacity as a full time employee, with the taxpayers footing the bills for both pension and compensation payments.

I strongly share the goal of the sponsors to end this practice. This provision need not, however - and should not - be read to bar an employer from hiring a recent retiree under a 211 waiver merely because the same types of skills are required for the new position and the work the individual previously performed. For example, nothing in this language would bar a recently retired police officer from receiving a 211 waiver to work as an investigator in a district attorney's office. Indeed, the productive use of the investigative skills possessed by such an officer is the epitome of what section 211 seeks to achieve.

Other concerns have been raised about the bill's requirements that a prospective employer seeking a 211 waiver prepare a "detailed recruitment plan to fill such vacancy on a permanent basis," and (unless the waiver is needed to meet a sudden or unexpected circumstance), attest that it has "undertaken extensive recruitment efforts to fill such vacancy and as a result thereof, has determined that there are no available non-retired persons qualified to perform the duties of such position." Again, I think this is a salutary provision requiring employers to fully and openly explain the need for such waivers, but it would not prohibit appropriate 211 waivers, such as those used currently by law enforcement bodies. Waivers issued under RSSL Section 211 have always been temporary, and the employing authority at issue must look for qualified, non-retired candidates during their pendency. The bill requires that such recruitment efforts be set forth in a plan. It does not mandate the contents of the plan, nor does it require that recruitment efforts be undertaken even when it is clear they would be fruitless. Rather, it requires a reasonable effort to find non-retired personnel, albeit with greater specificity as to the requirement that there be prior disclosure of the intended recruitment efforts.

As to the requirement that there be "no available non-retired persons qualified to perform the duties of such position," the key here is that the available alternative to retirees must be "qualified." When there are qualified active employees available, there should be no need for a 211 waiver. In contrast, when an extensive law enforcement background is needed to carry out the responsibilities of a position, and the only available individuals that possess those skills are retirees, the prospective employer will be eligible under this law to hire them.

Finally, I note that the bill contains a grandfather clause which will ensure that agencies currently hiring numerous individuals under 211 waivers will not face extensive turnover of their experienced employees. The amendments to RSSL Section 211 do not apply to individuals "to whom waivers were granted prior to the effective date of this act." Thus, any individual for whom a 211 waiver is in effect upon enactment will remain subject to the previous Section 211 standards. The bill also wisely provides for the issuance of 211 waivers in certain exigent circumstances, as an alternative to the standard 211 process set forth in the bill.

I urge the New York State Civil Service Commission and all officers, commissions and boards authorized to approve waivers to issue regulations and other guidance consistent with this message.

As the above makes clear, the crafters of this legislation have taken on a complex and difficult issue. While I fully respect the concerns expressed about this bill, I am confident that this bill allows the continued use of 211 waivers where warranted, while addressing the very real problems in the pension system unearthed by the Attorney General's investigation.

The bill is approved. (signed) DAVID A. PATERSON

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Chapter 640 Signed October 10, 2008

STATE OF NEW YORK

S. 8699 - A. 11743

IN SENATE

June 20, 2008

Introduced by Sens. SKELOS, LAVALLE -- (at request of the Attorney General) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law and the retirement and social security law, in relation to professional services providers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 41 of the education law is amended by adding a new part 3 to read as follows:

PART III

PROFESSIONAL SERVICES PROVIDERS

Section 2050. Definition.
2051. Charging for professional services.
2052. Enforcement.
2053. Reports regarding lawyers.
2054. Non-exclusivity of rights or remedies.

§ 2050. Definition. As used in this part, a "lawyer" shall mean an attorney or counselor governed by article fifteen of the judiciary law, who receives remuneration or other compensation from a school district or board of cooperative educational services in exchange for legal services provided to such district or board.

§ 2051. Charging for professional services. 1. A lawyer shall not simultaneously be an independent contractor and an employee of a school district or board of cooperative educational services for the purpose of providing legal services to such school district or board of cooperative educational services.

2. A lawyer who is not an employee of a school district or board of cooperative educational services, shall not seek to be or be considered, treated or otherwise reported by the school district, or board of cooperative educational services as an employee thereof for purposes of compensation, remuneration, health insurance, pension and all employment-related benefits and emoluments associated therewith.

§ 2052. Enforcement. 1. Any lawyer who violates section two thousand fifty-one of this part, shall be liable for a civil penalty not to

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD17129-12-8

exceed three times the charges and fees for contracted services or salary received by the lawyer and paid by such school district or board of cooperative educational services for legal services, and in addition, may be enjoined from continuing such violation. Civil penalties and injunctive relief provided in this section shall be recoverable in an action brought by the attorney general.

2. Any person who shall knowingly:

(a) violate subdivision two of section two thousand fifty-one of this part;

(b) make a false statement of material fact; or

(c) falsify or permit to be falsified any record or records of the retirement system established in this chapter

in an attempt to defraud the retirement system established in this chapter as a result of such act for the purpose of obtaining a credit towards pension benefits, or a benefit or payment in excess of one thousand dollars from such retirement system for a professional services provider to which such professional services provider would not be entitled, shall be guilty of a class E felony.

§ 2053. Reports regarding lawyers. Every school district and board of cooperative educational services shall, on or before the forty-fifth day after the commencement of its fiscal year, file with the department, the comptroller and the attorney general a report specifying: (a) all lawyers who provide legal services to such district or board; (b) whether such district or board hired such lawyers as employees; and (c) all remuneration and compensation paid for legal services.

§ 2054. Non-exclusivity of rights or remedies. Nothing in this part shall be construed to limit, in any matter, any rights or remedies otherwise available under law against any party or to any person or entity, including, but not limited to, the attorney general or the comptroller of the state of New York.

§ 2. Subdivision 3 of section 2601-a of the education law, as amended by section 10-c of part L of chapter 405 of the laws of 1999, is amended to read as follows:

3. The board of education shall prepare a proposed school district budget for the ensuing year in accordance with the provisions of section seventeen hundred sixteen of this chapter, including all provisions relating to required notices and appendices to the statement of expenditures. No board of education shall incur a school district liability except as authorized by the provisions of section seventeen hundred eighteen of this chapter. Such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and [~~salaries and benefits of all certified school administrators and supervisors who spend a majority of their time performing administrative or supervisory duties~~] **all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements**, any and all expenditures associated with the operation of the board of education, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative

activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-seven--ninety-eight school year, the board of education shall separate its program, capital and administrative costs for the nineteen hundred ninety-six--ninety-seven school year in the manner as if the budget for such year had been presented in three components. Except as provided in subdivision four of this section, nothing in this section shall preclude the board, in its discretion, from submitting additional items of expenditure to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this chapter.

§ 3. The retirement and social security law is amended by adding a new section 217 to read as follows:

§ 217. Reporting requirements; school salary transparency and disclosure. 1. A school district and a board of cooperative educational services shall report all money earned by a retired person in their employ that is in excess of the earnings limitation outlined in section two hundred twelve of this article to the retirement system administered by the state or any of its political subdivisions from whom such retired person is collecting their retirement allowance.

2. A school district or a board of cooperative educational services employing a retired person who is eligible to collect or is already collecting a retirement allowance from a retirement system administered by the state or any of its political subdivisions shall report on an annual basis to the retirement system paying such retirement allowance to such retired person and to the state comptroller. This report shall consist of the re-employed retiree's name, date of birth, place of employment, current position and all earnings.

§ 4. Subdivision 4 of section 1608 of the education law, as amended by section 5 of part A of chapter 436 of the laws of 1997, is amended to read as follows:

4. Commencing with the proposed budget for the nineteen hundred ninety-eight--ninety-nine school year, such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall

include, but need not be limited to, office and central administrative expenses, traveling expenses and [~~salaries and benefits of all certified school administrators and supervisors who spend a majority of their time performing administrative or supervisory duties,~~] **all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements** any and all expenditures associated with the operation of the office of trustee or board of trustees, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-eight--ninety-nine school year, the trustee or board of trustees shall separate the district's program, capital and administrative costs for the nineteen hundred ninety-seven--ninety-eight school year in the manner as if the budget for such year had been presented in three components.

§ 5. Subdivision 4 of section 1716 of the education law, as amended by section 7 of part A of chapter 436 of the laws of 1997, is amended to read as follows:

4. Commencing with the proposed budget for the nineteen hundred ninety-eight--ninety-nine school year, such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and [~~salaries and benefits of all certified school administrators and supervisors who spend a majority of their time performing administrative or supervisory duties~~] **all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements**, any and all expenditures associated with the operation of the board of education, the office of the superintendent of schools, general administration, the

school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-eight--ninety-nine school year, the board of education shall separate the district's program, capital and administrative costs for the nineteen hundred ninety-seven--ninety-eight school year in the manner as if the budget for such year had been presented in three components.

§ 6. Subdivision 2 of section 1716 of the education law, as amended by section 7 of part A of chapter 436 of the laws of 1997, is amended to read as follows:

2. Such statement shall be completed at least seven days before the budget hearing at which it is to be presented and copies thereof shall be prepared and made available, upon request **and at the school district offices, at any public library or free association library within the district and on the school district's internet website, if one exists**, to residents within the district during the period of fourteen days immediately preceding the annual meeting and election or special district meeting at which the budget vote will occur and at such meeting or hearing. The board shall also as a part of the notice required by section two thousand four of this chapter give notice of the date, time and place of the budget hearing and that a copy of such statement may be obtained by any resident in the district at each schoolhouse in the district in which school is maintained during certain designated hours on each day other than a Saturday, Sunday or holiday during the fourteen days immediately preceding such meeting. The board shall include notice of the availability of such statement at least once during the school year in any district-wide mailing distributed.

§ 7. Subdivision 2 of section 1608 of the education law, as amended by section 5 of part A of chapter 436 of the laws of 1997, is amended to read as follows:

2. Such statement shall be completed at least seven days before the budget hearing at which it is to be presented and copies thereof shall be prepared and made available, upon request **and at the school district offices, at any public library or free association library within the district and on the school district's internet website, if one exists**, to residents within the district during the period of fourteen days

immediately preceding the annual meeting and election or special district meeting at which the budget vote will occur and at such meeting or hearing. The board shall also as a part of the notice required by section two thousand three of this chapter give notice of the date, time and place of the budget hearing and that a copy of such statement may be obtained by any resident in the district at each schoolhouse in the district in which school is maintained during certain designated hours on each day other than a Saturday, Sunday or holiday during the fourteen days immediately preceding such meeting. The board shall include notice of the availability of such statement at least once during the school year in any district-wide mailing distributed.

§ 8. Subdivision 1 and paragraph (b) of subdivision 2 of section 211 of the retirement and social security law, subdivision 1 as amended by chapter 161 of the laws of 1969 and paragraph (b) of subdivision 2 as amended by chapter 635 of the laws of 1970, are amended to read as follows:

1. Notwithstanding the provisions of sections one hundred one, two hundred twelve and four hundred one of this chapter or section five hundred three of the education law, or the provisions of any local law or charter, a retired person may be employed and earn compensation in a position or positions in the public service, without any effect on his **or her** status as retired and without suspension or diminution of his **or her** retirement allowance subject to one of the following: (a) His **or her** total compensation in such position or [~~postions~~] **positions** in any calendar year, including compensation earned under other provisions of this article, shall not exceed the multiple of five hundred dollars next higher than the difference between (1) the sum of his **or her** annual retirement allowance computed without optional modification plus annual supplemental retirement payments, if any, and (2) the salary on which his **or her** retirement allowance is based or his **or her** final salary, whichever is greater; or (b) The position in which he **or she** is employed is not a position in the service of a former employer.

(b) Such approval may be granted only on the written request of the prospective employer of such retired person, which request shall state detailed reasons therefor related to the standards set forth herein, and on a finding, on evidence satisfactory to the appropriate officer or authority specified in paragraph (a) **of this subdivision**,

(1) that the retired person is duly qualified, competent and physically fit for performance of the duties of the position in which he **or she** is to be employed **and is properly certified where such certification is required**;

(2) [~~that there is need for his services in such position;~~

~~(3) if~~] **that** he **or she** will earn more than one thousand dollars in one year, including compensation earned in such position under other provisions of this article[~~,~~] that there are not readily available for recruitment persons qualified to perform the duties of such position; and (4)]**;**

(3) that the prospective employer has prepared a detailed recruitment plan to fill such vacancy on a permanent basis;

(4) that his **or her** employment is in the best interests of the government service**; and**

(5)(i) that there is an urgent need for his or her services in such position as a result of an unplanned, unpredictable and unexpected vacancy where sufficient time is not available to recruit a qualified individual and that such hiring shall be deemed as non-permanent rather than a final filling of such position; or

(ii) that the prospective employer has undertaken extensive recruitment efforts to fill such vacancy and as a result thereof, has determined that there are no available non-retired persons qualified to perform the duties of such position.

Such approvals may be granted for periods not exceeding two years each**, provided that such person may not return to work in the same or similar position for a period of one year following retirement**. The authority or officer specified in paragraph (a) **of this subdivision**, upon approving employment of a retired person under this section, shall certify such approval to the retirement system or pension plan from which such person is receiving a retirement allowance.

§ 9. Subdivision 1 of section 212 of the retirement and social security law, as amended by chapter 474 of the laws of 2002, is amended to read as follows:

1. Notwithstanding the provisions of section one hundred one, two hundred eleven or four hundred one of this chapter or of section five hundred three of the education law, or the provisions of any local law or charter, any retired person may continue as retired and, without loss, suspension or diminution of his **or her** retirement allowance, earn in a position or positions in public service in any calendar year an amount not exceeding the amount set forth in the table in subdivision two of this section provided such retired person employed under this section duly executes and files with the retirement system from which he **or she** is receiving a retirement allowance a statement that he elects to have the provisions of this section apply to him **or her**. A statement of election executed and filed pursuant to this section may be withdrawn by a retired person at any time by a statement similarly executed and filed. However, there shall be no earning limitations under the provisions of this section on or after the calendar year in which any retired person attains age sixty-five. The retirement board of the New York state teachers' retirement system is authorized to adopt rules and regulations which would allow retired persons receiving a retirement allowance from such system to make such statements of earnings from a position or positions in public service as such board shall determine necessary to enforce the provisions of this section in lieu of the foregoing statement of election.

§ 10. Section 525 of the education law is amended to read as follows:

§ 525. Protection against fraud. **1.** Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of the state of New York.

2. Any violation of subdivision one of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of one thousand dollars more than he or she would have been entitled to shall be a class E felony. Any violation of subdivision one of this section that results in a member or beneficiary of the retirement system to receive a benefit or payment in excess of three thousand dollars more than he or she would have been entitled to shall be a class D felony.

3. Should any change or error in records result in any employee or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, then, on the discovery of any such error, the retirement board shall correct such error, and, as far as practicable, shall adjust the payments in

such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

§ 11. Section 111 of the retirement and social security law is amended to read as follows:

§ 111. Protection against fraud. a. Any person who shall:

1. Knowingly make any false statement, or

2. Falsify or permit to be falsified any record of the retirement system, in any attempt to defraud such system as the result of such act shall be guilty of a misdemeanor.

b. **Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of one thousand dollars more than he or she would have been entitled to shall be a class E felony. Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of three thousand dollars more than he or she would have been entitled to shall be a class D felony.**

c. In the event that any change or error in any record of the retirement system causes a member or beneficiary of such system to receive more or less than he would have been entitled to receive had such record been correct, the comptroller, upon the discovery of any such change or error, shall correct such record. As far as practicable, the comptroller shall adjust payments in such a manner that the actuarial equivalent of any benefit rightly due shall be paid.

§ 12. Section 411 of the retirement and social security law, as added by chapter 1000 of the laws of 1966, is amended to read as follows:

§ 411. Protection against fraud. a. Any person who shall:

1. Knowingly make any false statement, or

2. Falsify or permit to be falsified any record of the [~~policemen's and firemen's~~] **New York state and local police and fire** retirement system, in any attempt to defraud such system as the result of such act shall be guilty of a misdemeanor.

b. **Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of one thousand dollars more than he or she would have been entitled to shall be a class E felony. Any violation of subdivision a of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of three thousand dollars more than he or she would have been entitled to shall be a class D felony.**

c. In the event that any change or error in any record of the [~~policemen's and firemen's~~] **New York state and local police and fire** retirement system causes a member or beneficiary of such system to receive more or less than he would have been entitled to receive had such record been correct, the comptroller, upon the discovery of any such change or error, shall correct such record. As far as practicable, the comptroller shall adjust payments in such a manner that the actuarial equivalent of any benefit rightly due shall be paid.

§ 13. This act shall take effect immediately, provided that sections one through seven of this act shall take effect on the ninetieth day after it shall have become a law; and provided further that section eight of this act shall not apply to individuals to whom waivers were granted prior to the effective date of this act.

Section II

Vetoed Legislation Affecting the New York State and Local Retirement System

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VETO MESSAGE - No. 35

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 3215-A entitled:

"AN ACT to amend the retirement and social security law, in relation to the special retirement plan for deputy sheriffs in the county of Nassau"

NOT APPROVED

Retirement and Social Security Law Section 552 allows counties to opt into a special 20-year retirement plan for deputy sheriffs, under which participants may retire after twenty years regardless of age. Such plans are typically reserved for law enforcement personnel, and so section 552 requires the relevant county sheriff to certify that fifty percent of a deputy sheriff's service has been spent in criminal law enforcement before the service may be credited to the plan. Similar certification requirements are present in other special retirement plans, and are the basis for distinguishing participants in those plans from civilian employees.

This bill would exempt one group of employees - Nassau County deputy sheriffs - from this certification requirement, and these employees would all automatically qualify for the retirement credit. The proposal apparently arises out of concerns that members of the unit have not been certified although the bill's supporters argue that these employees have met the statutory criteria. I hope that these concerns receive full and thorough consideration, but I do not believe they are appropriately addressed through legislation, which carves one group out of statutory criteria that are applicable to everyone else. Such an approach will undoubtedly lead to similar requests from other employees that they, too, should escape the certification requirement, and this bill provides no obvious guideposts for determining who should be subject to such a requirement, and who should not. The same defects led Governor Pataki to veto a similar bill (Veto No. 393 of 2006) and the Division of Budget and Governor's Office of Employee Relations to oppose this one. While I respect the concerns of the employees at issue, and honor their service, I do not think piecemeal exceptions to broad-based legislation are the best way to address such local disputes.

The bill is disapproved. (signed) DAVID A. PATERSON

Veto Memo 35 Vetoed July 21, 2008

STATE OF NEW YORK

S.3215-A - A.7697-A

2007-2008 Regular Sessions

IN SENATE

February 28, 2007

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the special retirement plan for deputy sheriffs in the county of Nassau

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 552 of the retirement and social security law is
2 amended by adding a new subdivision l to read as follows:
3 **1. As used in this section, "creditable service" shall also include**
4 **any and all services performed as a deputy sheriff employed by the coun-**
5 **ty of Nassau.**
6 § 2. This act shall take effect immediately.

FISCAL NOTE.--This bill would require that all service performed by Nassau County sheriffs, deputy sheriffs or undersheriffs enrolled in the Sheriff plan be creditable service in such plan.

If this bill is enacted, the certification by the Nassau County Sheriff that the various sheriffs engaged directly in criminal law enforcement activities that aggregate fifty percent of their service would be unnecessary. Currently, all of the various sheriffs in Nassau County are enrolled in an Article 14B Sheriff plan and Nassau County is being annually billed assuming that all of their service is creditable under such plan.

If the Sheriff certifies that the service performed by the various sheriffs is creditable under the plan, there will not be any impact of this legislation. However, if some of the sheriffs' service is not ultimately deemed creditable, when the sheriffs retire they will not be

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

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receiving the full benefits of the sheriff plan even though the Retirement System will have received additional contributions to cover the increased benefits under the Article 14B plan. At that time, the Retirement System will realize an actuarial gain which would be shared by all employers. This bill will eliminate such gain.

This estimate, dated January 9, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-115, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

VETO MESSAGE - No. 72

TO THE SENATE:

I am returning herewith, without my approval, the following bills:

Senate Bill Number 6703, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

and Senate Bill Number 8429, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

NOT APPROVED

Police officers, firefighters and other public safety employees in this State can receive certain benefits if they are disabled in the line of duty, and their families may claim death benefits if an employee dies as a result of his or her important work. When such disability or death is the result of an "accident," these benefits are augmented significantly. These bills are the latest salvo in a long battle over the appropriate way of determining what benefits should be given an employee that dies of heart disease and, under what circumstances such disease should be deemed the result of an "accident." Present law on this issue varies by title and location. For example, outside New York City, firefighters have a rebuttable presumption that any heart disease they suffer was caused by an accident, while police officers must affirmatively prove that an accident occurred. In New York City, in contrast, no proof of accident is required to obtain a comparable benefit.

These bills are aimed at giving public safety employees across the State parity with their counterparts in New York City by removing the requirement that they prove heart disease arose out of an accident. S.6703 would achieve this result for both death and disability benefits, while S.8429 does so only for disability. While the latter bill imposes a lower cost, the expense of both is significant: S.6703 would require additional annual pension contributions by the State and localities of over $13 million, while S.8429 would impose costs of over $4 million per year.

I commend the desire of the sponsors to remove differences in the treatment of employees that seem to have no reason behind them. Nonetheless, these proposals cannot be viewed in isolation from the deep fiscal crisis in which the State now finds itself. However worthy the sponsors' goals, these bills would increase public spending at a time when the State must find extensive reductions in expenditures. This is not the approach the State should be taking.

I also note that, despite the sponsors' valiant efforts to remove inconsistencies from the standards governing such benefits, the potential for claims of unfairness will remain if these bills are enacted. For example, an officer injured while escorting a prisoner might be

judged not to have been injured during an "accident," while an officer

disabled as a result of a heart attack in his or her home would automatically meet this standard, and receive a higher benefit. There is no perfect line that can be drawn between "accident" and "line of duty" disability pensions that would not produce troubling results in particular cases. Therefore, my touchstone in considering this legislation under the present climate must simply be the fiscal realities of the State. Those realities do not allow me to endorse these bills.

The bills are disapproved. (signed) DAVID A. PATERSON

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Veto Memo 72 Vetoed August 5, 2008

STATE OF NEW YORK

S.6703 - A.10016

IN SENATE

(Prefiled)

January 9, 2008

Introduced by Sens. MORAHAN, FUSCHILLO, HANNON, LANZA, LEIBELL, MALTESE, MARCELLINO, PADAVAN, TRUNZO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 363-a of the retirement and social security law, as amended by chapter 967 of the laws of 1974, is amended to read as follows:

2. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a policeman, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that [~~is~~] **it** was incurred in the performance and discharge of duty **and the natural and proximate result of an accident**, unless the contrary be proved by competent evidence.

§ 2. The retirement and social security law is amended by adding a new section 809 to read as follows:

§ 809. Effect and rebuttal of certain medical presumptions pertaining to diseases of the heart. a. This section shall apply to certain applications for disability retirement allowances made by or on behalf of a member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system and to certain applications for death benefits made on account of the death of a member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system. It shall apply only to applications that are subject under this chapter to a provision that any condition of impairment of health caused by a disease of the heart, resulting in disability or death, shall be presumptive

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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evidence that such disability or death was incurred in the performance and discharge of duty and the natural and proximate result of an accident.

b. Notwithstanding any other provision of law to the contrary, an application for an accidental disability retirement allowance that is based on a permanent incapacity caused by a disease of the heart, or an application for an accidental death benefit that is based on a disease of the heart shall not be required to allege or establish:

(1) that the member sustained an accident or other incident related to the performance and discharge of duty; or

(2) that notice was provided thereof.

c. Notwithstanding any other provision of law to the contrary, the presumptions referred to in subdivision a of this section may be rebutted only by competent evidence that the disability or death is not the natural and proximate result of the performance and discharge of duty.

§ 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities and deaths for members in the New York State and Local Employees' Retirement System (ERS) who currently have "heart provisions" and all members in the New York State and Local Police and Fire Retirement System (PFRS). It would grant accidental disability and death benefits for heart cases by deeming such disabilities or deaths to have been sustained in the performance of duty, and the natural and proximate result of an accident, unless the contrary be proven by competent evidence.

If this bill is enacted, more accidental disabilities and accidental death benefits would be granted. The estimated increases in the annual contributions to the State of New York would be approximately $4.9 million for its PFRS members and Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately $9.5 million. The increases in annual contributions for ERS counties that have elected the provisions of Article 14-B for their sheriffs would be approximately 0.4% of salary. The increase in annual contribution for the Town of Tonawanda would be approximately 0.3% of the salary of its paramedics.

This estimate, dated December 3, 2007, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-59 prepared by the Actuary for the NYS&LERS and NYS&LPFRS.

VETO MESSAGE - No. 83

TO THE SENATE:

I am returning herewith, without my approval, the following bills:

Senate Bill Number 6703, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

and Senate Bill Number 8429, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

NOT APPROVED

Police officers, firefighters and other public safety employees in this State can receive certain benefits if they are disabled in the line of duty, and their families may claim death benefits if an employee dies as a result of his or her important work. When such disability or death is the result of an "accident," these benefits are augmented significantly. These bills are the latest salvo in a long battle over the appropriate way of determining what benefits should be given an employee that dies of heart disease and, under what circumstances such disease should be deemed the result of an "accident." Present law on this issue varies by title and location. For example, outside New York City, firefighters have a rebuttable presumption that any heart disease they suffer was caused by an accident, while police officers must affirmatively prove that an accident occurred. In New York City, in contrast, no proof of accident is required to obtain a comparable benefit.

These bills are aimed at giving public safety employees across the State parity with their counterparts in New York City by removing the requirement that they prove heart disease arose out of an accident. S.6703 would achieve this result for both death and disability benefits, while S.8429 does so only for disability. While the latter bill imposes a lower cost, the expense of both is significant: S.6703 would require additional annual pension contributions by the State and localities of over $13 million, while S.8429 would impose costs of over $4 million per year.

I commend the desire of the sponsors to remove differences in the treatment of employees that seem to have no reason behind them. Nonetheless, these proposals cannot be viewed in isolation from the deep fiscal crisis in which the State now finds itself. However worthy the sponsors' goals, these bills would increase public spending at a time when the State must find extensive reductions in expenditures. This is not the approach the State should be taking.

I also note that, despite the sponsors' valiant efforts to remove inconsistencies from the standards governing such benefits, the potential for claims of unfairness will remain if these bills are enacted. For example, an officer injured while escorting a prisoner might be

Veto Memo 83 Vetoed August 5, 2008

STATE OF NEW YORK

S.8429 - A.11455

IN SENATE

June 6, 2008

Introduced by Sens. MORAHAN, FUSCHILLO, O. JOHNSON, LANZA, LEIBELL, MALTESE, MARCELLINO, PADAVAN, TRUNZO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 2 of section 363-a of the retirement and social security law, as amended by chapter 967 of the laws of 1974, is amended to read as follows:

2. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a policeman, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that [~~is~~] **it** was incurred in the performance and discharge of duty **and the natural and proximate result of an accident**, unless the contrary be proved by competent evidence.

§ 2. The retirement and social security law is amended by adding a new section 809 to read as follows:

§ 809. Effect and rebuttal of certain medical presumptions pertaining to diseases of the heart. a. This section shall apply to certain applications for disability retirement allowances made by or on behalf of a member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system. It shall apply only to applications that are subject under this chapter to a provision that any condition of impairment of health caused by a disease of the heart, resulting in disability, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident.

b. Notwithstanding any other provision of law to the contrary an application for an accidental disability retirement allowance that is

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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based on a permanent incapacity caused by a disease of the heart, shall not be required to allege or establish:

3 **(1) that the member sustained an accident or other incident related to**
4 **the performance and discharge of duty; or**
5 **(2) that notice was provided thereof.**
6 **c. Notwithstanding any other provision of law to the contrary, the**
7 **presumptions referred to in subdivision a of this section may be**
8 **rebutted only by competent evidence that the disability is not the**
9 **natural and proximate result of the performance and discharge of duty.**
10 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities for members in the New York State and Local Employees' Retirement System (ERS) who currently have heart presumptions that reference an accident and all members in the New York State and Local Police and Fire Retirement System (PFRS). It would grant accidental disability benefits for heart cases by deeming such disabilities to have been sustained in the performance of duty, and the natural and proximate result of an accident, unless the contrary be proven by competent evidence. Further, the same criteria that exist for determining accidental death benefits for firefighters would be extended to police officers.

If this bill is enacted, more accidental disability benefits would be granted. The estimated increase in the annual contributions to the State of New York would be approximately $500,000 for its PFRS members and approximately $1.3 million for its Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately $2.2 million. The increases in annual contributions for ERS counties that have elected the provisions of Article 14-B for their sheriffs with a date of membership prior to January 1, 1985 would be less than 0.1% of salary. The increase in annual contributions for the Town of Tonawanda would be less than 0.1% of the salary of its paramedics.

This estimate, dated May 30, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-277 prepared by the Actuary for the NYS&LERS and NYS&LPFRS.

VETO MESSAGE - No. 113

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 6547-A, entitled:

"AN ACT establishing the task force on retiree health insurance protection; and providing for the repeal of certain provisions upon expiration thereof"

NOT APPROVED

This bill would establish a task force to study "cost-effective strategies for protecting adequate and affordable health insurance for retired public employees and their dependents." In conjunction with the task force's deliberations, the bill would prohibit, until June 30, 2009, any diminution in health benefits for retirees or their dependents in the New York State and Local Employees' Retirement System, the Optional Retirement Program, or a teachers' retirement system, "unless a corresponding diminution of benefits or contributions is effected...from the corresponding group of active employees."

The sponsors express a goal which I fully support: to ensure that this State continues to provide its public retirees with affordable and quality health care, even in this time of tight budgets. Because, however, there are significant problems with the manner in which this bill seeks to effectuate that goal, I must regretfully disapprove it.

The sponsors have wisely sought to foster further study of this important issue, through the creation of a task force. I believe that the State would benefit from such an examination, and from the consideration of a variety of viewpoints and productive interchange between individuals with different interests and responsibilities. Unfortunately, the task force created by the legislation does not accomplish this goal, but rather creates a body that does not sufficiently reflect a diversity of opinion. The Governor is given two appointees; the legislature eight. The New York State AFL-CIO would nominate three members of the task force (one more than the Governor); local governments and retirees directly impacted by the bill would choose none. The views of organized labor and the legislature are of great importance on this question, and they must be a central part of any effort to address this issue. But I cannot approve a bill that leaves crucial interests unrepresented, or that grants the Chief Executive such a limited role in a task force whose recommendation may impact the State's fisc.

Further, while I greatly appreciate the sponsors' efforts to preserve local government flexibility by seeking to allow some means of altering retiree benefits, it is not clear that the terms of the bill in this regard can ever be met. The bill does not make clear what a "corresponding" reduction is, nor does it define the "corresponding group" of active employees that must be subject to such reduction. As a result, making the requisite reduction for active employees may simply prove impossible. Retirees often have a set of benefits distinct from those of active public employees, and they are organized in groupings that are different from the way in which employees are classified while active.

It is unclear to me how parallel changes for retired and active employees - the latter of which could only be accomplished via a collective bargaining agreement - could be accomplished under these circumstances.

I am also concerned that the bill may make impossible - or at least subject to legal challenge - legitimate efforts to change retiree health benefits in ways that reflect their unique status, or that reasonably improve efficiency. For example, an employer may seek to alter retiree benefits to reflect changes in Medicare which do not apply to most active employees. Yet under this bill, even if a corresponding change in active employee benefits is unwarranted due to their different circumstances, one would have to be made (if possible) before any change for retirees could be effectuated. Further, efforts by a public employer to save retiree health care costs by increasing the role of managed care, or by requiring that certain purchases be made through a network, could also be subject to court challenges as diminutions of benefits.

Finally, I note that the bill is deemed to be in full force and effect as of May 1, 2008. This would appear to bar, after the fact, any diminutions of benefits that may already have taken place since that date. Such retroactive application will at least breed confusion, and may even require reopening of decisions fully legal at the time they were made.

These flaws should not obscure or detract from the key work done by the sponsors in focusing attention on this important issue, or the significant need for further study to address both the very real concerns of retirees and the daunting challenges faced by the State and local governments in meeting rising health care costs. To that end, I will adopt one important aspect of the sponsors' proposal, and will issue an Executive Order creating a task force to further study this issue. In light of the concerns noted above, the task force will include representatives of public employee retirees, organized labor, local governments, state agencies, the legislature and other interested parties. I will direct the task force to report, before the close of the next legislative session, on matters including: (1) the present state of public employee retiree health benefits; (2) the degree to which those benefits have been impacted by difficult fiscal times; (3) potential means of insuring the continuation of quality, affordable health care for public retirees; (4) potential avenues for addressing rising health care costs; and (5) the impact of public accounting standard GASB 45, which requires public entities to include the present value of future retiree health benefits among their liabilities for purposes of financial disclosure.

It is my strong hope that the Executive Order will not be the end of a process, but rather will lead to productive dialogue directed at finding the appropriate balance between protecting the important interests of retirees, and insuring adequate flexibility for the State and local governments in this time of fiscal constraint.

The bill is disapproved. (signed) DAVID A. PATERSON

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Veto Memo 113 Vetoed September 4, 2008

STATE OF NEW YORK

S.6457-A - A.9393-A

Cal. No. 63

2007-2008 Regular Sessions

IN SENATE

August 27, 2007

Introduced by Sens. FARLEY, BONACIC, DeFRANCISCO, FLANAGAN, LARKIN, LEIBELL, MALTESE, MAZIARZ, RATH, SALAND, SEWARD, TRUNZO, VOLKER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT establishing the task force on retiree health insurance protection; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature finds that adequate and affordable health insurance coverage is a crucial issue for retired public employees and their dependents. State government actions have been inconsistent, protecting health insurance coverage for some groups of retirees pursuant to chapter 43 of the laws of 2008, while denying protection to others (see vetoes 119 and 120 of 2007).

§ 2. Task force on retiree health insurance protection. 1. There is hereby created a twelve member task force on retiree health insurance protection. The members of the task force shall be:

(a) the chair of the senate committee on civil service and pensions, the chair of the assembly committee on governmental employees, and the president of the state civil service commission, or their designees, who shall serve as co-chairs;

(b) two members appointed by the governor, one of whom shall be appointed upon the recommendation of the New York state AFL-CIO;

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(c) two members appointed by the temporary president of the senate, one of whom shall be appointed upon the recommendation of the New York state AFL-CIO;

(d) two members appointed by the speaker of the assembly, one of whom shall be appointed upon the recommendation of the New York state AFL-CIO;

(e) the state comptroller, or his or her designee;

(f) one member appointed by the minority leader of the senate; and

(g) one member appointed by the minority leader of the assembly.

2. Task force members shall receive no compensation for their services, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

3. The task force shall meet at least four times and shall hold at least one public hearing.

4. The task force shall consult with, and seek advice and recommendations from, public officers, organizations, and entities affected, including but not limited to, the director of the budget, the superintendent of insurance, the director of the office for the aging, the director of the office of employee relations, the secretary of state and his or her designees with particular expertise in municipal government, organizations representing retirees including alliances of retiree organizations, organizations representing municipal officials, organizations representing local governments, and organizations representing school districts.

5. The co-chairs shall provide the task force with personnel and support services necessary to accomplish its duties.

§ 3. Report of the task force. No later than June 1, 2009, the task force shall transmit to the governor, the temporary president of the senate, and the speaker of the assembly a report recommending cost-effective strategies for protecting adequate and affordable health insurance for retired public employees and their dependents.

§ 4. Health insurance moratorium. 1. From on and after May 1, 2008 until June 30, 2009, a public employer shall be prohibited from diminishing the health insurance benefits provided to retirees and their dependents or the contributions such employer makes for such health insurance coverage below the level of such benefits or contributions made on behalf of such retirees and their dependents by such employer unless a corresponding diminution of benefits or contributions is effected from the present level as of May 1, 2008 during this period by such employer from the corresponding group of active employees for such retirees. For the purpose of this act, "public employer" shall mean the following: (i) the state; (ii) a county, city, town or village; (iii) any governmental entity operating a college or university; (iv) a public improvement or special district; (v) a public authority, commission or public benefit corporation; (vi) a school district, board of cooperative educational services, vocational education and extension board or a school district as enumerated in section 1 of chapter 566 of the laws of 1967, as amended; or (vii) any other public corporation, agency, instrumentality or unit of government which exercises governmental power under the laws of this state. For the purpose of this act, "retirees and their dependents" shall mean retired members and dependents of the New York state and local employees' retirement system, the optional retirement program, or a teachers' retirement system.

2. Nothing contained in this act shall supersede or diminish the terms of a collective bargaining agreement. Nothing contained in this act

1 shall supersede or diminish the provisions of chapter 729 of the laws of
2 1994 as amended by chapter 43 of the laws of 2008.
3 § 5. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after May 1, 2008. The task
5 force created by section two of this act shall expire and be deemed
6 repealed on and after June 2, 2009.

VETO MESSAGE - No. 147

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 10508, entitled:

"AN ACT to amend the retirement and social security law, in relation to not allowing mandatory retirement or separation from service on the basis of age for police officers less than sixty-five years of age"

NOT APPROVED

Under this bill, public employers would be barred from mandating that police officers retire on the basis of age before they are 65 years old. In short, it would eliminate all lower mandatory retirement ages for police, such as age 63 for New York City officers and age 60 for the State Police.

There is much value that an employer can gain from older individuals who desire to work, and who possess experience and institutional memory. Increasing longevity and medical advances also provide good reason for carefully reviewing the State's current age limitations on officers, to ensure that they are warranted. Nonetheless, this bill is significantly flawed. It imposes a cookie cutter approach on a host of State and local police forces, from those employed by the New York City Police Department to the Metropolitan Transit Authority to the Department of Environmental Conservation. In short, the bill has implications for tens of different and uniquely situated employers each of which may be affected in a different manner. To give one example, the State Police retirement age was just increased last summer to 60. A year later, without examining the impact of this change, or allowing the Division of State Police to absorb it, this bill would increase that age by five more years.

Further, I am deeply concerned about the manner in which this proposal would interact with General Municipal Law Section 207-c. That provision allows officers for municipalities who are injured in the line of duty to receive full salary while on leave or, under certain circumstances, performing "light tasks." This bill would allow these officers - even if they are performing no work at all - to have their active tenure extended at full salary.

This bill would also generate enormous confusion. It leaves all mandatory retirement statutes on the books, and then overturns them in a separate provision. An individual seeking to learn the mandatory retirement age of a state trooper, for example, would find it is still listed in statute at 60, with no indication that the provision is inoperative. I believe a better technical approach to changing any retirement age is to amend the provision that specifically provides for such restriction.

I am sympathetic to targeted efforts to allow qualified older officers to stay on the job longer. Indeed, today I have approved a bill (A.10252-A/S.7990), that would allow officers participating in a plan under Retirement and Social Security Law Section 384-d to continue in that plan until age 65. In doing so, I note that A.10252-A: (1) impacts

only the age at which an officer can participate in a particular pension plan, not the age at which he or she can retire; (2) addresses concerns about Section 207-c by requiring that officers "be capable of performing the duties of their position" to work past age 62; (3) impacts a very limited number of individuals; (4) is not expected, according to the fiscal note, to have any impact on contributions by employers to the pension system; and (5) leaves in place laws that allow a locality to have a distinct mandatory retirement age.

I will continue to carefully review legislative efforts to meet the needs of older officers who wish to continue serving the public. I cannot, however, approve this bill, which is overly broad in its application, and fails to address the potential pitfalls of an across-the-board increase in the mandatory police retirement age.

The bill is disapproved. (signed) DAVID A. PATERSON

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Veto Memo 147 Vetoed September 25, 2008

STATE OF NEW YORK

A.10508 - S.7332-A

IN ASSEMBLY

April 8, 2008

Introduced by M. of A. BROOK-KRASNY -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to not allowing mandatory retirement or separation from service on the basis of age for police officers less than sixty-five years of age

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 530 of the retirement and social security law is amended by adding a new subdivision c-1 to read as follows:

c-1. Notwithstanding any other provision of law to the contrary including subdivisions b and c of this section, no employer, as such term is defined in section two of this chapter and including without limitation any participating or public employer, shall require mandatory retirement or separation from service on the basis of age for a police officer who is age sixty-five years or less, nor shall any requirement for such mandatory retirement or separation be required for any police officer who is age sixty-five years or less serving an employer in any public retirement system funded and maintained by a city or who is a participant in a local pension system or in any retirement system, as such terms are defined in section two of this chapter.

§ 2. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would provide that no police officer shall be mandatorily retired who is age sixty-five or less.

Insofar as this will affect the New York State and Local Police and Fire Retirement System, if this bill is enacted, there would be additional benefits for certain police officers who remain employed beyond their current mandatory retirement age. However, if some members delay retirement due to enactment of this bill, we would not anticipate that there would be an increase in the annual contribution rates as a percentage of payroll of the participating employers in the New York State and Local Police and Fire Retirement System.

This estimate, dated April 3, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-215, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD15957-04-8

Section III

Legislation Affecting Other New York Public Retirement Systems

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APPROVAL MEMORANDUM - No. 4 Chapter 19

MEMORANDUM filed with Assembly Bill Number 9820, entitled:

"AN ACT to amend the retirement and social security law, in relation to the establishment of retirement programs to permit members of the New York city teachers' retirement system and certain members of the board of education retirement system of the city of New York, who are subject to articles 11 and 15 of such law, to retire prior to age sixty-two without a reduction in their retirement allowance based upon such earlier retirement and to make conforming and technical amendments to such articles 11 and 15; and to amend the retirement and social security law, the administrative code of the city of New York and the education law, in relation to providing for employer pick up, pursuant to provisions of the federal internal revenue code, of certain additional member contributions required to be made by participants in such retirement programs"

APPROVED

Teachers and certain other members of the New York City Teachers' Retirement System and Board of Education Retirement System currently can retire without penalty at age 55 only if they have accrued 30 years of service. This bill would give certain present employees of these systems the choice of opting into a plan which would allow them to retire without penalty at age 55 with 25 years of experience. Future employees would all be required to participate in a similar plan, except that retirement at age 55 would require 27 years of experience. Present and future employees will make additional contributions to the pension system to fund this new retirement benefit.

This bill has the full support of the affected employer and employee organizations - the City of New York and the United Federation of Teachers (UFT). Moreover, the bill is the result of many years of careful negotiation as part of a broader series of understandings between the two parties, and involves significant compromises by both sides. The City of New York is the only public entity that bears the costs of the proposal, and it presents evidence that in the long term, the bill will be cost neutral. UFT, whose present and future members will make additional payments, believes that these additional burdens are warranted by the benefits the bill will create.

Given the careful negotiations that led to this bill, and the lack of any adverse impact on any third parties, deference to the mutual understandings of the City of New York and UFT is fully warranted. A very different situation would be presented if such a bill were presented over the objections of either an affected employer or public employee organization, and thus any similar retirement benefit bills that are passed in the future will have to be evaluated on a case-by-case basis.

The bill is approved. (signed) ELIOT SPITZER

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Chapter 19 Signed February 27, 2008

STATE OF NEW YORK

A. 9820 S. 6689-A.

IN ASSEMBLY

January 24, 2008

Introduced by M. of A. ABBATE, COLTON, CUSICK, PHEFFER, LANCMAN, LENTOL, MILLMAN, SPANO, TITONE, WEINSTEIN -- Multi-Sponsored by -- M. of A. BENEDETTO, BRADLEY, BRENNAN, CAMARA, CYMBROWITZ, DINOWITZ, GLICK, GOTTFRIED, HEASTIE, HIKIND, JAFFEE, MAISEL, MARKEY, ORTIZ, REILLY, J. RIVERA, ROSENTHAL, WEISENBERG, WRIGHT, K. ZEBROWSKI -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to the establishment of retirement programs to permit members of the New York city teachers' retirement system and certain members of the board of education retirement system of the city of New York, who are subject to articles 11 and 15 of such law, to retire prior to age sixty-two without a reduction in their retirement allowance based upon such earlier retirement and to make conforming and technical amendments to such articles 11 and 15; and to amend the retirement and social security law, the administrative code of the city of New York and the education law, in relation to providing for employer pick up, pursuant to provisions of the federal internal revenue code, of certain additional member contributions required to be made by participants in such retirement programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision a of section 442 of the retirement and social security law, as amended by chapter 96 of the laws of 1995, is amended to read as follows:

a. The minimum retirement age for any member of a retirement system who is subject to the provisions of this article, other than a member permitted to retire upon completion of twenty or twenty-five years of service pursuant to section four hundred forty-five of this article, or a member who is eligible to retire pursuant to subdivision c of section four hundred forty-five-d of this article **or subdivision c of section four hundred forty-five-i of this article**, and exclusive of retirement for disability, shall be sixty-two; however, such a member may retire prior to attainment of age sixty-two in which event the amount of his retirement benefit otherwise computed without optional modification from funds based on other than his own contributions and exclusive of his pension-for-increased-take-home-pay, shall be reduced in accordance with the following schedule:

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14552-06-8

1 1. For each of the first twenty-four full months that retirement
2 predates age sixty-two, one-half of one percentum per month; and
3 2. For each full month that retirement predates age sixty, one-quar-
4 ter of one percentum per month, but in no event shall retirement be
5 permitted prior to attainment of age fifty-five.
6 § 2. The retirement and social security law is amended by adding a new
7 section 445-i to read as follows:
8 **§ 445-i. Optional age fifty-five retirement program for New York city**
9 **teachers and certain other members. a. Definitions. The following words**
10 **and phrases as used in this section shall have the following meanings**
11 **unless a different meaning is plainly required by the context.**
12 **1. "TRS" shall mean the New York city teachers' retirement system.**
13 **2. "BERS" shall mean the board of education retirement system of the**
14 **city of New York.**
15 **3. "Administrative code" shall mean the administrative code of the**
16 **city of New York.**
17 **4. "BERS rules and regulations" shall mean the rules and regulations**
18 **for the government, management and control of BERS adopted pursuant to**
19 **section twenty-five hundred seventy-five of the education law.**
20 **5. "New York city eligible position" shall mean:**
21 **(i) with respect to members of TRS, all positions as a teacher (as**
22 **defined in subdivision seven of section 13-501 of the administrative**
23 **code), and shall not include any position covered by section 13-563 of**
24 **the administrative code; or**
25 **(ii) with respect to members of BERS, the following positions in**
26 **education service: head nurses, head nurses (BOE), supervisors of nurs-**
27 **es, staff nurses, registered nurses (BOE), public health nurses, pedia-**
28 **tric nurse associates, supervising therapists, senior occupational ther-**
29 **apists, senior occupational therapists (BOE), occupational therapists,**
30 **occupational therapists (BOE), senior physical therapists, senior phys-**
31 **ical therapists (BOE), physical therapists, physical therapists (BOE),**
32 **substitute vocational assistants, non-annualized adult education teach-**
33 **ers, non-annualized adult education assistant coordinators, non-annual-**
34 **ized adult education coordinators, directors of drug and alcohol**
35 **programs, assistant directors of drug and alcohol programs, sign**
36 **language interpreters, teachers of military science, senior army, navy,**
37 **air force, aerospace, marine corps or coast guard instructors, army,**
38 **navy, air force, aerospace, marine corps or coast guard instructors,**
39 **youth development specialists and the following positions represented by**
40 **the recognized teacher organization for collective bargaining purposes:**
41 **education administrators, education officers, associate education offi-**
42 **cers, education analysts and associate education analysts.**
43 **6. "New York city eligible member" shall mean a member of TRS or BERS**
44 **who is subject to the provisions of this article and who is employed in**
45 **a New York city eligible position.**
46 **7. "Age fifty-five retirement program" shall mean all the terms and**
47 **conditions of this section.**
48 **8. "Starting date of the age fifty-five retirement program" shall mean**
49 **the commencement date of the first payroll period which begins after the**
50 **enactment date of the age fifty-five retirement program.**
51 **9. "Enactment date of the age fifty-five retirement program" shall**
52 **mean the date this section takes effect.**
53 **10. "Participant in the age fifty-five retirement program" shall mean**
54 **any New York city eligible member who, under the applicable provisions**
55 **of subdivision b of this section, is entitled to the rights, benefits**

and privileges and is subject to the obligations of the age fifty-five retirement program, as applicable to him or her.

11. "Participating retirement system" shall mean TRS or BERS.

12. "Active service" shall mean, for a member of TRS, service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) for which such member is being paid on the payroll or, for a member of BERS, education service for which such member is being paid on the payroll.

13. "Education service" shall mean service as a paid official or employee of the board of education of the city of New York or the New York city school construction authority, and allowable pursuant to the applicable provisions which govern the service credit of a member of BERS.

b. Participation in age fifty-five retirement program. 1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is a New York city eligible member in active service on the enactment date of the age fifty-five retirement program may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after such enactment date, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes a New York city eligible member in active service after the enactment date of the age fifty-five retirement program may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

3. (i) Except as provided in subparagraph (ii) of this paragraph, any election to be a participant in the age fifty-five retirement program shall be irrevocable.

(ii) Notwithstanding any other provision of law to the contrary, any participant in the age fifty-five retirement program whose age and amount of credited service (which amount of credited service shall, for the limited purposes only of this subparagraph, include service rendered previous to becoming a member which is not yet credited, but for which such person is or may become eligible to obtain service credit pursuant to applicable provisions of law) at the time of first becoming such a participant are such that he or she could not possibly be able to accumulate a total of at least twenty-five years of credited service by the time he or she reaches age sixty-two, assuming such person were to earn a full year of credited service in each and every year until he or she becomes sixty-two years of age (whether or not such person actually intends to earn such amounts of credit), may withdraw from the age fifty-five retirement program by filing, within three hundred sixty-five days after first becoming such a participant, a written request to withdraw from such program with the retirement system of which such person is a member.

4. Where any participant in the age fifty-five retirement program shall cease to hold a New York city eligible position, he or she shall cease to be such a participant and, during any period in which such person is not a New York city eligible member, he or she shall not be a participant in the age fifty-five retirement program.

5. Where any participant in the age fifty-five retirement program terminates service in a New York city eligible position and returns to service in a New York city eligible position at a later date and again becomes a New York city eligible member, he or she shall again become such a participant upon becoming a New York city eligible member.

6. Notwithstanding any other provision of law to the contrary, any person who is eligible to elect to become a participant in the age fifty-five retirement program pursuant to paragraph one or two of this subdivision for the full one hundred eighty-day period provided for in such applicable paragraph, and who fails to timely file a duly executed application for such participation with the appropriate retirement system, shall not thereafter be eligible to become a participant in such program.

c. 1. Service retirement. Notwithstanding any other provision of law to the contrary, a participant in the age fifty-five retirement program:

(i) who is otherwise eligible to retire for service with immediate payability of a retirement allowance pursuant to the applicable service retirement provisions of the administrative code or the BERS rules and regulations; and

(ii) who has completed twenty-five or more years of credited service; and

(iii) who has attained age fifty-five; and

(iv) who, subject to the provisions of paragraph nine of subdivision d of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision d of this section; and

(v) who shall be a participant in the age fifty-five retirement program in active service at the time so specified for his or her retirement; shall, subject to the provisions of paragraph nine of subdivision d of this section, be permitted to retire pursuant to the applicable service retirement provisions of the administrative code or the BERS rules and regulations with a minimum retirement age of fifty-five, and the benefit reduction provisions set forth in subdivision a of section four hundred forty-two of this article shall not be applied to the calculation of such participant's retirement benefit, provided, however, that no such participant who otherwise meets the retirement eligibility requirements of this paragraph shall be permitted to retire pursuant to this paragraph prior to June thirtieth, two thousand eight.

2. Vesting. (i) A participant in the age fifty-five retirement program:

(A) who, on or after June thirtieth, two thousand eight, as such a participant in such retirement program, discontinues service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) or discontinues education service (as defined in paragraph thirteen of subdivision a of this section), other than by death or retirement; and

(B) who, prior to such discontinuance, completed twenty-five or more years of credited service; and

(C) who, subject to the provisions of paragraph nine of subdivision d of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision d of this section; and

(D) who does not withdraw in whole or in part his or her accumulated deductions pursuant to the applicable provisions of the administrative code or the BERS rules and regulations unless such participant thereafter returns to public service and repays the amounts so withdrawn,

together with interest; shall be entitled to receive a deferred vested benefit as provided in this paragraph.

(ii)(A) Upon such discontinuance under the conditions and in compliance with the provisions of subparagraph (i) of this paragraph, such deferred vested benefit shall vest automatically.

(B) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

(iii) Subject to the provisions of paragraph nine of subdivision d of this section, such deferred benefit shall be a retirement allowance determined in accordance with the applicable provisions of subparagraph (v) of paragraph one of this subdivision in the same manner as if he or she had retired for service pursuant to paragraph one of this subdivision.

d. Additional member contributions. 1. In addition to the member contributions required by the applicable provisions of the administrative code or the BERS rules and regulations, each participant in the age fifty-five retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law) an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service rendered on and after the starting date of the age fifty-five retirement program (i) while such person is a participant in such program;

(ii) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and

(iii) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of subdivision b of this section (whether or not rendered in a New York city eligible position).

2. A participant in the age fifty-five retirement program shall contribute additional member contributions until the later of (i) June twenty-ninth, two thousand eight; or (ii) the date on which he or she has completed twenty-five years of credited service.

3. (i) Commencing with the first full payroll period after each person becomes a participant in the age fifty-five retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

(ii) (A) Those portions of the additional member contributions required by paragraph one of this subdivision which are attributable to credited service rendered on and after the starting date of the age fifty-five retirement program, and prior to the actual commencement of deductions from compensation pursuant to subparagraph (i) of this paragraph, by a person who becomes a participant pursuant to paragraph one of subdivision b of this section, shall be paid by deductions from the compensation of such participant pursuant to and in accordance with the provisions of item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from such participant's compensation are

begun pursuant to subparagraph (i) of this paragraph, in addition to such deductions required by subparagraph (i) of this paragraph, there shall be another deduction of additional member contributions made from the compensation of such participant at one-third the rate at which deductions are being made pursuant to subparagraph (i) of this paragraph, subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph, provided, however, that deductions pursuant to this item shall be made only during the period while such person is a participant after first becoming a participant pursuant to paragraph one of subdivision b of this section and before ceasing to be such a participant.

4. (i) Each participant in the age fifty-five retirement program shall be charged with a contribution deficiency consisting of the total amount of additional member contributions such person is required to make pursuant to paragraph one of this subdivision which is not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) Subject to the provisions of subparagraph (iii) of this paragraph, the interest required to be paid on the amount specified in subparagraph (i) of this paragraph shall accrue from the end of each of the payroll periods for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) (A) Should any person who, pursuant to paragraph eleven of this subdivision, has received a refund of the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision), including any interest paid on such employee portion, again become a participant in the age fifty-five retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such employee portion of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph thirteen of this subdivision), as if such employee portion of additional member contributions never had been paid.

(B) Any person who has his or her membership in one participating retirement system terminated without transferring such membership

directly from such participating retirement system to the other participating retirement system, who has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision at the time of the termination of such membership, who, pursuant to paragraph five of subdivision b of this section, thereafter again becomes a participant in the age fifty-five retirement program as a member of either participating retirement system without having received a refund of the employee portion of his or her additional member contributions pursuant to paragraph eleven of this subdivision, shall have an appropriate amount included in such participant's contribution deficiency (including interest thereon as calculated in subparagraph (ii) of this paragraph) for any credited service for which such person borrowed and did not repay such employee portion of additional member contributions, as if such employee portion of additional member contributions never had been paid.

(ii) (A) Interest on the employee portion of a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such employee portion of additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such employee portion of additional member contributions is attributable, compounded annually, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

6. (i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated deductions of a member under the applicable provisions of the administrative code or the BERS rules and regulations or otherwise while he or she is a participant in the age fifty-five retirement program or otherwise.

(ii) All additional member contributions required for any period of credited service pursuant to paragraph one of this subdivision (and any interest paid thereon pursuant to paragraph four of this subdivision) which, pursuant to subparagraph (i) of this paragraph, are paid by a participant, subject to the applicable provisions of section 13-521.1 of the administrative code or subdivision nineteen of section twenty-five hundred seventy-five of the education law, into the contingent reserve fund of the retirement system of which such participant is a member (other than repayments of loans of additional member contributions pursuant to paragraph twelve of this subdivision or amounts paid in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision) shall be divided in the following manner:

(A) one-half of such additional member contributions (and any such interest paid thereon) shall be the employer contribution portion of such additional member contributions; and

(B) one-half of such additional member contributions (and any such interest paid thereon) shall be the employee portion of such additional member contributions, and shall be credited to the employee additional

contributions account which shall be established for such participant within the contingent reserve fund of such retirement system.

(iii) No person, while he or she is a participant or otherwise, shall at any time be permitted:

(A) to borrow, pursuant to paragraph twelve of this subdivision or any other provision, any of the employer contribution portion of his or her additional member contributions (as established in accordance with item (A) of subparagraph (ii) of this paragraph, including any interest paid thereon) which has been paid into the contingent reserve fund of the retirement system; or

(B) to receive a refund of any of such employer contribution portion pursuant to paragraph eleven of this subdivision or any other provision.

(iv) None of the employer contribution portion of a participant's additional member contributions (including any interest paid thereon) shall for any purpose:

(A) be deemed to be part of the employee portion of additional member contributions paid by a participant; or

(B) be credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system.

(v) All repayments of loans of the employee portion of additional member contributions pursuant to paragraph twelve of this subdivision and all payments of the employee portion of additional member contributions in satisfaction of a contribution deficiency calculated in accordance with paragraph five of this subdivision which are paid by a participant to the contingent reserve fund of a participating retirement system (and any interest paid thereon) shall be part of the employee portion of such participant's additional member contributions and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such retirement system.

7. Where a person who was a participant in the age fifty-five retirement program as a member of one participating retirement system becomes such a participant as a member of the other participating retirement system:

(i) the employer contribution portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system; and

(ii) the employee portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such first retirement system that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement

system, and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such second retirement system.

8. A person who was a participant in the age fifty-five retirement program as a member of one participating retirement system, who becomes such a participant as a member of the other participating retirement system and who thereafter transfers his or her membership in such first retirement system directly to such second retirement system as such a participant shall be deemed to have the same unpaid balance of a loan of the employee portion of additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest) as he or she had in such first retirement system at the time of such transfer of membership to the second retirement system.

9. (i) Where a participant who is otherwise eligible for service retirement pursuant to paragraph one of subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to paragraph one of subdivision c of this section, provided, however, that where such participant is not entitled to a refund of the employee portion of additional member contributions pursuant to subparagraph (iii) of paragraph eleven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of the administrative code or the BERS rules and regulations shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this chapter) which is actuarially equivalent to:

(A) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(B) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan).

(ii) Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to paragraph two of subdivision c of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to paragraph two of subdivision c of this section, provided, however, that the deferred vested benefit determined pursuant to subparagraph (iii) of paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this chapter) which is actuarially equivalent to:

(A) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(B) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision (including accrued interest on such loan).

10. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision, promulgate regulations for the payment of additional member contributions required by this subdivision, and any interest thereon, by participants in the age fifty-five retirement program (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

11. (i) Subject to the provisions of paragraph thirteen of this subdivision, a participant in the age fifty-five retirement program who retires for disability pursuant to the applicable provisions of the administrative code or the BERS rules and regulations shall be entitled, upon such retirement, to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for disability, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(ii) Subject to the provisions of paragraph thirteen of this subdivision, upon the death of a participant in the age fifty-five retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated deductions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of his or her death, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(iii) Subject to the provisions of paragraph thirteen of this subdivision, a person:

(A) who is or was a participant in the age fifty-five retirement program;

(B) who retires for service as a member of TRS or BERS pursuant to the applicable service retirement provisions of the administrative code or the BERS rules and regulations;

(C) who is in active service on the effective date of retirement;

(D) who is at least sixty-two years of age on the effective date of retirement; and

(E) who was in active service for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for

service, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(iv) Subject to the provisions of paragraph thirteen of this subdivision, a person who ceases to be a participant in the age fifty-five retirement program as a member of a participating retirement system because he or she ceases to hold a New York city eligible position, who thereafter is employed in another position in public employment which is not a New York city eligible position, but which entitles such person to membership in another public retirement system which is maintained in whole or in part by the city or state of New York, and who thereafter transfers his or her membership in such participating retirement system directly to such second public retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such participating retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(v) Subject to the provisions of paragraph thirteen of this subdivision, any person who withdraws as a participant in the age fifty-five retirement program by filing a valid request for such withdrawal pursuant to subparagraph (ii) of paragraph three of subdivision b of this section shall, upon such withdrawal, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such withdrawal as a participant, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(vi) Subject to the provisions of paragraph thirteen of this subdivision, a participant in the age fifty-five retirement program who has been terminated from employment in a New York city eligible position for economic reasons by his or her public employer shall be entitled, upon such termination, to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such termination from employment, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members, compounded annually.

(vii) Notwithstanding any other provision of law to the contrary,

(A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph;

(B) no person, while he or she is a participant in the age fifty-five retirement program, shall be permitted to withdraw any such additional

member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise; and

(C) no person, while he or she is a participant or otherwise, shall at any time be permitted to withdraw any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision), pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

12. A participant in the age fifty-five retirement program shall be permitted to borrow from the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision, including any interest paid thereon) which is credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system of which he or she is a member. The borrowing from such employee portion of additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in the applicable provisions of section six hundred thirteen-a of this chapter (for TRS members) or section six hundred thirteen-b of this chapter (for BERS members) which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thirteen of this chapter. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision and the applicable provisions of section six hundred thirteen-a of this chapter (for TRS) or section six hundred thirteen-b of this chapter (for BERS) as made applicable to this subdivision, promulgate regulations governing the borrowing of such employee portion of additional member contributions, provided, however, that no person, while he or she is a participant or otherwise, shall at any time be permitted to borrow, pursuant to this paragraph or any other provision, any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision).

13. Whenever a person has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision at the time he or she becomes entitled to a refund of the employee portion of his or her additional member contributions pursuant to paragraph eleven of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such employee portion shall be the net amount of such employee portion, together with interest thereon in accordance with the provisions of paragraph eleven of this subdivision.

14. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

15. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

16. The provisions of subdivision b of section four hundred forty of this article shall apply to participants under this section.

§ 3. Subdivision a of section 603 of the retirement and social security law, as amended by chapter 682 of the laws of 2003, is amended to read as follows:

a. The service retirement benefit specified in section six hundred four of this article shall be payable to members who have met the minimum service requirements upon retirement and attainment of age sixty-two, other than members who are eligible for early service retirement pursuant to subdivision c of section six hundred four-b of this article, subdivision c of section six hundred four-c of this article, subdivision d of section six hundred four-d of this article, subdivision c of section six hundred four-e of this article, subdivision c of section six hundred four-f of this article, subdivision c of section six hundred four-g of this article [~~or~~]**,** subdivision c of section six hundred four-h of this article **or subdivision c of section six hundred four-i of this article**, provided, however, a member who is a peace officer employed by the unified court system or a member of a teachers' retirement system or the New York state and local employees' retirement system may retire without reduction of his or her retirement benefit upon attainment of at least fifty-five years of age and completion of thirty or more years of service.

§ 3-a. Subdivision a of section 603 of the retirement and social security law, as amended by chapter 414 of the laws of 2002, is amended to read as follows:

a. The service retirement benefit specified in section six hundred four of this article shall be payable to members who have met the minimum service requirements upon retirement and attainment of age sixty-two, other than members who are eligible for early service retirement pursuant to subdivision c of section six hundred four-b of this article, subdivision c of section six hundred four-c of this article, subdivision d of section six hundred four-d of this article, subdivision c of section six hundred four-e of this article [~~or~~]**,** subdivision c of section six hundred four-f of this article [~~or~~]**,** subdivision c of section six hundred four-g of this article, **subdivision c of section six hundred four-h of this article or subdivision c of section six hundred four-i of this article** provided, however, a member who is a peace officer employed by the unified court system or a member of a teachers' retirement system or the New York state and local employees' retirement system may retire without reduction of his or her retirement benefit upon attainment of at least fifty-five years of age and completion of thirty or more years of service.

§ 4. Subdivision i of section 603 of the retirement and social security law, as amended by chapter 553 of the laws of 2000, is amended to read as follows:

i. 1. A member of a teachers' retirement system or the New York state and local employees' retirement system who has met the minimum service requirements but who has less than thirty years of credited service may retire prior to normal retirement age, but no earlier than attainment of age fifty-five, in which event**, unless such person is a member of the New York city teachers' retirement system who is otherwise eligible for early service retirement pursuant to subdivision c of section six hundred four-i of this article,** the amount of his or her retirement benefit otherwise computed without optional modification shall be reduced in accordance with the following schedule:

(i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; and

(ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month, but in no event shall retirement be permitted prior to attainment of age fifty-five.

2. A member of the New York city employees' retirement system or the board of education retirement system of the city of New York who has met the minimum service requirement, but who is not (a) a participant in the twenty-five-year early retirement program, as defined in paragraph ten of subdivision a of section six hundred four-c of this article (as added by chapter ninety-six of the laws of nineteen hundred ninety-five), or (b) a participant in the age fifty-seven retirement program, as defined in paragraph three of subdivision b of section six hundred four-d of this article, or (c) a New York city transit authority member, as defined in paragraph one of subdivision a of section six hundred four-b of this article, may retire prior to normal retirement age, but no earlier than attainment of age fifty-five, in which event**, unless such person is a member of the board of education retirement system of such city who is otherwise eligible for early service retirement pursuant to subdivision c of section six hundred four-i of this article,** the amount of his or her retirement benefit computed without optional modification shall be reduced in accordance with the following schedule:

(i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; and

(ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month, but in no event shall retirement be permitted prior to attainment of age fifty-five.

§ 5. The retirement and social security law is amended by adding a new section 604-i to read as follows:

§ 604-i. Age fifty-five retirement program for New York city teachers and certain other members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "TRS" shall mean the New York city teachers' retirement system.

2. "BERS" shall mean the board of education retirement system of the city of New York.

3. "Administrative code" shall mean the administrative code of the city of New York.

4. "BERS rules and regulations" shall mean the rules and regulations for the government, management and control of BERS adopted pursuant to section twenty-five hundred seventy-five of the education law.

5. "New York city eligible position" shall mean:

(i) with respect to members of TRS, all positions as a teacher (as defined in subdivision seven of section 13-501 of the administrative code), and shall not include any position covered by section 13-563 of the administrative code; or

(ii) with respect to members of BERS, the following positions in education service: head nurses, head nurses (BOE), supervisors of nurses, staff nurses, registered nurses (BOE), public health nurses, pediatric nurse associates, supervising therapists, senior occupational therapists, senior occupational therapists (BOE), occupational therapists, occupational therapists (BOE), senior physical therapists, senior physical therapists (BOE), physical therapists, physical therapists (BOE), substitute vocational assistants, non-annualized adult education teachers, non-annualized adult education assistant coordinators, non-annualized adult education coordinators, directors of drug and alcohol programs, assistant directors of drug and alcohol programs, sign language interpreters, teachers of military science, senior army, navy,

air force, aerospace, marine corps or coast guard instructors, army, navy, air force, aerospace, marine corps or coast guard instructors, youth development specialists and the following positions represented by the recognized teacher organization for collective bargaining purposes: education administrators, education officers, associate education officers, education analysts and associate education analysts.

6. "New York city eligible member" shall mean a member of TRS or BERS who is subject to the provisions of this article and who is employed in a New York city eligible position.

7. "Age fifty-five retirement program" shall mean all the terms and conditions of this section.

8. "Starting date of the age fifty-five retirement program" shall mean the commencement date of the first payroll period which begins after the enactment date of the age fifty-five retirement program.

9. "Enactment date of the age fifty-five retirement program" shall mean the date this section takes effect.

10. "Participant in the age fifty-five retirement program" shall mean any New York city eligible member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the age fifty-five retirement program, as applicable to him or her.

11. "Twenty-five-year participant in the age fifty-five retirement program" shall mean a participant in the age fifty-five retirement program who first became such a participant pursuant to paragraph one or two of subdivision b of this section.

12. "Twenty-seven-year participant in the age fifty-five retirement program" shall mean a participant in the age fifty-five retirement program who first became such a participant pursuant to paragraph four or five of subdivision b of this section.

13. "Participating retirement system" shall mean TRS or BERS.

14. "Education service" shall mean service as a paid official or employee of the board of education of the city of New York or the New York city school construction authority, and allowable pursuant to the applicable provisions which govern the service credit of a member of BERS.

b. Participation in age fifty-five retirement program. 1. Subject to the provisions of paragraphs seven, eight and nine of this subdivision, any person who is employed in a New York city eligible position on the enactment date of the age fifty-five retirement program, and who is a New York city eligible member in active service on such enactment date, may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after the enactment date of the age fifty-five retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

2. Subject to the provisions of paragraphs seven, eight and nine of this subdivision, any person: (i) who is employed in a New York city eligible position on the enactment date of the age fifty-five retirement program, or who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age; and (ii) who becomes a New York city eligible member in active service after such enactment date, may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after becoming a New York city eligible member in active service, a duly executed application for such participation with

the retirement system of which such person is a member, provided he or she is a New York city eligible member in active service on the date such application is filed.

3. (i) Except as provided in subparagraph (ii) of this paragraph, any election to be a participant in the age fifty-five retirement program shall be irrevocable.

(ii) Notwithstanding any other provision of law to the contrary, any participant in the age fifty-five retirement program who became such a participant pursuant to paragraph one or two of this subdivision, and whose age and amount of credited service (which amount of credited service shall, for the limited purposes only of this subparagraph, include service rendered previous to becoming a member which is not yet credited, but for which such person is or may become eligible to obtain credit pursuant to section six hundred nine of this article) at the time of first becoming such a participant are such that he or she could not possibly be able to accumulate a total of at least twenty-five years of credited service by the time he or she reaches age sixty-two, assuming such person were to earn a full year of credited service in each and every year until he or she becomes sixty-two years of age (whether or not such person actually intends to earn such amounts of credit), may withdraw from the age fifty-five retirement program by filing, within three hundred sixty-five days after first becoming such a participant, a written request to withdraw from such program with the retirement system of which such person is a member.

4. Subject to the provisions of paragraphs seven and nine of this subdivision, any person (i) other than a person who is deemed pursuant to paragraph eight of this subdivision to be employed for the purposes of paragraph one or two of this subdivision in a New York city eligible position on the enactment date of the age fifty-five retirement program, or other than a person who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age, (ii) who becomes a New York city eligible member in active service after the enactment date of the age fifty-five retirement program and (iii) who, as such an eligible member or otherwise, last became subject to the provisions of this article prior to such enactment date, may elect to become a participant in the age fifty-five retirement program by filing, within one hundred eighty days after becoming a New York city eligible member in active service, a duly executed application for such participation with the retirement system of which such person is a member, provided that he or she is a New York city eligible member in active service on the date such application is filed. Any election pursuant to this paragraph to be a participant in the age fifty-five retirement program shall be irrevocable.

5. Each person (i) other than a person who is deemed pursuant to paragraph eight of this subdivision to be employed for the purposes of paragraph one or two of this subdivision in a New York city eligible position on the enactment date of the age fifty-five retirement program, or other than a person who, on such enactment date, is a discontinued member not in active service who is entitled to a deferred vested benefit at normal retirement age, (ii) who becomes a New York city eligible member in active service after the enactment date of the age fifty-five retirement program and (iii) who, as such an eligible member or otherwise, becomes subject to the provisions of this article after the enactment date of the age fifty-five retirement program shall become a participant in the age fifty-five retirement program on the date he or she becomes a New York city eligible member in active service.

6. Where any participant in the age fifty-five retirement program shall cease to hold a New York city eligible position, he or she shall cease to be such a participant and, during any period in which such person is not a New York city eligible member, he or she shall not be a participant in the age fifty-five retirement program.

7. Where any participant in the age fifty-five retirement program terminates service in a New York city eligible position and returns to service in a New York city eligible position at a later date and again becomes a New York city eligible member, he or she shall again become such a participant upon becoming a New York city eligible member.

8. For the limited purposes only of determining eligibility to elect to become a participant in the age fifty-five retirement program pursuant to paragraph one or two of this subdivision, a person shall be deemed to be employed in a New York city eligible position on the enactment date of the age fifty-five retirement program if, on such enactment date, such person is: (i) in active service in a New York city eligible position; (ii) on a leave of absence without pay from a New York city eligible position approved by his or her public employer, and such person returns to active service in a New York city eligible position after such enactment date and within five years after beginning such unpaid leave of absence; or (iii) on suspension without pay from a New York city eligible position, and such person is reinstated from such suspension to active service in such an eligible position after such enactment date by his or her public employer.

9. Notwithstanding any other provision of law to the contrary, and except as provided in paragraph five of this subdivision, any person who is eligible to elect to become a participant in the age fifty-five retirement program pursuant to paragraph one, two or four of this subdivision for the full one hundred eighty-day period provided for in such applicable paragraph, and who fails to timely file a duly executed application for such participation with the appropriate retirement system, shall not thereafter be eligible to become a participant in such program.

c. Service retirement. 1. A twenty-five-year participant in the age fifty-five retirement program:

(i) who has completed twenty-five or more years of credited service;

(ii) who has attained age fifty-five;

(iii) who, subject to the provisions of paragraph nine of subdivision e of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section;

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(v) who shall be a participant in the age fifty-five retirement program in active service at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement, provided, however, that no such participant who otherwise meets the retirement eligibility requirements of this paragraph shall be permitted to retire pursuant to this paragraph prior to June thirtieth, two thousand eight.

2. A twenty-seven-year participant in the age fifty-five retirement program:

(i) who has completed twenty-seven or more years of credited service;

(ii) who has attained age fifty-five;

(iii) who, subject to the provisions of paragraph nine of subdivision e of this section, has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section;

(iv) who files with the retirement system of which he or she is a member an application for service retirement setting forth at what time he or she desires to be retired; and

(v) who shall be a participant in the age fifty-five retirement program in active service at the time so specified for his or her retirement; shall be retired pursuant to the provisions of this paragraph affording early service retirement.

3. Notwithstanding any other provision of law to the contrary, and subject to the provisions of paragraph nine of subdivision e of this section, the early service retirement benefit for a participant in the age fifty-five retirement program who retires pursuant to either paragraph one or two of this subdivision shall be a retirement allowance equal to one-fiftieth of final average salary times years of credited service not in excess of thirty years. Credited service in excess of thirty years shall provide an additional retirement allowance equal to three-two hundredths of the final average salary for each year of credited service in excess of thirty years.

d. Vesting. 1. (i) A twenty-five-year participant in the age fifty-five retirement program:

(A) who, on or after June thirtieth, two thousand eight, as such a participant in such retirement program, discontinues service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) or discontinues education service (as defined in paragraph fourteen of subdivision a of this section), other than by death or retirement;

(B) who, prior to such discontinuance, completed twenty-five or more years of credited service;

(C) who, subject to the provisions of paragraph ten of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section; and

(D) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this paragraph.

(ii) (A) Upon such discontinuance under the conditions and in compliance with the provisions of subparagraph (i) of this paragraph, such deferred vested benefit shall vest automatically.

(B) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

(iii) Subject to the provisions of paragraph ten of subdivision e of this section, such deferred benefit shall be a retirement allowance computed in accordance with the applicable provisions of paragraph three of subdivision c of this section.

2. (i) A twenty-seven-year participant in the age fifty-five retirement program:

(A) who, as such a participant in such retirement program, discontinues service as a teacher (as defined in subdivision seven of section 13-501 of the administrative code) or discontinues education service (as

defined in paragraph fourteen of subdivision a of this section), other than by death or retirement; and

(B) who, prior to such discontinuance, completed twenty-seven or more years of credited service; and

(C) who, subject to the provisions of paragraph ten of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by paragraphs one, four and five of subdivision e of this section; and

(D) who does not withdraw in whole or in part his or her accumulated member contributions pursuant to section six hundred thirteen of this article unless such participant thereafter returns to public service and repays the amounts so withdrawn, together with interest, pursuant to such section six hundred thirteen; shall be entitled to receive a deferred vested benefit as provided in this paragraph.

(ii) (A) Upon such discontinuance under the conditions and in compliance with the provisions of subparagraph (i) of this paragraph, such deferred vested benefit shall vest automatically.

(B) Such vested benefit shall become payable on the earliest date on which such discontinued member could have retired for service if such discontinuance had not occurred.

(iii) Subject to the provisions of paragraph ten of subdivision e of this section, such deferred benefit shall be a retirement allowance computed in accordance with the applicable provisions of paragraph three of subdivision c of this section.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the age fifty-five retirement program shall contribute (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional percentage of his or her compensation to the retirement system of which he or she is a member in accordance with the following applicable provisions:

(i) each twenty-five-year participant in the age fifty-five retirement program shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service rendered on and after the starting date of the age fifty-five retirement program

(A) while such person is a participant in such program; and

(B) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and

(C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph seven of subdivision b of this section (whether or not rendered in a New York city eligible position); and

(ii) each twenty-seven-year participant in the age fifty-five retirement program shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service rendered

(A) while such person is a participant in such program; and

(B) before such person becomes such a participant pursuant to paragraph four or five of subdivision b of this section (whether or not rendered in a New York city eligible position, and whether rendered before or after the starting date of the age fifty-five retirement program); and

(C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph seven of subdivi-

1 sion b of this section (whether or not rendered in a New York city
2 eligible position).
3 2. A twenty-five-year participant in the age fifty-five retirement
4 program (as defined in paragraph eleven of subdivision a of this
5 section) shall contribute additional member contributions until the
6 later of (i) June twenty-ninth, two thousand eight, or (ii) the date on
7 which he or she has completed twenty-five years of credited service. A
8 twenty-seven-year participant in the age fifty-five retirement program
9 shall contribute additional member contributions only until he or she
10 has completed twenty-seven years of credited service.
11 3. (i) Commencing with the first full payroll period after each person
12 becomes a participant in the age fifty-five retirement program, addi-
13 tional member contributions at the rate specified in paragraph one of
14 this subdivision shall be deducted (subject to the applicable provisions
15 of subdivision d of section six hundred thirteen of this article) from
16 the compensation of such participant on each and every payroll of such
17 participant for each and every payroll period for which he or she is
18 such a participant.
19 (ii)(A) Those portions of the additional member contributions required
20 by paragraph one of this subdivision which are attributable to credited
21 service rendered on and after the starting date of the age fifty-five
22 retirement program, and prior to the actual commencement of deductions
23 from compensation pursuant to subparagraph (i) of this paragraph, by a
24 person who becomes a participant pursuant to paragraph one of subdivi-
25 sion b of this section, shall be paid by deductions from the compen-
26 sation of such participant pursuant to and in accordance with the
27 provisions of item (B) of this subparagraph.
28 (B) Commencing with the payroll period in which deductions of addi-
29 tional member contributions from such participant's compensation are
30 begun pursuant to subparagraph (i) of this paragraph, in addition to
31 such deductions required by subparagraph (i) of this paragraph, there
32 shall be another deduction of additional member contributions made from
33 the compensation of such participant at one-third the rate at which
34 deductions are being made pursuant to subparagraph (i) of this paragraph
35 (subject to the applicable provisions of subdivision d of section six
36 hundred thirteen of this article) on each and every payroll period until
37 the total amount of unpaid additional member contributions described in
38 item (A) of this subparagraph, if any, has been paid by deductions from
39 compensation pursuant to this subparagraph, provided, however, that
40 deductions pursuant to this item shall be made only during the period
41 while such person is a participant after first becoming a participant
42 pursuant to paragraph one of subdivision b of this section and before
43 ceasing to be such a participant.
44 4. (i) Each participant in the age fifty-five retirement program shall
45 be charged with a contribution deficiency consisting of the total amount
46 of additional member contributions such person is required to make
47 pursuant to paragraph one of this subdivision which is not deducted from
48 his or her compensation pursuant to paragraph three of this subdivision,
49 if any, together with interest thereon, compounded annually, and
50 computed in accordance with the provisions of subparagraphs (ii) and
51 (iii) of this paragraph.
52 (ii)(A) Subject to the provisions of subparagraph (iii) of this para-
53 graph, the interest required to be paid on the amount specified in
54 subparagraph (i) of this paragraph shall accrue from the end of each of
55 the payroll periods for which such amount would have been deducted from
56 compensation if he or she had been a participant at the beginning of

that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) (A) Should any person who, pursuant to paragraph twelve of this subdivision, has received a refund of the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision), including any interest paid on such employee portion, again become a participant in the age fifty-five retirement program pursuant to paragraph seven of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such employee portion of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph fourteen of this subdivision), as if such employee portion of additional member contributions never had been paid.

(B) Any person who has his or her membership in one participating retirement system terminated without transferring such membership directly from such participating retirement system to the other participating retirement system, who has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time of the termination of such membership, who, pursuant to paragraph seven of subdivision b of this section, thereafter again becomes a participant in the age fifty-five retirement program as a member of either participating retirement system without having received a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, shall have an appropriate amount included in such participant's contribution deficiency (including interest thereon as calculated in subparagraph (ii) of this paragraph) for any credited service for which such person borrowed and did not repay such employee portion of additional member contributions, as if such employee portion of additional member contributions never had been paid.

(ii)(A) Interest on the employee portion of a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such employee portion of additional member contributions never had been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such employee portion of additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. (i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retire-

1 ment system of which the participant is a member shall be paid into its
2 contingent reserve fund and shall not for any purpose be deemed to be
3 member contributions or accumulated contributions of a member under
4 section six hundred thirteen of this article or otherwise while he or
5 she is a participant in the age fifty-five retirement program or other-
6 wise.
7 (ii) All additional member contributions required for any period of
8 credited service pursuant to paragraph one of this subdivision (and any
9 interest paid thereon pursuant to paragraph four of this subdivision)
10 which, pursuant to subparagraph (i) of this paragraph, are paid by a
11 participant (subject to the applicable provisions of subdivision d of
12 section six hundred thirteen of this article) into the contingent
13 reserve fund of the retirement system of which such participant is a
14 member (other than repayments of loans of additional member contrib-
15 utions pursuant to paragraph thirteen of this subdivision or amounts
16 paid in satisfaction of a contribution deficiency calculated in accord-
17 ance with paragraph five of this subdivision) shall be divided in the
18 following manner:
19 (A) one-half of such additional member contributions (and any such
20 interest paid thereon) shall be the employer contribution portion of
21 such additional member contributions; and
22 (B) one-half of such additional member contributions (and any such
23 interest paid thereon) shall be the employee portion of such additional
24 member contributions, and shall be credited to the employee additional
25 contributions account which shall be established for such participant
26 within the contingent reserve fund of such retirement system.
27 (iii) No person, while he or she is a participant or otherwise, shall
28 at any time be permitted:
29 (A) to borrow, pursuant to paragraph thirteen of this subdivision or
30 any other provision, any of the employer contribution portion of his or
31 her additional member contributions (as established in accordance with
32 item (A) of subparagraph (ii) of this paragraph, including any interest
33 paid thereon) which has been paid into the contingent reserve fund of
34 the retirement system; or
35 (B) to receive a refund of any of such employer contribution portion
36 pursuant to paragraph twelve of this subdivision or any other provision.
37 (iv) None of the employer contribution portion of a participant's
38 additional member contributions (including any interest paid thereon)
39 shall for any purpose:
40 (A) be deemed to be part of the employee portion of additional member
41 contributions paid by a participant; or
42 (B) be credited to the employee additional contributions account
43 established for such participant in the contingent reserve fund of the
44 retirement system.
45 (v) All repayments of loans of the employee portion of additional
46 member contributions pursuant to paragraph thirteen of this subdivision
47 and all payments of the employee portion of additional member contrib-
48 utions in satisfaction of a contribution deficiency calculated in
49 accordance with paragraph five of this subdivision which are paid by a
50 participant to the contingent reserve fund of a participating retirement
51 system (and any interest paid thereon) shall be part of the employee
52 portion of such participant's additional member contributions and shall
53 be credited to the employee additional contributions account established
54 for such participant in the contingent reserve fund of such retirement
55 system.

7. Where a person who was a participant in the age fifty-five retirement program as a member of one participating retirement system becomes such a participant as a member of the other participating retirement system:

(i) the employer contribution portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system; and

(ii) the employee portion of the additional member contributions paid by such person to such first retirement system pursuant to this subdivision (including any interest paid thereon) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such first retirement system that is attributable to any period of credited service obtained in such second retirement system by purchase or transfer, which previously was credited in such first retirement system, shall (only for purposes of this subdivision, and not for purposes of determining required employer contributions to such second retirement system) be deemed to have been paid to such second retirement system rather than to such first retirement system, and shall be credited to the employee additional contributions account established for such participant in the contingent reserve fund of such second retirement system.

8. A person who was a participant in the age fifty-five retirement program as a member of one participating retirement system, who becomes such a participant as a member of the other participating retirement system and who thereafter transfers his or her membership in such first retirement system directly to such second retirement system as such a participant shall be deemed to have the same unpaid balance of a loan of the employee portion of additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest) as he or she had in such first retirement system at the time of such transfer of membership to the second retirement system.

9. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not entitled to a refund of the employee portion of additional member contributions pursuant to subparagraph (iii) of paragraph twelve of this subdivision, such participant's service retirement benefit calculated pursuant to paragraph three of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

10. Where a participant in the age fifty-five retirement program who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to the otherwise applicable provisions of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision h of section six hundred thirteen-a of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision (including accrued interest on such loan).

11. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision, promulgate regulations for the payment of additional member contributions required by this subdivision, and any interest thereon, by participants in the age fifty-five retirement program (including the deduction of such contributions, and any interest thereon, from the participants' compensation).

12. (i) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-five retirement program who retires for disability pursuant to section six hundred five of this article shall be entitled, upon such retirement, to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for disability, together with interest thereon at the rate of five percent per annum, compounded annually.

(ii) Subject to the provisions of paragraph fourteen of this subdivision, upon the death of a participant in the age fifty-five retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated member contributions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system)

which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of his or her death, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Subject to the provisions of paragraph fourteen of this subdivision, a person:

(A) who is or was a participant in the age fifty-five retirement program;

(B) who retires for service as a member of TRS or BERS pursuant to the applicable service retirement provisions of this article;

(C) who is in active service on the effective date of retirement;

(D) who is at least sixty-two years of age on the effective date of retirement; and

(E) who was in active service for a total of at least six months out of each of the two twelve-month periods immediately preceding his or her retirement for service, shall, upon such retirement for service, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such retirement for service, together with interest thereon at the rate of five percent per annum, compounded annually.

(iv) Subject to the provisions of paragraph fourteen of this subdivision, a person who ceases to be a participant in the age fifty-five retirement program as a member of a participating retirement system because he or she ceases to hold a New York city eligible position, who thereafter is employed in another position in public employment which is not a New York city eligible position, but which entitles such person to membership in another public retirement system which is maintained in whole or in part by the city or state of New York, and who thereafter transfers his or her membership in such participating retirement system directly to such second public retirement system, shall be permitted to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of such participating retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(v) Subject to the provisions of paragraph fourteen of this subdivision, any person who withdraws as a participant in the age fifty-five retirement program by filing a valid request for such withdrawal pursuant to subparagraph (ii) of paragraph three of subdivision b of this section shall, upon such withdrawal, be entitled to a refund of the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such withdrawal as a participant, together with interest thereon at the rate of five percent per annum, compounded annually.

(vi) Subject to the provisions of paragraph fourteen of this subdivision, a participant in the age fifty-five retirement program who has been terminated from employment in a New York city eligible position for economic reasons by his or her public employer shall be entitled, upon such termination, to withdraw the employee portion of his or her additional member contributions paid pursuant to this subdivision (including any interest on such employee portion paid to the retirement system) which remains credited to the employee additional contributions account established for such person in the contingent reserve fund of the retirement system of which he or she is a member at the time of such termination from employment, together with interest thereon at the rate of five percent per annum, compounded annually.

(vii) Notwithstanding any other provision of law to the contrary:

(A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph;

(B) no person, while he or she is a participant in the age fifty-five retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise; and

(C) no person, while he or she is a participant or otherwise, shall at any time be permitted to withdraw any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision), pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

13. A participant in the age fifty-five retirement program shall be permitted to borrow from the employee portion of his or her additional member contributions (as established in accordance with item (B) of subparagraph (ii) of paragraph six of this subdivision, including any interest paid thereon) which is credited to the employee additional contributions account established for such participant in the contingent reserve fund of the retirement system of which he or she is a member. The borrowing from such employee portion of additional member contributions pursuant to this paragraph shall be governed by the rights, privileges, obligations and procedures set forth in the applicable provisions of section six hundred thirteen-a of this article (for TRS members) or section six hundred thirteen-b of this article (for BERS members) which govern the borrowing of member contributions made pursuant to section six hundred thirteen of this article. The retirement board of TRS and the retirement board of BERS may, consistent with the provisions of this subdivision and the applicable provisions of section six hundred thirteen-a of this article (for TRS) or section six hundred thirteen-b of this article (for BERS) as made applicable to this subdivision, promulgate regulations governing the borrowing of such employee portion of additional member contributions, provided, however, that no person, while he or she is a participant or otherwise, shall at any time be permitted to borrow, pursuant to this paragraph or any other provision, any of the employer contribution portion of his or her additional member contributions, including any interest paid thereon (as established in accordance with item (A) of subparagraph (ii) of paragraph six of this subdivision).

14. Whenever a person has an unpaid balance of a loan of the employee portion of his or her additional member contributions pursuant to paragraph thirteen of this subdivision at the time he or she becomes enti-

tled to a refund of the employee portion of his or her additional member contributions pursuant to paragraph twelve of this subdivision, the amount of such unpaid loan balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such employee portion shall be the net amount of such employee portion, together with interest thereon in accordance with the provisions of paragraph eleven of this subdivision.

§ 6. Subdivision d of section 613 of the retirement and social security law is amended by adding a new paragraph 11 to read as follows:

11. (i) Notwithstanding any other provision of law to the contrary, each participating employer shall, in the case of a member who is a participant in the age fifty-five retirement program (as defined in paragraph seven of subdivision a of section six hundred four-i of this article), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision e of such section six hundred four-i.

(ii) An amount equal to the amount of additional member contributions picked up pursuant to this paragraph shall be deducted by such employer from the compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member.

(iii) The additional member contributions picked up pursuant to this paragraph for any such member shall be paid by such employer in lieu of an equal amount of additional member contributions otherwise required to be paid by such member under the applicable provisions of subdivision e of section six hundred four-i of this article, and shall be deemed to be and treated as employer contributions pursuant to section 414(h) of the Internal Revenue Code.

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the provisions of subdivision e of section six hundred four-i of the article.

(v) With the exception of federal income tax treatment, the additional member contributions picked up pursuant to subparagraph (i) of this paragraph shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this paragraph shall be construed as superseding the provisions of section four hundred thirty-one of this chapter or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

§ 7. Section 13-521.1 of the administrative code of the city of New York is amended by adding a new subdivision a-1 to read as follows:

a-1. Notwithstanding any other provision of law to the contrary, the employer responsible for pick up shall, in the case of a member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision d of section four hundred forty-five-i of the retirement and social security law, and shall effect such pick up on each and every payroll of such participant for each and every payroll

period with respect to which such paragraph three of subdivision d of section four hundred forty-five-i of the retirement and social security law otherwise would require such deductions.

§ 8. Paragraph 1 of subdivision c of section 13-521.1 of the administrative code of the city of New York, as added by chapter 681 of the laws of 1992, is amended to read as follows:

(1) The member contributions **and additional member contributions** picked up pursuant to this section for any Tier I member or Tier II member shall be paid by the employer responsible for pick up in lieu of an equal amount of the member contributions **and additional member contributions** otherwise required to be paid by such member under the provisions of this chapter **or the retirement and social security law,** and shall be deemed to be and treated as employer contributions pursuant to subsection h of section four hundred fourteen of the United States internal revenue code, as amended, for the purposes, under federal law, for which such subsection h so classified such picked up contributions. Subject to the provisions of subdivision b of this section, for all other purposes, including but not limited to:

(i) the obligation of such member to pay New York state and New York city income and/or wages or earnings taxes and the withholding of such taxes; and

(ii) the determination of the amount of such member's Tier I or Tier II member contributions eligible for pick up by the employer **or additional member contributions required to be picked up pursuant to subdivision a-one of this section**; and

(iii) the determination of the amount of any retirement allowance or other retirement system benefit payable to or on account of such member or any other retirement system right, benefit or privilege of such member;

the amount of the member contributions **and additional member contributions** picked up pursuant to this section shall be deemed to be a part of the employee salary of such member and such member's gross salary (as it would be in the absence of a pick up program applicable to him or her hereunder) shall not be deemed to be changed by such member's participation in such program.

§ 9. Subdivisions d and e of section 13-521.1 of the administrative code of the city of New York, as added by chapter 681 of the laws of 1992, are amended to read as follows:

d. (1) For the purpose of determining the retirement system rights, benefits and privileges of any Tier I member or Tier II member whose Tier I or Tier II member contributions eligible for pick up by the employer are picked up pursuant to this section (including the procurement of loans by any such member), such picked up member contributions, subject to the provisions of subparagraph [~~four~~] **five** of this paragraph, shall be deemed to be and treated (i) as member contributions made by such member pursuant to law and (ii) as a part of such member's accumulated deductions.

(2) **For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), the additional member contributions of such participant picked up pursuant to subdivision a-one of this section shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of section four hundred forty-five-i of the retirement and social security law.**

(3) Interest on contributions picked up for any Tier I or Tier II member pursuant to this section **(other than additional member contributions picked up pursuant to subdivision a-one of this section)** shall accrue in favor of the member and be payable to the retirement system at the same rate, for the same time periods, in the same manner and under the same circumstances as interest would be required to accrue in favor of the member and be payable to the retirement system on such contributions if they were made by such member in the absence of a pick up program applicable to such member under the provisions of this section.

[~~(3)~~] **(4)** Where member contributions of any Tier I member or Tier II member are picked up and paid into the annuity savings fund pursuant to this section, such picked up contributions shall be credited to a separate account within the individual account of such member in such fund, so that a separate record of the amount of such picked up contributions is maintained.

[~~(4)~~] **(5)** For the purposes of determining the retirement system rights, benefits and privileges of any Tier I member or Tier II member who is [~~a~~] a participant in a variable annuity program of the retirement system, his or her picked up member contributions shall, to the extent and in the proportions appropriate pursuant to his or her election to participate in such program, be deemed to be and treated as a part of his or her accumulated deductions and/or credits in his or her account in the variable annuity savings fund. A separate record shall be kept showing any such variable annuity savings fund account credits attributable to any such picked up contributions.

[~~(5)~~] **(6)** Nothing contained in this subdivision [~~d~~] shall be construed as granting member contributions **or additional member contributions** picked up under this section any status, under federal law, other than as employer contributions, pursuant to subsection h of section four hundred fourteen of the United States internal revenue code, for the federal purposes for which such subsection h so classifies such picked up contributions.

e. No contributor whose member contributions **or additional member contributions** are required to be picked up pursuant to this section shall have any right to elect that such pick up, with accompanying deduction from the compensation of such contributor as prescribed by subdivision b of this section, shall not be effectuated.

§ 10. Subdivision 19 of section 2575 of the education law is amended by adding a new paragraph (c-2) to read as follows:

(c-2) Notwithstanding any other provision of law to the contrary, the employer responsible for pick up shall, in the case of a member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision d of section four hundred forty-five-i of the retirement and social security law, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three otherwise would require such deductions.

§ 11. Item (ii) of subparagraph 1 of paragraph (e) of subdivision 19 of section 2575 of the education law, as amended by chapter 96 of the laws of 1995, is amended to read as follows:

(ii) the determination of the amount of such member's Tier I or Tier II member contributions eligible for pick up by the employer or addi-

tional member contributions required to be picked up pursuant to paragraph [~~(c-one)~~] **c-one or c-two** of this subdivision; and

§ 12. Paragraph (f) of subdivision 19 of section 2575 of the education law is amended by adding a new subparagraph 2-a to read as follows:

(2-a) For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), the additional member contributions of such participant picked up pursuant to paragraph c-two of this subdivision shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of section four hundred forty-five-i of the retirement and social security law.

§ 13. Subparagraph 3 of paragraph (f) of subdivision 19 of section 2575 of the education law, as amended by chapter 96 of the laws of 1995, is amended to read as follows:

(3) Interest on contributions picked up for any Tier I member or Tier II member pursuant to this subdivision (other than additional member contributions picked up pursuant to paragraph [~~(c-one)~~] **c-one or c-two** of this subdivision) shall accrue in favor of the member and be payable to the retirement system at the same rate, for the same time periods, in the same manner and under the same circumstances as interest would be required to accrue in favor of the member and be payable to the retirement system on such contributions if they were made by such member in the absence of a pick up program applicable to such member under the provisions of this section.

§ 14. Nothing contained in sections six, seven, eight, nine, ten, eleven, twelve and thirteen of this act shall be construed to create any contractual right with respect to members to whom such section applies. The provisions of such sections are intended to afford members the advantages of certain benefits contained in the internal revenue code, and the effectiveness and existence of such sections and benefits they confer are completely contingent thereon.

§ 15. This act shall take effect immediately, provided, however, that:

(a) the amendments to sections 603 and 613 of the retirement and social security law made by sections three, three-a, four and six of this act, and the provisions of section five of this act adding section 604-i to the retirement and social security law shall not affect the expiration of and shall expire on the same date as article 15 of such law, pursuant to section 615 of the retirement and social security law;

(b) the amendments to subdivision a of section 603 of the retirement and social security law made by section three of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 13 of chapter 682 of the laws of 2003, as amended, when upon such date the provisions of section three-a of this act shall take effect;

(c) the provisions of sections six, seven, eight, nine, ten, eleven, twelve and thirteen of this act shall remain in force and effect only so long as, pursuant to federal law, contributions picked up under such sections are not includible as gross income of a member for federal income tax purposes until distributed or made available to the member;

(d) the amendments to section 13-521.1 of the administrative code of the city of New York made by sections seven, eight and nine of this act and the amendments made to subdivision 19 of section 2575 of the education law made by sections ten, eleven, twelve and thirteen of this act

1 shall not affect the expiration of such provisions as provided for in
2 chapter 681 of the laws of 1992, as amended; and
3 (e) the amendments to subdivision d of section 613 of the retirement
4 and social security law made by section six of this act shall not affect
5 the expiration of such subdivision and shall be deemed to expire there-
6 with.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

Exclusion of Various UFT Titles - BERS

The proposed legislation, if enacted, would amend the benefit provisions contained in the Administrative Code of the City of New York ("ACNY") and the New York State Retirement and Social Security Law ("RSSL") applicable to certain Tier II and Tier IV members of the NYCTRS and BERS to create a new Age 55 Retirement Program to permit unreduced Early Service Retirement from as early as age 55 (with less than 30 years of credited service for NYCTRS members).

The proposed legislation lists those Eligible Job Titles in BERS which would be permitted to participate in this new Program. Most of these Job Titles appear to be represented for collective bargaining purposes by the United Federation of Teachers ("UFT").

However, there are BERS members employed in Job Titles represented by the UFT whose Job Titles are **not** included on the list of Job Titles in the proposed legislation (e.g., Laboratory Specialist and Technician, School Psychologist etc.).

In addition, one of the criteria for establishing which Job Titles in the proposed legislation should cover BERS members was that they represent education service only with the New York City Board of Education ("BOE") or the New York City School Construction Authority ("SCA").

Yet, in the proposed legislation certain Job Titles are included based on service only for the BOE and would be excluded if service were with the SCA.

It is not clear if there are BERS members who work in education service for other than the BOE or the SCA and who may be in Job Titles represented by the UFT but who are not covered by the proposed legislation.

There were several Job Titles listed in the proposed legislation for which the OA had no data. The Actuary is concerned that certain BERS members may be inadvertently excluded.

In addition, certain Job Titles listed for BERS in the proposed legislation, are represented in collective bargaining by both the UFT and District Council #37 ("DC37"). Some of the OA data indicated that some of the BERS members were being shown in the wrong Plan. The Actuary has not had enough time to determine if this is just an error in coding or if there are other issues.

For purposes of this Fiscal Note, the Actuary has assumed that the Job Titles mentioned in the draft document would be included as being eligible for the Age 55 Retirement Program only if the members in such titles are currently participating in the BERS Basic Tier II or Tier IV Plans.

Problems with Chapter 96/95 Program Participants.

The proposed legislation does not appear to exclude a member of NYCTRS or BERS based on the plan in which he currently participates.

If a member of BERS who was a participant in one of the Chapter 96 of the Laws of 1995 ("Chapter 96/95") Early Service Retirement Programs were to enter into an Eligible Job Title that mandated immediate participation into the Age 55 Retirement Program, that member would owe Additional Member Contributions ("AMC") for all years of credited service

including those years prior to participation date in the Age 55 Retirement Program.

Since the proposed legislation does not anticipate that new entrants may have paid AMC while a Chapter 96/95 Program participant, the proposed legislation would require such members to pay AMC again for certain credited service that had already been paid to the prior Chapter 96/95 Programs.

Also, upon the transfer of members of the New York City Employees' Retirement System ("NYCERS") who participate in Chapter 96/95 Programs to BERS, the entire AMC account balance would be transferred to BERS consisting of 50% employer money and 50% employee money. In addition, such allocation of AMC amounts for existing BERS participants in the Chapter 96/95 Programs is the same.

Since the AMC contribution requirement in the new Age 55 Retirement Program is 1.85% of pay and the prior Chapter 96/95 Program was greater, when such participant becomes eligible to join the Program would that permit the participant an opportunity to receive the portion of such prior AMC deposited in excess of 1.85% of pay as a refund?

Inequities in Coverage

One of the primary motivations of the new legislation was to permit certain members of NYCTRS and BERS to retire early for service with unreduced benefits at age 55 and 25 years of credited service as their counterparts who already participate in one of the Chapter 96/95 Programs in NYCERS and in various BERS Job Titles.

While the proposed legislation goes a long way toward resolving these issues, there are certain groups in NYCTRS and BERS who are not eligible for the new Age 55 Retirement Program.

Among the groups **not** eligible are:

NYCTRS

"College Participants" covered in ACNY 13-563, and

Transferred Contributor members.

BERS

Substitute teachers,

Members in Eligible Job Titles except such members who do not work for the BOE or the SCA (e.g., a nurse who is a BERS member who works for the Health and Hospitals Corporation), and

Job Titles in BERS other than substitute teacher titles who are excluded (as noted above).

Precluding Mandated Participants from Opting-Out

Under the proposed legislation, for those BERS and NYCTRS members who are eligible to elect to participate in the proposed Age 55 Retirement Program, these members have 180 days to voluntarily elect to participate from enactment date or from the date when first eligible. In addition, for such members who do elect to participate, there is a 365-day window period within which they can elect to opt-out of the Program and receive a refund of 50% of the AMC contributed to the Program.

New eligible members after enactment date are mandated into the new Program and are required to pay back AMC for all prior credited service. These members are not permitted any opportunity to opt-out of the Program in the event their hire date, to measure credited service, does not allow them to benefit from this Program (i.e., a new member hired on and after attainment of age 35 cannot benefit from this new Program).

On average, over the last five years, a significant percentage (i.e., 60% plus) of all new entrants into NYCTRS would not benefit from this new Program. It is not clear if this pattern of entry ages in NYCTRS will continue in the future or change.

The Actuary encourages the proponents of the proposed legislation to reconcile these outstanding questions and try to promote consistency within existing and proposed law.

FISCAL NOTE: PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Administrative Code of the City of New York ("ACNY") Section 13-521.1, New York State Education Law Section 2575.19 and New York State Retirement and Social Security Law ("RSSL") Sections 442.a, 603a, and 603.i and add RSSL Sections 445-i, 604-i and 613.d.11 to permit certain employees who are Tier II and Tier IV members of the New York City Teachers' Retirement System ("NYCTRS") or the New York City Board of Education Retirement System ("BERS") to participate in an Age Fifty-Five Retirement Program (referred to hereafter as the "Age 55 Program").

The Effective Date of the proposed legislation would be the date of enactment.

MEMBERS ELIGIBLE TO JOIN THE AGE 55 PROGRAM: Those Tier II and Tier IV members of NYCTRS and BERS eligible to participate in the proposed Age 55 Program are those employees in the following Job Titles (collectively: "Eligible Members"):

Eligible Members of NYCTRS

Employees included in Job Titles that are defined as "Teacher" as shown in ACNY Section 13-501.7(a) and

Employees included in Job Titles listed in Chapter 997 of the Laws of 1983.

Specifically excluded are any NYCTRS members considered as "College Participants" as defined in ACNY Section 13-563 or as "Transferred Contributor" members.

Eligible Members of BERS

The following positions in education service as a paid official or employee of the Board of Education of the City of New York ("BOE") or the New York City School Construction Authority, namely:

Head Nurse (including BOE),
Supervisor of Nurses,
Staff Nurse,
Registered Nurse (only BOE),
Public Health Nurse,
Pediatric Nurse Associate,
Supervising Therapist,
Senior Occupational Therapist (including BOE),
Occupational Therapist (including BOE),
Senior Physical Therapist (including BOE),
Physical Therapist (including BOE),
Substitute Vocational Assistant,
Non-Annualized Adult Education Teacher,
Non-Annualized Adult Education Assistant Coordinator,
Non-Annualized Adult Education Coordinator,
Director of Drug and Alcohol Programs,
Assistant Director of Drug and Alcohol Programs,
Sign Language Interpreter,
Teacher of Military Science,
Army, Navy, Air Force, Aerospace, Marine Corps, or Coast Guard Instructor (including Senior),
Youth Development Specialist,
Education Administrator (represented by UFT),
Education Officer (represented by UFT),
Associate Education Officer (represented by UFT),

Education Analyst (represented by UFT) and
Associate Education Analyst (represented by UFT).
UFT stands for the United Federation of Teachers.

Entry into the Age 55 Program is elective for those current Tier II and Tier IV NYCTRS and BERS Eligible Members who **elect-in** within 180 days of the Effective Date and for those employees in Eligible Job Titles prior to the Effective Date who become Eligible Members after the Effective Date, who **elect-in** within 180 days of becoming Eligible Members (such elect-in participants are denoted "25-Year Participants"). Those Tier IV employees who are not in Eligible Job Titles prior to the Effective Date as well as those employees hired after the Effective Date who become Eligible Members after the Effective Date are mandated (such mandated-in participants are denoted "27-Year Participants") into the proposed Age 55 Program (collectively the Age 55 Program participants are referred to hereafter as "Covered Participants").

IMPACT ON BENEFITS PAYABLE: Tier II and Tier IV Eligible Members of NYCTRS and BERS are currently participants in one of the Basic Plans.

NYCTRS Tier II Basic Plan members are currently eligible to retire either under Plan C or Plan D while Tier II BERS Basic Plan members are currently eligible to retire under the Modified Career Pension Plan ("Modified CPP Plan") and the Modified Fifty-Five-Year-Increased-Service-Fraction Plan ("Modified ISF Plan").

Under Plan C, Tier II NYCTRS members can receive at the completion of 25 years of CPP qualifying service an unreduced pension payable at age 62 (or a reduced pension at age 55) equal to 50% of 3-Year Final Average Salary ("FAS-3") plus 1.7% of FAS-3 per year of CPP qualifying service in excess of 20 years (subsequent to June 30, 1970).

Under the Modified CPP Plan, Tier II BERS members can receive at the completion of 25 years of CPP qualifying service an unreduced pension generally payable at age 62 (or a reduced pension at age 55) equal to 55% of FAS-3 plus 1.7% of FAS-3 per year of CPP qualifying service in excess of 25 years (subsequent to June 30, 1968).

In addition for such Plan C and Modified CPP Plan members, the actuarial equivalent of any reserve for Increased-Take-Home-Pay ("ITHP") and any accumulations of member contributions in excess of those required at 20 years for NYCTRS member (and 25 years for BERS members) are paid in the form of an annuity based upon age at service retirement.

Under Plan D and the Modified ISF Plan, Tier II NYCTRS and BERS members receive an unreduced pension at age 62 (or a reduced pension at age 55) equal to 1.53% of FAS-3 per year of credited service after June 30, 1970 for NYCTRS members (or after June 30, 1968 for BERS members) plus the actuarial equivalent of the entire ITHP and member contribution accumulation balance payable in the form of an annuity based upon age at service retirement.

Certain Tier II and Tier IV members of BERS participate in the BERS Twenty-Five Year Early Retirement Program ("BERS 55/25 Program") or the BERS Age Fifty-Seven Retirement Program ("BERS 57/5 Program") (collectively referred to as the "Chapter 96/95 Retirement Programs").

While such Chapter 96/95 Retirement Programs are generally not available to Eligible Members, the participants of such Chapter 96/95 Programs who change their job title could become eligible to elect or become mandated into the Age 55 Retirement Program.

Tier IV NYCTRS and BERS members in the Tier IV Basic Plan receive a benefit equal to either: for total credited service less than 20 years, 1-2/3% of FAS per year of credited service or for total credited service in excess of 20 years, 40% of FAS-3 plus 2.0% of FAS-3 per year of cred-

ited service in excess of 20 years but less than 30 years plus 1.5% of FAS-3 per year of service in excess of 30 years commencing at age 62 (or on a reduced basis from age 55).

Tier II and Tier IV NYCTRS members also can retire for service with an unreduced retirement benefit upon completion of 30 years of credited service (of which 25 are considered qualifying service for Tier II members) and attainment of age 55. The retirement allowance is equal to the same formula benefit as computed under Plan C for Tier II members and under the Basic Plan for Tier IV members.

For Tier II NYCTRS and BERS members, deferred vested and deferred retirement benefits are based upon completion of years of credited service as follows:

Deferred Vested Benefits

At least 5 years of credited service at termination of employment: a deferred vested benefit equal to Plan D or the Modified ISF Plan pension computed at termination of employment, payable at age 62 or on a reduced basis from age 55.

Deferred Retirement Benefits

At least 20 years of Career Pension Plan qualifying service, less than 30 years of credited service and attained age 55: a deferred benefit equal to Plan C or the Modified CPP Plan pension payable on a reduced basis on the date would have completed 25 years of qualifying service or payable on an unreduced basis from age 62, if earlier.

For Tier IV NYCTRS and BERS Basic Plan members, deferred vested benefits are based upon completed years of credited service as follows:

In the Basic Plan, at least 5 years of credited service at termination of employment: A deferred vested benefit is payable at age 62 equal to 1-2/3% of FAS-3 per year of credited services up to 20 years. If credited service is in excess of 20 years, 40% of FAS-3 plus 2% of FAS-3 per year for the first 10 years of credited service in excess of 20 years plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

Tier IV NYCTRS, with at least 30 years of credited service at termination of employment: A deferred vested benefit is payable at age 55 equal to: 60% of FAS-3 plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

In lieu of benefits payable under the current law, it is the understanding of the Actuary that this proposed legislation would provide the following unreduced Early Service Retirement Benefits for Covered Participants of the Age 55 Program:

A Tier II member of NYCTRS or BERS on or after the Effective Date who elects to participate in the Age 55 Program (i.e., a 25-Year Participant) would be eligible to retire after attainment of age 55 and completion of 25 years of credited service on and after June 30, 2008 with an annual benefit equal to the same formula benefit as is currently available in the respective Tier II Plan C or Modified CPP Plan but unreduced for commencement before age 62.

A Tier IV member of NYCTRS or BERS on or after the Effective Date who elects to participate in the Age 55 Program (i.e., a 25-Year Participant) would be eligible to retire after attainment of age 55 and completion of 25 years of credited service on and after June 30, 2008 with an annual benefit equal to 50% of FAS-3 plus 2.0% of FAS-3 per year of credited service in excess of 25 years (maximum of 5 years) plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

A Tier IV member of NYCTRS or BERS after the Effective Date who is mandated to participate in the Age 55 Program (i.e., a 27-Year Participant) would be eligible to retire after attainment of age 55 and

completion of 27 years of credited service with an annual benefit equal to 54% of FAS-3 plus 2.0% of FAS-3 per year of credited service in excess of 27 years (maximum of 3 years) plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

A Covered Participant would be eligible for the following deferred vested benefits (in lieu of the deferred vested benefit under the Basic Tier II and Tier IV Plans) provided the Covered Participant has paid all member contributions (including additional member contributions required under this proposed legislation) owned:

For Tier II and Tier IV 25-Year Participants, there are no vested benefit provisions.

For Tier IV 27-Year Participants with at least 27 years of credited service at termination of employment: A deferred vested benefit equal to 2.0% of FAS-3 per year of credited service up to 30 years plus 1.5% of FAS-3 per year of credited service in excess of 30 years, payable at the date member would have attained age 55.

IMPACT ON MEMBER CONTRIBUTIONS: Under current law all Tier II and Tier IV Eligible Members are required to make Basic Member Contributions ("BMC") at a fixed rate of salary.

For Tier II Plan C NYCTRS members such required BMC are made for 20 years of service.

For Tier II Modified CPP Plan BERS members such required BMC are made for 25 years of service.

For Tier IV members BMC are continued until the first date after October 1, 2000 when such members have completed 10 years of membership on 10 years of credited service, whichever comes first.

Those Tier II and Tier IV members of BERS who participate in the Chapter 96/95 Retirement Programs are required to make certain Additional Member Contributions ("AMC") at a rate of 1.85% of salary. These AMC are required to be paid until the earlier of:

(i) Eligibility to retire under a Chapter 96/95 Retirement Program, or

(ii) Completion of 25 years of credited service for Tier II participants/30 years for Tier IV participants.

Under the proposed Age 55 Program, there would be no change to the rate of BMC.

Comparable to the AMC of the Chapter 96/95 Programs, the Age 55 Retirement Program requires New Additional member Contributions ("NAMC") at a rate of 1.85% of pay. Such NAMC for 25-Year Participants would be made commencing from the Effective Date or, for those not eligible on the Effective Date, from the date of participation and for each payroll period after the Effective Date/participation date. For 27-Year Participants, NAMC would commence from the date of participation; however, NAMC would be owed with respect to all credited service rendered prior to date of participation in the Age 55 Program.

NAMC in the Age 55 Program for 25-Year Participants are payable until the later of: completion of 25 years of credited service or June 29, 2008 (27 years of credited service for 27-Year Participants).

With respect to the Age 55 Program, 50% of the NAMC paid are considered employer contributions and the other 50% of NAMC are considered employee contributions.

Withdrawal for any reason by a Covered Participant with less than 5 years of credited service would entitle the Covered Participant to a refund of BMC and 50% of the NAMC.

Upon death or disability, regardless of cause prior to retirement, 50% of the NAMC would be refunded.

Upon service retirement on or after age 62, 50% of the NAMC would be refunded.

As stated above, if a 27-Year Participant has at least 27 years of credited service and is under age 55 at withdrawal, an unreduced vested benefit would be payable commencing at age 55.

However, if the Covered Participant withdraws all AMC, if any, and NAMC, then it is the Actuary's understanding that only a basic Tier IV vested benefit would be payable at age 62.

A Covered Participant would be permitted to borrow from the employee portion of his NAMC.

If a refund/loan of participant contributions were elected that would generate a deficiency in the participant's contribution account, then such participant would, nonetheless, be eligible for an early service retirement benefit or a deferred vested benefit under the provisions of the proposed Age 55 Retirement Program, but with a reduction equal to the actuarial equivalent of the participant's contribution deficiency.

FINANCIAL IMPACT - OVERVIEW: If enacted into law, the ultimate employer cost of this proposed legislation would be determined by the excess of additional benefits paid by NYCTRS and BERS over the cumulative change in future required NAMC deposited by Age 55 Program participants.

This ultimate employer cost will depend upon the number of eligible members who elect to become 25-Year Participants and the number of mandated 27-Year Participants.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: Based on the current, potential group of Covered Participants and based on the actuarial assumptions and methods described herein, the enactment of this proposed legislation would change the Actuarial Present Value ("APV") of Benefits ("APVB"), the APV of future NAMC and the APV of future employer costs as of June 30, 2006 for NYCTRS and BERS as follows:

Estimated Financial Impact to Provide for an Age 55 Retirement Program for Certain Members of NYCTRS and BERS*

($ in Millions)

Retirement System	Additional APVB	Additional APV of Future Employer Costs**	Estimated First Year Additional Employer Costs*#
NYCTRS	$347.5	$310.1	$ 99.2
BERS	**7.2**	**4.9**	**1.4**
Total	$354.7	$315.0	$100.6

* Based on the Actuary's actuarial assumptions and methods in the June 30, 2006 (Lag) actuarial valuations and the other actuarial assumptions and methods as noted herein. Such other assumptions include the utilization of a set of unisex probabilities of accelerated retirement in the first three years of eligibility for those members who benefit actuarially under the Age 55 Program.

**Equals increase in APVB less increase in APV of future NAMC.

*#Estimated Additional Employer Costs are determined based on the funded status of NYCTRS and BERS in the June 30, 2006 (Lag) actuarial valuations and represent the best estimates of the initial annual financial cost of the proposed legislation if enacted in the 2008 Legislative Session after June 30, 2007 and prior to June 20, 2008. The actual impact on employer contributions would begin in Fiscal Year 2009.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER COSTS: With respect to the current potential group of Covered Participants and based upon the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase annual employer costs to NYCTRS by approximately $99.2 million per year and to BERS by approximately $1.4 million per year.

It should be noted that under the funding method used by the Actuary, a portion of the increase in annual employer cost is attributable to the reduction in funding period for participants retiring earlier. The portion of such increase in annual employer cost with respect to NYCTRS is approximately $69.6 million and with respect to BERS is approximately $0.8 million.

Over time it is expected that as more new entrants become participants of the Age 55 Program the employer costs will reduce and eventually the NAMC will be able to fully support the Program based on the provisions of the proposed legislation.

FINANCIAL IMPACT - ADDITIONAL EMPLOYER CONTRIBUTIONS TO NYCTRS - FISCAL YEARS 2009 AND LATER: For most legislation enacted during the current Legislative Session after June 30, 2007 and before June 30, 2008, annual employer contributions to NYCTRS would generally increase beginning Fiscal Year 2008. However, since the impact of this proposed legislation is dependent upon the actual number of members who elect to join the Age 55 Program, the Actuary prefers to determine employer contributions based on those members who actually become participants as of June 30, 2008. Based on the expected number of Covered Participants as of June 30, 2008, it is estimated that employer contributions to NYCTRS would increase in Fiscal Year 2009 by approximately $99.2 million and by a comparable percentage of payroll thereafter.

FINANCIAL IMPACT - ADDITIONAL EMPLOYER CONTRIBUTIONS TO BERS - FISCAL YEARS 2009 AND LATER: For most legislation enacted during the current Legislative Session after June 30, 2007 and before June 30, 2008, annual employer contributions to BERS would generally increase beginning Fiscal Year 2008. However, since the impact of this proposed legislation is depended upon the actual number of members who elect to join the Age 55 Program, the Actuary prefers to determine employer contributions based on those members who actually become participants as of June 30, 2008. Based on the expected number of Covered Participants as of June 30, 2008, it is estimated that employer contributions to BERS would increase in Fiscal Year 2009 by approximately $1.4 million and by a comparable percentage of payroll thereafter.

OTHER COSTS: Not measured in this Fiscal Note are additional administrative costs or the impact of additional post-retirement medical and other health care insurance costs.

CENSUS DATA: The census data used for estimates of APVB, the net APV of future BMC and NAMC and employer costs presented herein are those Covered Participants who are eligible for and who could potentially benefit from this proposed legislation. The data consists of 436 Tier II Basic Plan members of NYCTRS with salaries of approximately $40.6 million and 10,661 Tier IV Basic Plan members of NYCTRS with salaries of approximately $900.7 million and 333 Tier IV Basic Plan members of BERS with salaries of approximately $18.5 million included in the June 30, 2006 (Lag) actuarial valuations of NYCTRS and BERS.

This compares with a total of 2,035 Tier II Basic Plan members of NYCTRS with salaries of approximately $194.7 million and 103,369 Tier IV Basic Plan members of NYCTRS with salaries of approximately $6,358.7 million and 839 Tier IV Basic Plan members of BERS with salaries of

approximately $48.7 million BERS who were included in the June 30, 2006 (Lag) actuarial valuations of NYCTRS and BERS.

In order to develop a better estimate of those potentially eligible for the Age 55 Program, the active memberships as of June 30, 2006 in NYCTRS and BERS were adjusted for those members who left active status **for retirement** during the Fiscal Year ending June 30, 2007.

Where data in the valuation may have indicated that certain BERS Eligible Members were Chapter 96/95 participants, it was assumed that such coding was an error and such members were excluded.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB, APV of future NAMC, employer costs and employer contributions have generally been calculated using the actuarial assumptions and methods in effect for NYCTRS and BERS as of June 30, 2006.

To determine the impact of the proposed legislation, a subgroup of Tier II and Tier IV Eligible Members was developed on the basis of who would benefit actuarially.

For each member, the net APV of future employer costs (i.e., the APVB less the APV of future BMC and NAMC) was developed under the current Plan and under the proposed Age 55 Program. If such net APV measured for the Age 55 Program was greater than the net APV measured for the member's current benefits, the member was deemed to benefit actuarially.

In developing the APV of future employer costs with respect to the proposed Age 55 Program benefits, those actuarially-benefitting members were valued under the proposed Age 55 Program utilizing the Actuary's estimated probabilities of expected accelerated retirement.

The assumed probabilities of accelerated retirements below age 62 are 40% in the first year of eligibility, 30% in the second year and 20% thereafter. These are somewhat lesser than the probabilities used under the Chapter 96/95 Programs of 60%, 40% and 20% respectively, but are significantly greater than those used for NYCTRS of 12%, 10% and 10% for males and 10%, 8% and 8% for females for the first, second and third year of eligibility for unreduced retirement.

The assumed probabilities at age 62 and above are the same as those used under the current assumptions for male participants, so there is a slight increase in the probabilities used for females.

As mentioned earlier, retirements that occurred through June 30, 2007 were excluded from the calculations. Therefore, no retirements were assumed for the year ending June 30, 2007 (Fiscal Year 2007). Also, for those members who are eligible to retire during Fiscal Year 2008 with a reduced retirement allowance but would be eligible to retire on or after June 30, 2008 with an unreduced benefit by electing the Program, no reduced early retirements are assumed to occur during Fiscal Year 2008 since these members would likely defer retirement in order to qualify for an unreduced benefit.

The probabilities for unreduced service retirement for BERS members under the Age 55 Program were assumed to equal those used for NYCTRS.

Note: No estimate has been made of the financial impact of future, new entrants who would be mandated into the Age 55 Program or if a current or future BERS Chapter 96/95 participant were to become an Eligible Member and would either elect or be mandated into the Age 55 Program.

Employer contributions have been estimated assuming the additional APVB are financed through future normal contributions.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2008 Legislative Session. It is Fiscal Note 2008-03, dated January 8, 2008, prepared by the Chief Actuary for the New York City Teachers' Retirement System and New York City Board of Education Retirement System.

Chapter 43 Signed April 7, 2008

STATE OF NEW YORK

S. 6650 - A. 9942

IN SENATE

(Prefiled)

January 9, 2008

Introduced by Sens. FARLEY, ALESI, DeFRANCISCO, FLANAGAN, FUSCHILLO, O. JOHNSON, LARKIN, LAVALLE, LEIBELL, LIBOUS, MAZIARZ, MORAHAN, PADAVAN, RATH, SALAND, SEWARD, SKELOS, VOLKER, WRIGHT -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend chapter 729 of the laws of 1994 relating to affecting the health insurance benefits and contributions of retired employees of school districts and certain boards, in relation to the effectiveness of such provisions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 1 of chapter 729 of the laws of 1994 relating to affecting the health insurance benefits and contributions of retired employees of school districts and certain boards, as amended by chapter 22 of the laws of 2007, is amended to read as follows:

Section 1. From on and after June 30, 1994 until May 15, [~~2008~~] **2009**, a school district, board of cooperative educational services, vocational education and extension board or a school district as enumerated in section 1 of chapter 566 of the laws of 1967, as amended, shall be prohibited from diminishing the health insurance benefits provided to retirees and their dependents or the contributions such board or district makes for such health insurance coverage below the level of such benefits or contributions made on behalf of such retirees and their dependents by such district or board unless a corresponding diminution of benefits or contributions is effected from the present level during this period by such district or board from the corresponding group of active employees for such retirees.

§ 2. This act shall take effect May 15, 2008; provided, however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after May 15, 2008.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

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Section IV

Vetoed Legislation Affecting Other New York Public Retirement Systems

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VETO MESSAGE - No. 130

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 8142, entitled:

"AN ACT to amend the education law, in relation to service credit in the New York state teachers' retirement system"

NOT APPROVED

This bill would entitle members of the Professional, Scientific and Technical Services (PS&T) Unit who are in the New York State Teachers' Retirement System (TRS) to use up to 200 sick days for credit towards their pensions. These individuals are primarily employees of the New York State Schools for the Blind and the Deaf, although a very limited number of State Education Department employees are also covered. The benefit at issue is enjoyed by all other members of the PS&T unit, and virtually all State employees in the New York State Employees' Retirement System (ERS).

This legislation has a long and complicated history. At various points in time, this benefit has been the subject of discussions between the State and the unit's employee representative, and consideration has been given to bargaining over this benefit, enacting it through legislation (as in a bill vetoed by Governor Pataki in 2005), or transferring the employees at issue to ERS. My view is that, prior to any legislative action, such a benefit should be the subject of an agreement between the employer and employee representative. Indeed, I approved legislation earlier this year which authorized this kind of pension credit benefit for employees of the New York Liquidation Bureau where the Bureau had entered into a side agreement with the relevant union, in which it assented to the legislation. See Chapter 271 of the Laws of 2008.

There is no such agreement in this case. To the contrary, pursuant to collective bargaining last year, the employer and PS&T employee representative entered into a side letter directing further study of this issue. No such study has yet been completed. Under these circumstances, I believe that authorizing this benefit via legislation would constitute an end run around the collective bargaining process. I would take a very different view of this bill if I were presented with evidence that the legislation was submitted pursuant to an employer-union agreement.

Finally, as no other employees in TRS have this benefit, concerns have been raised that this will be a precedent for other groups. While the cost of granting the credits at issue to these employees is (according to the fiscal note) "negligible," this would no longer be the case if others in TRS (such as certain employees of the State University of New York) could claim the same benefit. These precedential concerns would not arise in the case of a bargained-for benefit, since the existence of such a bargain would be the crucial variable distinguishing those entitled to similar legislation from those who were not. Where - as here - enactment is sought outside the bargaining process, such a boundary is far more difficult to delineate.

The bill is disapproved. (signed) DAVID A. PATERSON

Veto Memo 130 Vetoed September 4, 2008

STATE OF NEW YORK

S.8142 - A.10644

IN SENATE

May 2, 2008

Introduced by Sen. RATH -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the education law, in relation to service credit in the New York state teachers' retirement system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 509 of the education law is amended by adding a new subdivision 13 to read as follows:

13. a. In addition to any other service credit to which he or she is entitled, a member subject to this article or to article fourteen or fifteen of the retirement and social security law who meets the requirements set forth in paragraph b of this subdivision shall be granted one day of additional service credit for each day of accumulated unused sick leave which he or she has at time of retirement for service, but such credit shall not (1) exceed two hundred days; (2) be considered in meeting any service or age requirements prescribed in this chapter; and (3) be considered in computing final average salary.

b. Such service retirement credit shall be granted only to members of the New York state teachers' retirement system in the employ of the state education department in the collective negotiating unit established by article fourteen of the civil service law designated the professional, scientific and technical services unit who, prior to retirement, were subject to a plan established by law, rule, regulation, written order or written policy that provided for the regular earning and accumulation of sick leave.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 30, 2008.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would allow certain eligible members of the New York State Teachers' Retirement System employed in the State Education Department who retire on or after July 1, 2008 to receive service credit for up to 200 days of unused accumulated sick leave. Such additional credit is to be used in the calculation of retirement benefits, but not for meeting any service or age requirements or in the computation of final average salary.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2008-33 dated March 28, 2008 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2008 Legislative Session.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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