2010
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 retirement-related legislation enacted or vetoed during the 2010 Legislative Session. Sections I and II list legislation directly affecting NYSLRS, our participating employers, members, retirees and beneficiaries. Sections III and IV cover legislation affecting the other New York State public retirement systems.

I hope you find this 2010 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
32	3	Grants an exemption to provisions prohibiting transfer of any retirement plan upon commencement of a matrimonial action when the retirement plan is already paying benefits. [S.5588/A.8378]
45	4	Provides temporary retirement incentive for certain public employees (NYSUT's 55/25). [S.6972/A.10065]
50	-	Public Protection and General Government Budget bill. [A.9700/S.6600] – not included due to voluminous nature.
56	-	Enacts into law major components of legislation which are necessary to implement the Public Protection and General Government state fiscal plan for the 2010-2011 state fiscal year. [A.9706/S.6606] – not included due to voluminous nature.
57	8	Enacts into law major components of legislation necessary to implement the revenue bill for the 2010-2011 state fiscal plan (Employer Contribution Stabilization Program). [A.9710/S.6610]
105	23	Establishes temporary retirement benefit incentives for certain public employees. [A.11144/S.7909]
150	47	Relates to compensation, benefits and other terms of conditions of employment of certain state officers and employees of the security services collective bargaining unit and who are not eligible for binding interest arbitration. [S.8245/A.11497]
152	60	Relates to compensation, benefits and other terms of employment of certain state officers and employees who are members of the security supervisors unit; authorizes funding of joint labor-management committees. [S.8412/A.11593]
171	77	Establishes a strategy to increase participation by emerging investment managers and other minority and women-owned business enterprises involved in providing asset management services, financial services or other professional services. [S.6888/A.9976]
337	86	Authorizes certain police officers employed by the village of Lyons to join the twenty year retirement plan. [A.8076/S.4194]
361	88	Increases the composition of the September 11th worker protection task force to 20 members including the medical director of the Mount Sinai Irving J. Selikoff Center for Occupational and Environmental Medicine and extends the expiration of such chapter from 6/10/2010 to 6/10/2015. [A.10741/S.7456]

Chapter Titles

Chapter No.	Page	Description
439	89	Increases certain special accidental death benefits paid to widows, widowers or the deceased member's children. [A.9914/S.6879]
496	94	Authorizes the village of Port Dickinson, in the county of Broome, to offer an optional 20 year retirement plan to chief of police Sean D. Crouse and police officer Paul Buttacovoli, Jr. [A.9913/S.6813]
497	96	Authorizes William Bianco and Eric Lipinsky to file for retroactive membership in the optional 20 year retirement plan of the NYSLRS. [A.9947/S.6861]
498	98	Allows members of the New York state and local police and fire retirement system who retire to elect the alternative option. [A.10109/S.7051]
500	100	Authorizes the town of Kirkland to offer an optional twenty year retirement plan to police officers Griffin, Knight, Cania and Smoulcey. [A.10268/S.6986]
513	102	Provides for compliance by the NYSLRS with the requirements of the federal older workers' benefit protection act; provides that provisions relating to disability benefits, ordinary death benefits and post-retirement death benefits would be modified to be consistent with benefits currently paid by other retirement systems as required by OWBPA. [S.5533/A.7972]
514	111	Authorizes the city of Oneonta to offer an optional twenty year retirement plan to police sergeant Douglas W. Brenner. [S.5775/A.8731]
517	113	Allows the Village of Mamaroneck to reopen the optional retirement plan offered under section 384-d of the RSSL to certain police officers. [S.6152/A.9182]
519	115	Allows certain deputy sheriffs of the county of Chemung to join the special retirement plan for sheriffs, undersheriffs and deputy sheriffs. [S.6926/A.10026]
520	117	Authorizes the town of Montgomery, in Orange county, to offer an optional 20 year retirement plan and additional pension benefits to police officer Kenneth M. Byrnes. [S.6984/A.6248]
521	119	Authorizes the village of Cornwall-on-Hudson, in the county of Orange, to offer an optional twenty year retirement plan to police officers Patricia Willard, Jill Nye, Seth Armstrong and Michael Lug. [S.7182/A.11165]
525	121	Allows state police officers to receive an improved death benefit where such officers die without twenty years of service credit but with enough unused vacation and sick time to get them to twenty years of service credit. [S.7544/A.10753]
538	123	Removes restrictions on designation of officers or employees of subsidiary corporations of the MTA as public officers or public employees. [S.5634/A.8262]

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

Veto No.	Page	Description
M.6726	127	Authorizes the deferral of up to five vacation days per year for state correctional officers and SHTAs and the receipt of a lump sum payment equal to the value of the time deferred upon retirement. [S.5633/A.8509]
M.6730	130	Provides for the continuation of health insurance benefits for public employees injured or taken ill in the performance of duty. [S.6785/A.9943]
M.6732	133	Relates to transfer of retirement membership for SUNY employees within the PS&T bargaining unit into the NYSLRS. [S.7078/A.10068]
M.6770	136	Provides alternate retirement benefits for employees of the New York Power Authority, who are employed at the Charles Poletti Power Project. [S.8225/A.11442]
M.6805	143	Authorizes the city of Kingston to amortize the cost of payments to employees upon separation of service from such city. [A.9950/S.7030]
M.6815	146	Authorizes the town of North Greenbush to offer an optional retirement plan to certain police officers. [S.6967/A.10054]

Section III
Legislation Affecting Other New York Public Retirement Systems

Chapter No.	Page	Description
157	153	Relates to the suspension of NYC school construction authority employees and length of service retirement purposes. [A.9174/S.6215]
265	158	Relates to the rate of regular interest used in the actuarial valuation of liabilities for the purpose of calculating contributions to certain retirement systems. [A.10770/S.7611]
286	162	Modifies the methods used for calculating final average salary for certain members of the New York city teachers' retirement system. [S.5748/A.8664]
299	168	Relates to the re-employment of retired persons by the board of higher education of the city of New York. [S.7452/A.11383]

Section IV
Vetoed Legislation Affecting Other New York Public Retirement Systems

Veto No.	Page	Description
M.6723	173	Expands the application of provisions for a reduced retirement age for certain TBTA employees to January 1, 2012. [S.3718/A.7282]
M.6833	179	Provides that a member with at least 5 years of creditable police or fire service in the retirement system shall not be precluded from any rights he is entitled otherwise to nor upon retirement shall his benefits be in any way diminished as a result of a discharge or dismissal. [S.5631/A.10154]

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2010

Section I

Legislation Affecting the New York State and Local Retirement System

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Chapter 32 Signed March 30, 2010

STATE OF NEW YORK

5588--A

2009-2010 Regular Sessions

IN SENATE

May 20, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary 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 domestic relations law, in relation to the use of the proceeds of a retirement plan after the commencement of a matrimonial action

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

Section 1. Subparagraph 2 of paragraph b of subdivision 2 of part B of section 236 of the domestic relations law, as added by chapter 72 of the laws of 2009, is amended to read as follows:

(2) Neither party shall transfer, encumber, assign, remove, withdraw or in any way dispose of any tax deferred funds, stocks or other assets held in any individual retirement accounts, 401K accounts, profit sharing plans, [~~Keough~~] **Keogh** accounts, or any other pension or retirement account, and the parties shall further refrain from applying for or requesting the payment of retirement benefits or annuity payments of any kind, without the consent of the other party in writing, or upon further order of the court**; except that any party who is already in pay status may continue to receive such payments thereunder**.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after September 1, 2009.

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

LBD11900-04-0

Chapter 45 Signed April 14, 2010

STATE OF NEW YORK

6972--A

IN SENATE

March 2, 2010

Introduced by Sens. SAVINO, OPPENHEIMER -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to provide temporary retirement incentive for certain public employees

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 components of legislation that
2 would establish an age 55/25 temporary incentive for certain public
3 employees.
4 § 2. Legislative findings. The legislature finds and declares that the
5 retirement benefit for certain public employees who are above age 55 and
6 with 25 years of service provided for in this act is intended only to be
7 temporary in nature for employees who are eligible to receive and quali-
8 fy for the applicable benefit during the applicable time periods speci-
9 fied in this act. Further, nothing in this act shall be construed to
10 create an expectation of a future or continuing retirement benefit for
11 any public employee who is not eligible to receive and qualify for the
12 retirement benefits herein during the applicable time periods.
13 § 3. Definitions. As used in this act, unless the context clearly
14 requires otherwise:
15 (a) "Retirement system" means the New York state and local employees'
16 retirement system and the New York state teachers' retirement system.
17 (b) "Teachers' retirement system" means the New York state teachers'
18 retirement system.
19 (c) "Participating employer" means an educational employer, the state-
20 operated institutions of the state university of New York, and a commu-
21 nity college operating under a program of the state university of New
22 York, which participates in a retirement system as defined in this
23 section, who employs members who hold positions represented by the

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LBD12189-06-0

recognized collective bargaining units affiliated with the New York state united teachers employee organization.

(d) "Educational employer" means a participating employer which is a school district, a board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section 4201 of the education law, or a school district as enumerated in section 1 of chapter 566 of the laws of 1967, as amended; who employ members who hold positions represented by the recognized collective bargaining units affiliated with the New York state united teachers employee organization who participate in the New York state teachers' retirement system and the New York state and local employees' retirement system.

(e) "Eligible employee" means a person who is a member of a retirement system, who is an employee of a participating employer and who holds a position represented by the recognized collective bargaining units affiliated with the New York state united teachers employee organization as certified by his or her employer, who makes an election under section five of this act.

(f) "Active service" means service while being paid on the payroll, provided that (i) a leave of absence with pay shall be deemed active service; (ii) other approved leave without pay not to exceed twelve weeks from February 1, 2010 and the commencement of the designated open period; and (iii) the period of time subsequent to the June 2010 school term and on or before August 31, 2010 for a teacher (or other employee as defined in this act, employed on a school-year basis) who is otherwise in active service on the effective date of this act shall be deemed active service.

(g) "Open period" means the period beginning with the commencement date as defined in subdivision (h) of this section; provided, however, for the state-operated institutions of the state university of New York and community colleges, the open period shall be as specified by the appropriate board of trustees, and shall be ninety days in length; provided however that there shall be only one such open period and any such period shall not extend beyond August 31, 2010 for educational employers and shall not extend beyond December 31, 2010 for the state-operated institutions of the state university of New York and community colleges. For the purposes of retirement pursuant to this act, a service retirement application must be filed with the appropriate retirement system not less than fourteen days prior to the effective date of the retirement, unless a shorter time period is permitted under law.

(h) "Commencement date" means the first day the retirement benefit mandated by this act shall be made available, which shall mean a date or dates on or after the effective date of this act to be determined by a participating employer; provided, however, that for an educational employer, the commencement date shall be June 1, 2010.

§ 4. Notwithstanding any other provision of law, any eligible employee serving in an eligible title who (a) has been continuously in the active service of a participating employer from February 1, 2010 to the date immediately prior to the commencement date of the applicable open period, (b) files an application for service retirement that is effective during the open period, and (c) is otherwise eligible for a service retirement as of the effective date of the application for retirement shall be entitled to the retirement benefit provided in section five of this act.

§ 5. Notwithstanding any other provision of law, an eligible employee who is: (a) a member of a retirement system, and (b) entitled to a

1 retirement benefit pursuant to section four of this act may retire
2 during the open period without the reduction of his or her retirement
3 benefit that would otherwise be imposed by article 11 or 15 of the
4 retirement and social security law if he or she has attained the age of
5 55 and has completed at least 25 or more years of creditable service. An
6 eligible employee who is covered by the provisions of articles 11 and 15
7 of the retirement and social security law shall retire under the
8 provisions of articles 11 and 15 of the retirement and social security
9 law.
10 § 6. Notwithstanding any other provision of law, this act shall have
11 no impact on retirement incentives, options or inducements offered as
12 part of a contractual agreement between an eligible employee and eligi-
13 ble employer which were negotiated prior to the effective date of this
14 act.
15 § 7. Severability clause. If any clause, sentence, paragraph, subdi-
16 vision, section or part of this act shall be adjudged by any court of
17 competent jurisdiction to be invalid, such judgment shall not affect,
18 impair, or invalidate the remainder thereof, but shall be confined in
19 its operation to the clause, sentence, paragraph, subdivision, section
20 or part thereof directly involved in the controversy in which such judg-
21 ment shall have been rendered. It is hereby declared to be the intent of
22 the legislature that this act would have been enacted even if such
23 invalid provisions had not been included herein.
24 § 8. This act shall take effect immediately.

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

This bill would eliminate the early retirement reductions for Tier 2, 3 and 4 members of the New York State and Local Employees' Retirement System (ERS) and the New York State Teachers' Retirement System who are employed by educational institutions, whose positions are represented by NYSUT and who retire within their employer's 90 day open election period, which may not extend beyond December 31, 2010.

The exact number of members who would be affected by this cannot be readily determined.

If this bill is enacted, insofar as it affects the New York State and Local Employees' Retirement System (ERS), the additional cost for each member who receives these benefits will vary depending on the member's age, years of service, plans and final average salary. We estimate that the per-member cost could average approximately 110% of a member's final average salary. We anticipate that the number of participants will be less than 1000. For every 100 participants, we estimate that there would be an increase in the annual contributions of approximately $260,000 to the State of New York and $360,000 to the participating employers in the ERS.

This estimate, dated January 8, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-66, 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 provide a temporary retirement incentive during fiscal year 2010-2011. This incentive would permit eligible Tier 2, 3 and 4 members to retire without early retirement reductions upon attainment of at least age 55 with 25 years of service. Currently 30 years of service are required in order to retire without reduction. In order to receive this benefit, a member must retire during the designated 90-day open period, beginning on June 1, 2010 for educational employers. In order to be eligible, a member must be an employee of a participating employer

and hold a position represented by one of the recognized collective bargaining units affiliated with the New York State United Teachers (NYSUT) as certified by his or her employer. The cost of this incentive will be socialized across all employers.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $13.2 million or .09% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-11 dated February 24, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.

Chapter 57 Signed August 11, 2010

STATE OF NEW YORK

S. 6610--C A. 9710--D

SENATE - ASSEMBLY

January 19, 2010

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to the statutory limitation on the biofuel production credit and the qualified emerging technology company facilities, operations and training credits (Part A); to amend the tax law, in relation to the inclusion of certain past employment related income in the calculation of the New York source income of nonresidents (Part B); to amend the tax law, in relation to clarifying that certain income constitutes New York source income of nonresident shareholders of an S corporation (Part C); Intentionally omitted (Part D); to amend the tax law, in relation to information reporting of payments made in settlement of payment card and third party network transactions (Part E); Intentionally omitted (Part F); to amend the tax law and the administrative code of the city of New York, in relation to the penalties imposed upon tax return preparers failing to electronically file returns and other tax documents when required by law to do so, to authorize reasonable correction periods for electron-

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

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ic tax filings and payments, and to prohibit tax return preparers and software companies from charging separately for electronic filing of New York tax documents (Part G); Intentionally omitted (Part H); Intentionally omitted (Part I); Intentionally omitted (Part J); to amend chapter 383 of the laws of 2001 amending the tax law and other laws relating to authorizing the division of the lottery to conduct a pilot program involving the operation of video lottery terminals at certain racetracks, in relationship to the effectiveness thereof; to amend the tax law, in relation to the hours of operation of video lottery gaming, the vendor fees paid to lottery agents, the amount of video lottery gaming revenue after payout of prizes to be retained by the division of the lottery for operation, administration and procurement purposes at a certain track and the recapture of the vendor fee at a certain track; and to repeal section 13 of chapter 140 of the laws of 2008 amending the racing, pari-mutuel wagering and breeding law and other laws relating to thoroughbred racing and to repeal section 5 of chapter 286 of the laws of 2008 amending the tax law relating to annual capital improvement credits for video lottery gaming operators, relating thereto (Part K); Intentionally omitted (Part L); Intentionally omitted (Part M); to amend the tax law, in relation to narrowing the definition of vendor for purposes of the sales and compensating use taxes (Part N); Intentionally omitted (Part O); to amend the public housing law, in relation to providing a credit against income tax for persons or entities investing in low-income housing (Part P); to amend chapter 60 of the laws of 2004, amending the tax law relating to the empire state film production credit, in relation to the empire state film production credit and in relation to the effectiveness of such provisions; to amend the tax law, in relation to the empire state film production credit; and to amend the tax law, in relation to the empire state film post production credit (Part Q); to amend the general municipal law, in relation to the decertification of business entities located in empire zones; to amend the tax law, in relation to a refund or credit provided to certain zone businesses and to a report on empire zone businesses produced by the department of taxation and finance, and to amend chapter 57 of the laws of 2009, amending the general municipal law and the tax law relating to enacting reforms to the empire zones program, in relation to the effectiveness thereof (Part R); to amend the tax law, in relation to making technical corrections to certain tax enforcement and sales tax avoidance provisions; and to amend chapter 57 of the laws of 2009 amending the criminal procedure law, the penal law, and the tax law relating to creating the offense of "tax fraud act", in relation to the effectiveness thereof (Subpart A); to amend the tax law, in relation to defining certain terms (Subpart B); and to amend the general municipal law and the public authorities law, in relation to statements of industrial agencies and their agents and project operators (Subpart C) (Part S); to amend the tax law, in relation to the amount of the unified credit against the estate tax (Part T); Intentionally omitted (Part U); to amend the tax law and the administrative code of the city of New York, in relation to the taxicab ride tax imposed in the metropolitan commuter transportation district by article 29-A of the tax law (Part V); to repeal subdivision (e-1) of section 1132 of the tax law, relating to a sales tax bad debt credit or refund for purchases made by private label credit cards (Part W); to amend the tax law, in relation to the sales tax vendor credit authorized under article 28 (Part X); to amend the tax law, in

relation to the deferral of use or payment of certain tax credits (Part Y); to amend the tax law and the administrative code of the city of New York, in relation to the deduction for bad debts provided to qualifying thrift institutions and commercial banks (Part Z); to amend the tax law and the administrative code of the city of New York, in relation to ensuring payment of sales tax due on rent for hotel room occupancy by room remarketers of hotel rooms and to reverse the decision of the Tax Appeals Tribunal in the Marriott International, Inc. matter on rewards program payments; and to repeal certain sections of the administrative code of the city of New York relating thereto (Part AA); Intentionally omitted (Part BB); to amend the tax law and the administrative code of the city of New York, in relation to modifying the New York itemized deduction (Part CC); Intentionally omitted (Part DD); to amend the state finance law, the tax law and the administrative code of the city of New York, in relation to the New York city personal income tax rates (Part EE); to amend the real property tax law and the tax law, in relation to the STAR exemption (Part FF); to amend the tax law, in relation to eliminating the state's sales and compensating use tax exemption for clothing and footwear sold for less than $110 per item for the period October 1, 2010, through March 31, 2011; exempting clothing and footwear sold for less than $55 per item from state taxes for the period April 1, 2011, through March 31, 2012; authorizing counties and cities to elect the less than $55 exemption for the same period; and restoring the state's original exemption April 1, 2012; and to repeal subdivision (k) of section 1210 of the tax law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part GG); to amend the tax law, in relation to limiting itemized deductions for certain taxpayers and determining the amount of estimated tax installments to be paid (Part HH); to amend the abandoned property law, in relation to uncashed travelers checks and money orders and miscellaneous unclaimed property (Part II); Intentionally omitted (Part JJ); to amend the tax law, in relation to investment management services to a partnership or other entity (Part KK); Intentionally omitted (Part LL); to amend Part FF-1 of chapter 57 of the laws of 2008 relating to the taxation of captive real estate investment trusts and captive regulated investment companies, in relation to the application of the provisions of such chapter (Part MM); to amend the tax law, in relation to the definition of a captive REIT (Part NN); to amend the public service law, in relation to electric corporations (Part OO); to amend chapter 57 of the laws of 2009 amending the education law and other laws relating to contracts for excellence, reporting requirements, electronic format materials, reimbursement of school districts, calculation of foundation aid base, foundation amount and local contribution, apportionment of school aid and of current year approved expenditures for debt service, deficit reduction assessment, building aid, Medicaid reimbursement, grants, and maximum class size, in relation to deficit reduction assessment restoration (Part PP); to amend the education law, in relation to making technical corrections concerning gap elimination adjustment offset (Part QQ); to amend the public authorities law, in relation to the implementation of a state longitudinal data system (Part RR); to amend the vehicle and traffic law, in relation to making technical amendments concerning designated bus lanes (Part SS); to amend the retirement and social security law, in relation to the manner of paying employer contributions to the New York state and local employees' retirement system and the New York state and local police and

fire retirement system (Part TT); in relation to the New York state urban development corporation submitting a comprehensive financial plan to the director of the budget and the establishment of accounts and subaccounts within the treasury of such corporation; and providing for the repeal of such provisions upon the expiration thereof (Part UU); to amend the state finance law, in relation to establishing the education assessment account (Part VV); to amend the tax law, in relation to excluding from sales tax transportation service provided by an affiliated livery vehicle in a city with a population of one million or more (Part WW); to amend the correction law, the legislative law, and the municipal home rule law, in relation to the collection of census data (Part XX); and to amend the tax law, in relation to little cigars (Part YY)

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

PART TT

Section 1. The retirement and social security law is amended by adding a new section 19-a to read as follows:

§ 19-a. Employer contributions for the two thousand ten - two thousand eleven fiscal year and subsequent fiscal years. a. In addition to the definitions in section two of this article, when used in this section:

(1) "Amortizing employer" shall mean an employer that elects to amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand ten - two thousand eleven fiscal year, or any subsequent fiscal year, regardless of whether the employer has subsequently paid in full all such amortized amounts.

(2) "Amount eligible for amortization" for a given fiscal year shall mean the amount by which an employer's actuarial contribution for such fiscal year exceeds the employer's graded contribution for the same fiscal year, less any amount from the employer contribution reserve fund applied to reduce the employer's payment to the retirement system for the fiscal year, provided, however, that if the employer's average actuarial contribution rate for the fiscal year is less than nine and one-half percent, then the amount eligible for amortization shall be zero.

(3) "Employer's actuarial contribution" for a given fiscal year shall mean an employer's annual bill for such fiscal year exclusive of deficiency contributions and payments on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(4) "Employer's annual bill" shall mean for a given fiscal year the sum of the following amounts: (i) an employer's normal contributions for the fiscal year determined in accordance with paragraph one of subdivision b of section twenty-three of this article and the comprehensive structural reform program implemented pursuant to subdivision b of section twenty-three-a of this article, including the provisions of subdivision b of section twenty-three-a of this article relating to the required minimum annual contribution of four and one-half percent of pensionable salaries; (ii) the employer's deficiency contributions and administration contributions for the fiscal year determined in accordance with paragraphs two and three of subdivision b of section twenty-three of this article; and (iii) any payments by the employer due in the fiscal year on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(5) "Employer's average actuarial contribution rate" for a given fiscal year shall mean an employer's actuarial contribution for such fiscal year divided by the employer's projected payroll for the same fiscal year.

(6) "Employer contribution reserve fund" or "fund" shall mean the employer contribution reserve fund established pursuant to subdivision e of this section.

(7) "Employer's graded contribution" for a given fiscal year shall mean the amount determined by applying the system graded contribution rate for such fiscal year to an employer's projected payroll for the same fiscal year.

(8) "Employer's graded payment" for a given fiscal year shall mean the amount by which an employer's graded contribution for such fiscal year exceeds the employer's actuarial contribution for the same fiscal year.

(9) "Prior amortization" shall mean with respect to a given fiscal year any payment due in such fiscal year on account of an obligation from a prior fiscal year that an employer is permitted to pay to the retirement system on an amortized basis.

(10) "System average actuarial contribution rate" for a given fiscal year shall mean the sum of all employers' actuarial contributions for such fiscal year divided by the sum of all employers' projected payroll for the same fiscal year.

(11) "System graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to subdivision c of this section.

b. Notwithstanding the provisions of this chapter or any other law to the contrary, the comptroller, in his or her discretion, shall have

authority to implement this section. If the comptroller elects to implement this section, the provisions of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand ten, and for subsequent fiscal years.

c. For each fiscal year to which the provisions of this section apply, the comptroller shall determine a graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand ten - two thousand eleven fiscal year the system graded contribution rate shall be nine and one-half percent.

(2) For the two thousand eleven - two thousand twelve fiscal year, and subsequent fiscal years, system graded contribution rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least nine and one-half percent and exceeds the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year plus one percentage point, provided, however, that in no event shall the system graded contribution rate be less than nine and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least nine and one-half percent and either equals the system graded contribution rate for the immediately preceding fiscal year or exceeds the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year, provided, however, that in no event shall the system graded contribution rate be less than nine and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than nine and one-half percent and greater than the system graded contribution rate for the immediately preceding fiscal year, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year minus one percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the system graded contribution rate for the immediately preceding fiscal year or is smaller than the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

d. (1) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the system graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less than the entire amount of the employer's annual bill, then the difference between the

employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a ten-year period, with interest on the unpaid balance at a rate determined by the comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, and with the first installment due in the immediately succeeding fiscal year.

(2) For any given fiscal year for which the system graded contribution rate equals or exceeds an amortizing employer's average actuarial contribution rate, the amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order starting with the oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(3) Nothing in this subdivision shall be construed as prohibiting an employer from pre-paying any prior amortization.

e. (1) Notwithstanding any law to the contrary, there shall be maintained separate and apart from the other funds of the retirement system an employer contribution reserve fund, the assets of which shall not be used or invested in a manner contrary to the provisions of this subdivision. The fund shall consist of all employer contributions required to be deposited into the fund pursuant to subdivision d of this section. Within such fund there shall be a separate account for each employer making such contributions and payments.

(2) For any given fiscal year for which (i) the system actuarial contribution rate exceeds nine and one-half percent of payroll, and (ii) an employer's average actuarial contribution rate exceeds the system graded contribution rate, the balance in the employer's account within such fund shall be applied to reduce the employer's payment to the retirement system for such fiscal year in an amount not to exceed the difference between the employer's actuarial contribution and the employer's graded contribution for the fiscal year.

(3) Notwithstanding the provisions of paragraph two of this subdivision, if at the close of any given fiscal year the balance of an employer's account within the fund exceeds one hundred percent of the employer's payroll for such fiscal year, the excess shall be applied to reduce the employer's payment to the retirement system for the next succeeding fiscal year.

(4) The assets of the fund shall be invested in only the following types of investments:

(i) obligations of the United States of America or in obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America or in obligations of the state of New York;

(ii) general obligation bonds and notes of any state other than this state, provided that such bonds and notes receive the highest rating of at least one independent rating agency;

(iii) obligations of, or instruments issued by or fully guaranteed as to principal and interest by, any agency or instrumentality of the United States acting pursuant to a grant of authority from the congress of the United States, including, but not limited to, any federal home loan bank or banks, the Tennessee valley authority, the federal national mortgage association, the federal home loan mortgage corporation and the United States postal service;

(iv) certificate of deposits that are fully secured by the issuer by depositing with the comptroller direct or indirect obligations of the United States or its agencies or a letter of credit issued by the Federal Home Loan Bank; and

(v) obligations of any corporation organized under the laws of any state in the United States maturing within two hundred seventy days provided that such obligations receive the highest rating of two independent rating services designated by the comptroller.

(5) At the close of each fiscal year, the amount of interest and earnings attributable to each employer's account shall be computed by the actuary and certified to the comptroller, who shall thereupon credit each employer's account in accordance therewith.

(6) The assets of the fund shall be excluded from the annual valuation of the assets and liabilities of the funds of the retirement system required by section eleven of this title. The assets of the fund shall not be used to finance increases in pension benefits.

§ 2. The opening paragraph and paragraph 1 of subdivision b of section 23 of the retirement and social security law, as amended by chapter 210 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1 as amended by chapter 947 of the laws of 1990, are amended to read as follows:

Each employer shall make [~~two~~] **three** contributions annually. They shall be known as the normal contribution [~~as defined in subparagraph (a) of paragraph one of this subdivision and~~], the deficiency contribution [~~as defined in paragraph two of this subdivision~~], **and the administration contribution**. The rates thereof shall be computed by the actuary.

1. [~~(a)~~] Normal contribution. The rate of such contribution shall be applied to the members' annual compensation as of the end of the fiscal year. Such rate shall be a uniform and constant rate per centum of annual compensation [~~when determined by dividing the valuation costs by the payroll amount used in the valuation. Notwithstanding any provision of law to the contrary, the valuation costs consist of:~~

~~(i) the normal cost, which shall be the actuarial present value of the employer provided benefits accrued during the year, based upon the projected future salary on which benefits are expected to be paid, by prorating each employee's projected benefit over his or her total years of service;~~

~~(ii) the supplemental cost, which shall be the cost of providing supplemental retirement allowance payments pursuant to subdivision e of section seventy-eight of this article;~~

~~(iii) the administrative cost, which shall be the expenses of the retirement system pursuant to paragraph three of subdivision b of this section;~~

~~(iv) the prior service cost, which shall be equal to the interest on the unfunded actuarial accrued liability or surplus plus a portion of the unfunded liability or surplus, said portion to be equal to the unfunded liability or surplus divided by the average future years of service of active employees; and~~

~~(v) the annual amortization cost, which shall be equal to the amount of the annual amortization payment required to be paid into the system's pension accumulation fund under sections sixteen-a and seventeen-a of this article.~~

~~Provided, however, in no event shall the amount of contribution be less than zero.~~

~~(b) The comptroller is authorized to make appropriate adjustments for those participating employers that have paid an amount in excess of the minimum annual amortization payment required by section seventeen-a of this article. The excess payment shall accumulate with interest earned at the rate used in the annual actuarial valuation and be applied against future pension contribution requirements to insure equitable treatment of all participating employers.~~

~~(c) In any year in which no contribution is required to the pension accumulation fund, any adjustment reducing a prior year's contribution resulting from the enactment of section sixteen-b of this chapter, shall be credited with interest earned at the rate used in the annual actuarial valuation and applied against future pension contributions~~]. **When applied to the compensation of the average new entrant during the remaining period of his or her membership, such rate shall be computed to be sufficient to provide all the benefits, other than those on account of prior service, granted by this article and which are payable from funds contributed to the pension accumulation fund.**

Such rate shall be computed each year by means of an actuarial valuation as prescribed in section eleven of this [~~chapter~~] **article and as authorized by section twenty-three-a of this title**.

§ 3. The retirement and social security law is amended by adding a new section 319-a to read as follows:

§ 319-a. Employer contributions for the two thousand ten - two thousand eleven fiscal year and subsequent fiscal years. a. In addition to the definitions in section three hundred two of this article, when used in this section:

(1) "Amortizing employer" shall mean an employer that elects to amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand ten - two thousand eleven fiscal year, or any subsequent fiscal year, regardless of whether the employer has subsequently paid in full all such amortized amounts.

(2) "Amount eligible for amortization" for a given fiscal year shall mean the amount by which an employer's actuarial contribution for such fiscal year exceeds the employer's graded contribution for the same fiscal year, less any amount from the employer contribution reserve fund applied to reduce the employer's payment to the retirement system for the fiscal year, provided, however, that if the employer's average actuarial contribution rate for the fiscal year is less than seventeen and

one-half percent, then the amount eligible for amortization shall be zero.

(3) "Employer's actuarial contribution" for a given fiscal year shall mean an employer's annual bill for such fiscal year exclusive of the deficiency contributions and payments on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(4) "Employer's annual bill" shall mean for a given fiscal year the sum of the following amounts: (i) an employer's normal contributions for the fiscal year determined in accordance with paragraph one of subdivision b of section three hundred twenty-three of this article and the comprehensive structural reform program implemented pursuant to subdivision b of section three hundred twenty-three-a of this article, including the provisions of subdivision b of section three hundred twenty-three-a of this article relating to the required minimum annual contribution of four and one-half percent of pensionable salaries; (ii) the employer's deficiency contributions and administration contributions for the fiscal year determined in accordance with paragraphs two and three of subdivision b of section three hundred twenty-three of this article; and (iii) any payments by the employer due in the fiscal year on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(5) "Employer's average actuarial contribution rate" for a given fiscal year shall mean an employer's actuarial contribution for such fiscal year divided by the employer's projected payroll for the same fiscal year.

(6) "Employer contribution reserve fund" or "fund" shall mean the employer contribution reserve fund established pursuant to subdivision e of this section.

(7) "Employer's graded contribution" for a given fiscal year shall mean the amount determined by applying the employer's graded contribution rate for such fiscal year to an employer's projected payroll for the same fiscal year.

(8) "Employer's graded contribution rate" for a given fiscal year shall mean (i) the system graded contribution rate for such fiscal year, or (ii) in the case of an individual employer for which a graded contribution rate has been determined pursuant to paragraph three of subdivision c of this section, the graded contribution rate for the individual employer for such fiscal year.

(9) "Employer's graded payment" for a given fiscal year shall mean the amount by which an employer's graded contribution for such fiscal year exceeds the employer's actuarial contribution for the same fiscal year.

(10) "Prior amortization" shall mean with respect to a given fiscal year any payment due in such fiscal year on account of an obligation from a prior fiscal year that an employer is permitted to pay to the retirement system on an amortized basis.

(11) "System average actuarial contribution rate" for a given fiscal year shall mean the sum of all employers' actuarial contributions for such fiscal year, divided by the sum of all employers' projected payroll for the same fiscal year.

(12) "System graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to paragraph one or two of subdivision c of this section.

b. Notwithstanding the provisions of this chapter or any other law to the contrary, the comptroller, in his or her discretion, shall have authority to implement this section. If the comptroller elects to implement this section, the provisions of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand ten, and for subsequent fiscal years.

c. For each fiscal year to which the provisions of this section apply, the comptroller shall determine a graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand ten - two thousand eleven fiscal year the system graded contribution rate shall be seventeen and one-half percent.

(2) For the two thousand eleven - two thousand twelve fiscal year, and subsequent fiscal years, system graded contribution rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and exceeds the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year plus one percentage point, provided however, that in no event shall the system graded contribution rate be less than seventeen and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and either equals the system graded contribution rate for the immediately preceding fiscal year or exceeds the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year, provided, however, that in no event shall the system graded contribution rate be less than seventeen and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than seventeen and one-half percent and greater than the system graded contribution rate for the immediately preceding fiscal year, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year minus one percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the system graded contribution rate for the immediately preceding fiscal year or is smaller than the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

(3) The comptroller shall determine a graded contribution rate for individual employers as provided in this paragraph.

(i) If the actuarial contribution rate for an employer for a given fiscal year is equal to or greater than fifty percent of the system actuarial contribution rate for such year, and less than or equal to seventy-five percent of such system actuarial contribution rate, then the graded contribution rate for the employer for the fiscal year shall

equal seventy-five percent of the system graded contribution for such year.

(ii) If the actuarial contribution rate for an employer for a given fiscal year is less than fifty percent of the system actuarial contribution rate for such year, then the graded contribution rate for the employer for the fiscal year shall equal fifty percent of the system graded contribution rate for such year.

d. (1) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a ten-year period, with interest on the unpaid balance at a rate determined by the comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, and with the first installment due in the immediately succeeding fiscal year.

(2) For any given fiscal year for which the system graded contribution rate equals or exceeds an amortizing employer's average actuarial contribution rate, the amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order starting with oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(3) Nothing in this subdivision shall be construed as prohibiting an employer from pre-paying any prior amortization.

e. (1) Notwithstanding any law to the contrary, there shall be maintained separate and apart from the other funds of the retirement system an employer contribution reserve fund, the assets of which shall not be used or invested in a manner contrary to the provisions of this subdivision. The fund shall consist of all employer contributions required to be deposited into the fund pursuant to subdivision d of this section.

Within such fund there shall be a separate account for each employer making such contributions and payments.

(2) For any given fiscal year for which (i) the system actuarial contribution rate exceeds seventeen and one-half percent of payroll, and (ii) for which an employer's average actuarial contribution rate exceeds the graded contribution rate, the balance in the employer's account within such fund shall be applied to reduce the employer's payment to the retirement system for such fiscal year in an amount not to exceed the difference between the employer's actuarial contribution and the employer's graded contribution for the fiscal year.

(3) Notwithstanding the provisions of paragraph two of this subdivision, if at the close of any given fiscal year the balance of an employer's account within the fund exceeds one hundred percent of the employer's payroll for such fiscal year, the excess shall be applied to reduce the employer's payment to the retirement system for the next succeeding fiscal year.

(4) The assets of the fund shall be invested in only the following types of investments:

(i) obligations of the United States of America or in obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America or in obligations of the state of New York;

(ii) general obligation bonds and notes of any state other than this state, provided that such bonds and notes receive the highest rating of at least one independent rating agency;

(iii) obligations of, or instruments issued by or fully guaranteed as to principal and interest by, any agency or instrumentality of the United States acting pursuant to a grant of authority from the congress of the United States, including, but not limited to, any federal home loan bank or banks, the Tennessee valley authority, the federal national mortgage association, the federal home loan mortgage corporation and the United States postal service;

(iv) certificate of deposits that are fully secured by the issuer by depositing with the comptroller direct or indirect obligations of the United States or its agencies or a letter of credit issued by the Federal Home Loan Bank; and

(v) obligations of any corporation organized under the laws of any state in the United States maturing within two hundred seventy days provided that such obligations receive the highest rating of two independent rating services designated by the comptroller.

(5) At the close of each fiscal year, the amount of interest and earnings attributable to each employer's account shall be computed by the actuary and certified to the comptroller, who shall thereupon credit each employer's account in accordance therewith.

(6) The assets of the fund shall be excluded from the annual valuation of the assets and liabilities of the funds of the retirement system required by section three hundred eleven of this title. The assets of the fund shall not finance increases in pension benefits.

§ 4. The opening paragraph and paragraph 1 of subdivision b of section 323 of the retirement and social security law, as amended by chapter 210 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1 as amended by chapter 947 of the laws of 1990, are amended to read as follows:

Each employer shall make [~~two~~] **three** contributions annually. They shall be known as the normal contribution [~~as defined in subparagraph (a) of paragraph one of this subdivision and~~], the deficiency contrib-

ution [~~as defined in paragraph two of this subdivision~~], **and the administration contribution**. The rates thereof shall be computed by the actuary.

1. [~~(a)~~] Normal contribution. The rate of such contribution shall be applied to the members' annual compensation as of the end of the fiscal year. Such rate shall be a uniform and constant rate per centum of annual compensation [~~when determined by dividing the valuation costs by the payroll amount used in the valuation. Notwithstanding any provision of law to the contrary, the valuation costs consist of:~~

~~(i) the normal cost, which shall be the actuarial present value of the employer provided benefits accrued during the year, based upon the projected future salary on which benefits are expected to be paid, by prorating each employee's projected benefit over his or her total years of service;~~

~~(ii) the supplemental cost, which shall be the cost of providing supplemental retirement allowance payments pursuant to subdivision e of section three hundred seventy-eight of this article;~~

~~(iii) the administrative cost, which shall be the expenses of the retirement system pursuant to paragraph three of subdivision b of this section;~~

~~(iv) the prior service cost, which shall be equal to the interest on the unfunded actuarial accrued liability or surplus plus a portion of the unfunded liability or surplus, said portion to be equal to the unfunded liability or surplus divided by the average future years of service of active employees; and~~

~~(v) the annual amortization cost, which shall be equal to the amount of the annual amortization payment required to be paid into the system's pension accumulation fund under section three hundred sixteen-a and three hundred seventeen-a of this article.~~

~~Provided, however, in no event shall the amount of contribution cost be less than zero.~~

~~(b) The comptroller is authorized to make appropriate adjustments for those participating employers that have paid an amount in excess of the minimum annual amortization payment required by section three hundred seventeen-a of this article. The excess payment shall accumulate with interest earned at the rate used in the annual actuarial valuation and be applied against future pension contribution requirements to insure equitable treatment of all participating employers.~~

~~(c) In any year in which no contribution is required to the pension accumulation fund, any adjustment reducing a prior year's contribution resulting from the enactment of section three hundred sixteen-b of this chapter, shall be credited with interest earned at the rate used in the annual actuarial valuation and applied against future pension contributions~~]. **When applied to the compensation of the average new entrant during the remaining period of his or her membership, such rate shall be computed to be sufficient to provide all the benefits, other than those on account of prior service, granted by this article and which are payable from funds contributed to the pension accumulation fund.**

Such rate shall be computed each year by means of an actuarial valuation as prescribed in section three hundred eleven of this [~~chapter~~] **article and as authorized by section three hundred twenty-three-a of this title**.

§ 5. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law as it pertains to employer bills of the New York State and Local Employees

Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS).

This bill puts in place a program that allows ERS and PFRS employers, if they choose to participate, to amortize a portion of their bill with their respective Retirement System when employer contributions rates rise above certain levels. If they do this, then when rates are falling below certain levels and they have paid off all outstanding amortizations, the employer will be required to pay additional monies into a reserve fund that will be used when employer contribution rates begin to rise in the future.

If this bill is enacted, we estimate that there would be a small administrative cost to the System to revise the current billing processes.

This estimate, dated February 2, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-104, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, 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, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through YY of this act shall be as specifically set forth in the last section of such Parts.

Chapter 105 Signed June 2, 2010

STATE OF NEW YORK

11144

IN ASSEMBLY

May 19, 2010

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

AN ACT to provide a temporary retirement incentive for certain public employees (Part A); and to provide an age 55/25 years temporary retirement incentive for certain public employees (Part B)

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

Section 1. This act enacts into law components of legislation that would enable public employers to offer a temporary retirement incentive to their employees, as well as to provide an age 55/25 years temporary incentive for certain public employees. Each component is wholly contained within a Part identified as Parts A and B. The effective date for each particular provision contained within such Part is set forth in the last section of 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, unless noted otherwise. The benefits of this act shall not be applicable to anyone who first became a member of a public retirement system of the state on or after January first, two thousand ten.

§ 2. Legislative findings. The legislature finds and declares that the retirement benefits provided for in this act are designed to achieve cost-savings for public employers and to avoid layoffs of public employees in this time of fiscal need. Therefore, the retirement incentive benefit provided for in Part A of this act and the age 55/25 years retirement benefit provided for in Part B of this act are intended only to be temporary in nature for employees who are eligible to receive and qualify for the applicable benefit during the applicable time periods specified within each Part. Further, nothing in this act shall be construed to create an expectation of a future or continuing retirement benefit for any public employee who is not eligible to receive and qualify for the retirement benefits in this act during the applicable time periods.

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

LBD12220-06-0

PART A

Section 1. Definitions. As used in this act, unless the context clearly requires otherwise:

a. "Retirement system" means the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city teachers' retirement system, the New York city board of education retirement system or the New York city employees' retirement system, exclusive of the retirement plans established pursuant to sections 13-156 and 13-157 of the administrative code of the city of New York.

b. "Teachers' retirement system" means the New York state teachers' retirement system or the New York city teachers' retirement system.

c. "Optional retirement program" means the programs established pursuant to the provisions of section 181, 391 or 6251 of the education law; or continued pursuant to section 3 of chapter 980 of the laws of 1962.

d. "State employer" means (a) the executive branch of the state, (b) the state-operated institutions of the state university of New York, (c) the statutory and contract colleges operated pursuant to section 357 of the education law, (d) the state university construction fund (hereinafter referred to in this act as the "fund"), (e) a cooperative extension association (hereinafter referred to in this act as the "association"), (f) the city university of New York as defined in subdivision 2 of section 6202 of the education law, (g) the unified court system, (h) the senate, (i) the assembly, and (j) joint legislative employers.

e. (a) "Participating employer" means an employer, other than a state employer, which participates in a retirement system; such term shall include a community college operating under the program of the state university of New York.

(b) "Educational employer" means a participating employer which is a school district, a board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section 4201 of the education law, or a school district as enumerated in section 1 of chapter 566 of the laws of 1967, as amended.

f. "Eligible employee" means a person who is a member of a retirement system or a participant in an optional retirement program who is an employee in the executive branch of a state employer or an employee of a state employer or a participating employer which makes an election under this section or section four of this act, but such term shall not include the following persons:

(a) elected officials, judges or justices appointed to or serving in a court of record and acting village justices;

(b) chief administrative officers of participating employers which participate in a teachers' retirement system;

(c) officers described in sections 4, 41-a, 46, 61, 70, 70-a, 169 (including those officers whose salary is established pursuant to salary plans under subdivision 3 of section 169), 180 and subdivision 1 of section 41 of the executive law and any agency or department head appointed by the governor, comptroller or attorney general;

(d) appointed members of boards or commissions any of whose members are appointed by the governor or by another state officer or body;

(e) nonjudicial officers and employees of the unified court system unless the chief administrator of the courts elects as provided herein, which election shall cover only nonjudicial officers and employees hold-

ing positions in any title in the classified service of the unified court system;

(f) officers or employees of the senate unless the senate adopts a resolution authorizing the temporary president to file the election as provided in this subdivision;

(g) officers or employees of the assembly unless the assembly adopts a resolution authorizing the speaker of the assembly to file the election as provided in this subdivision; and

(h) officers or employees of joint legislative employers unless:

(i) with respect to officers or employees of the legislative library, legislative messenger service, legislative health service, legislative ethics commission, the legislative bill drafting commission, and the joint line of the legislative task force on demographic research and reapportionment, the senate and assembly adopt a concurrent resolution authorizing the temporary president of the senate and the speaker of the assembly to jointly file an election as provided in this subdivision;

(ii) with respect to officers or employees of components of the senate as identified pursuant to section 90 of the legislative law, the senate adopts a resolution authorizing the temporary president to file an election for officers or employees of those components designated in such resolution; and

(iii) with respect to officers or employees of components of the assembly as identified pursuant to section 90 of the legislative law, the assembly adopts a resolution authorizing the speaker of the assembly to file an election for officers or employees of those components designated in such resolution.

Any election under paragraphs (e) through (h) of this subdivision to make available the retirement incentive program provided by this act shall be in writing and filed with the state comptroller not later than ninety days after the effective date of this act. Notwithstanding any other provision of this act, each such filing shall specify the commencement date and the length of the open period. Only one open period shall be made available for employees covered by elections under paragraphs (e) through (h) of this subdivision.

For the purposes of such paragraphs (f), (g) or (h) of this subdivision, an employee of the legislature shall be as such term is defined in section 7-a, 7-b or 7-d of the legislative law or by any other provision of law which classifies employees of an entity to be legislative employees for all purposes, but shall not include senators or members of the assembly. The term "joint legislative employer" shall mean legislative commissions, committees, task forces, councils or similar bodies whose membership is comprised of both senators and assembly members, or which consist of commissioners, or the majority of whose membership is appointed by one or more of the following: the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, and/or the minority leader of the assembly. The temporary president of the senate and the speaker of the assembly shall be the joint legislative employer of the employees of the legislature referred to in sections 7-a and 7-b of the legislative law.

g. "Eligible title" means any title where a certain number of positions in that title, as identified by agency, department, work location or appointing authority, college or campus, as the case may be, would otherwise be identified for layoff but for this act because of economy, consolidation or abolition of functions, curtailment of activities or otherwise. However, an eligible title can also include a title as identified by agency, department, work location or appointing authority in

which positions would not be eliminated but into which employees in titles affected by layoff can be transferred or reassigned pursuant to the civil service law, rule or regulation. The determination of eligible titles shall be made by: (a) the appointing authority, subject to the approval of the director of state operations for titles within the executive branch, (b) the board of trustees for the state university (including the association) subject to the approval of the director of state operations, the fund, the city university of New York and of each community college operating under the program of the state university, (c) the person or persons who elect under paragraphs (e) through (h) of subdivision f of this section to offer the retirement incentive provided by this act, and (d) the chief executive officer or other comparable official for participating employers other than the community colleges.

h. "College faculty" means an employee, not in the classified service, of a state employer described in paragraphs (b), (c), (d), (e) and (f) of subdivision d of this section or of a community college who is a member of a teachers' retirement system, the New York state and local employees' retirement system or a participant in an optional retirement program.

i. "Active service" means service while being paid on the payroll, provided that (a) a leave of absence with pay shall be deemed active service; (b) other approved leave without pay not to exceed twelve weeks from February 1, 2010 and the commencement of the designated open period; and (c) the period of time subsequent to the June 2010 school term and on or before August 31, 2010 for a teacher (or other employee employed on a school-year basis) who is otherwise in active service on February 1, 2010 shall be deemed active service.

j. "Open period " means the period beginning with the commencement date as defined in subdivision k of this section and shall not be more than ninety days nor less than thirty days in length, as specified by the director of state operations or by a participating employer pursuant to section four of this act, by the appropriate board of trustees for the state university (including the association), the fund, the city university of New York or a community college operating under a program of the state university or by a state employer described in paragraphs (g), (h), (i) and (j) of subdivision d of this section; provided however that any such period shall not extend beyond September 30, 2010 for the executive branch of a state employer described in paragraphs (a) and (b) of subdivision d of this section (except for college faculty), not beyond December 31, 2010 for participating employers, college faculty for a state employer described in paragraph (b) of subdivision d of this section, state employers described in paragraphs (c), (d) and (e) of subdivision d of this section, not beyond January 31, 2011 for college faculty of an employer described in paragraph (f) of subdivision d of this section, and not beyond August 31, 2010 for educational employers. For the purposes of retirement pursuant to this act, a service retirement application must be filed with the appropriate retirement system not less than fourteen days prior to the effective date of retirement to become effective, unless a shorter period of time is permitted under law.

k. "Commencement date" means the first day the retirement incentive authorized by this act shall be made available, which shall mean a date on or after the effective date of this act to be determined by the director of state operations for the executive branch of the state, and which date shall occur no later than thirty days before September 30, 2010 or for any participating employer a date on or after the effective

date of this act. For any other state employer, such term shall mean a date on or after the effective date of this act and shall occur no later than thirty days before September 30, 2010. The director of state operations shall notify the head of the appropriate retirement system of the date of each open period applicable to employees of the executive branch or of a state employer prior to the commencement date.

§ 2. The determination of whether a title shall be considered eligible shall consider whether the reduction of a specific number of positions within a title would unacceptably:

a. Directly result in a reduction of the level of service required or mandated to protect and care for clients of the state or a participating employer or to assure public health and safety;

b. Endanger the health or safety of employees of the state or a participating employer; or

c. Clearly result in a loss of significant revenue to the state or a participating employer or result in substantially increased overtime or contractual costs. However, upon the determination of the director of state operations, with respect to employees of the executive branch of a state employer, any titles may be determined eligible if the vacancies created can be controlled by the use of transfer or reassignment provisions of the civil service law, rules or regulations or other deployment of state employees.

§ 3. a. Eligibility for inclusion in the retirement incentive provided by section six of this act shall be determined: (a) by seniority: for participating employers and for state employers described in paragraphs (a), (b), (c), (d), (e) and (f) of subdivision d of section one of this act, other than for college faculty; seniority shall mean the date of original permanent appointment in the civil service of the state adjusted to include veteran's credits for those entitled to receive such credits pursuant to sections 80, 80-a and 85, if applicable, of the civil service law, as established in the official records of the department of civil service, regardless of the jurisdictional classification of the position or the status of the incumbent; (b) by seniority, as applicable for the unified court system; (c) for state employers described in paragraphs (h), (i) and (j) of subdivision d of section one of this act as determined by the person or persons who make the election to offer the retirement incentive; and (d) for college faculty, by the board of trustees of the state university, city university and of each community college operating under the program of the state university.

b. All eligible employees serving in eligible titles desiring to avail themselves of the retirement incentive provided by section six of this act shall provide written notice to his or her employer on or before the twenty-first day preceding the end of the open period, or before the end of the applicable open period as such open period is determined by the director of state operations. Failure to provide such written notice shall render the employee ineligible for the retirement incentive provided by this act.

§ 4. a. On or before August 31, 2010, a participating employer or a state employer described in paragraphs (b), (c), (d), (e) and (f) of subdivision d of section one of this act may elect to provide its employees the retirement incentive authorized by this act by (a) the enactment of a local law or (b) in the case of a participating employer which is not so empowered to act by local law or a state employer described in paragraphs (b), (c), (d), (e) and (f) of subdivision d of section one of this act, by the adoption of a resolution of its governing body; provided however, no local law or resolution enacted pursuant

to this section shall in any manner supersede any local charter, provided further, that for an educational employer such election must be made by July 30, 2010. The local law or resolution shall specify the commencement date of the program and the length of the open period. For a community college operating under the program of state university of New York, such election shall be made by the board of trustees of such community college subject to the approval of its sponsor. A copy of such law or resolution shall be filed with the appropriate retirement system or systems, and, if applicable, on forms provided by such system. The local law or resolution shall be accompanied by the affidavit of the chief executive officer or other comparable official certifying to the information contained in subdivision b of this section.

b. Notwithstanding any other provision of law, the benefits provided by this act shall not be made available to any person who (a) has received any retirement incentive authorized by any provision of state law, or (b) who receives, has received or is eligible to receive a payment in a lump sum or in another form from a retirement incentive pursuant to the provisions of a collective bargaining agreement or by other arrangement with his or her employer, unless such person files a written statement with his or her employer, a copy of which shall be forwarded to the appropriate retirement system, that he or she agrees to waive any right to such payment. A participating employer who makes an election pursuant to this section and who offers or has offered a retirement incentive pursuant to the provisions of a collective bargaining agreement or by other arrangement shall prepare, and file with each retirement system, a list containing the names and social security numbers of all persons described in this subdivision. A participating employer is authorized to exempt persons in its employ from the provisions of paragraph (b) of this subdivision. Such exemption shall be made part of the election made pursuant to this section; provided, however, that such exemption shall not allow any employee who retires under the provisions of chapter 45 of the laws of 2010 to receive a retirement incentive authorized by this act.

c. Notwithstanding any other provision of this act to the contrary, the mayor of the city of New York may declare employees of the community colleges of the city university of New York ineligible for the retirement incentive provided by this act by filing such notification with the chancellor of the city university of New York, with copies to the chair of the senate finance committee, the chair of the assembly ways and means committee and the director of the budget, in writing, no later than the thirtieth day next succeeding the effective date of this act.

§ 5. Notwithstanding any other provision of law, any eligible employee serving in an eligible title who:

a. has been continuously in the active service of a state employer or of a participating employer from February 1, 2010 to the date immediately prior to the commencement date of the applicable open period;

b. files an application for service retirement (or files the appropriate application and authorization form with the optional retirement program and a duly acknowledged retirement incentive form for such program with the appropriate personnel office) that is effective during the open period; and

c. is otherwise eligible for a service retirement as of the effective date of the application for retirement shall be entitled to the retirement incentive provided in section six of this act. If not otherwise eligible for a service retirement, the following person shall be deemed to satisfy the eligibility condition of this section: a person who is at

1 least age fifty with ten or more years service as of the effective date
2 of retirement (other than a member of a retirement plan which provides
3 for half-pay pension upon completion of twenty-five years or less
4 service without regard to age); a member of a retirement plan which
5 provides for half-pay pension upon completion of twenty-five years of
6 service without regard to age who has not accrued, excluding additional
7 credit granted pursuant to this act, the minimum number of years of
8 service required to retire with an allowance equal to fifty percent of
9 final average salary under such plan, but has, with the inclusion of the
10 additional credit provided under this act, accrued such number of years
11 of credit; or a participant in an optional retirement plan at least
12 fifty years of age with ten years of service on an annual salary basis
13 with his or her employer as of the date of retirement.
14 § 6. Notwithstanding any other provision of law, an eligible employee
15 serving in an eligible title who is:
16 a. A member of a retirement system and who is entitled to a retirement
17 incentive pursuant to section five of this act shall receive a retire-
18 ment incentive of one-twelfth of a year of additional retirement credit
19 for each year of pension service credited as of the date of retirement,
20 up to a maximum of three years of retirement service credit at the time
21 of retirement, provided, however, that service credit provided under the
22 provisions of sections 902 and 911 of the retirement and social security
23 law shall not be included when calculating the additional retirement
24 credit awarded pursuant to this act. For the New York city teachers'
25 retirement system, the New York city employees' retirement system and
26 the New York city board of education retirement system such incentive
27 shall be available for all purposes, including fulfilling the qualifying
28 service requirements of plan A and C, if applicable.
29 An eligible employee who is covered by the provisions of article 15 of
30 the retirement and social security law shall retire under the provisions
31 of article 15 of the retirement and social security law. The amount of
32 such benefit for an eligible employee who is covered by article 15 of
33 the retirement and social security law and retires under the provisions
34 of this section (other than a member with thirty or more years of
35 service in the New York state and local employees' retirement system or
36 a teachers' retirement system) shall be reduced by six percent for each
37 of the first two years by which retirement precedes age sixty-two, plus
38 a further reduction of three percent for each year by which retirement
39 precedes age sixty, provided, however, the foregoing reductions shall
40 not apply: (i) in any case where an eligible employee can retire after
41 twenty-five years of service with immediate payability prior to the age
42 of sixty-two pursuant to section 604-b of the retirement and social
43 security law or (ii) to any time period subsequent to the point at which
44 an eligible employee can retire for service without reduction of his or
45 her service retirement allowance pursuant to article 16 of the retire-
46 ment and social security law. Such reduction shall be prorated for
47 partial years. The amount of such benefit for an eligible employee with
48 thirty or more years of service who is a member of the New York state
49 and local employees' retirement system or a teachers' retirement system
50 or an eligible employee who is a participant in the optional twenty-five
51 year early retirement program for certain New York city members governed
52 by section 604-c of the retirement and social security law, as added by
53 chapter 96 of the laws of 1995 or a twenty-five year participant in the
54 age fifty-five retirement program governed by section 604-i of the
55 retirement and social security law, with twenty-five or more years of
56 service and who is covered by article 15 of the retirement and social

1 security law shall be reduced by five percent for each year by which
2 retirement pursuant to this section precedes age fifty-five. The amount
3 of such benefit for an eligible New York city employee with five or more
4 years of service and who is a participant in the age fifty-seven retire-
5 ment program governed by section 604-d of the retirement and social
6 security law shall be reduced by one-thirtieth for the first two years
7 by which retirement precedes age fifty-seven plus a further reduction of
8 one-twentieth for each year by which retirement precedes age fifty-five.
9 Such reduction shall be prorated for partial years. There shall be no
10 reduction for an eligible New York city employee in a physically taxing
11 position with twenty-five or more years of service and who is a partic-
12 ipant (i) in the optional twenty-five year early retirement program for
13 certain members governed by section 604-c of the retirement and social
14 security law, as added by chapter 96 of the laws of 1995, or (ii) in the
15 age fifty-seven retirement program governed by section 604-d of the
16 retirement and social security law.
17 An eligible employee serving in an eligible title who is covered by
18 article 11 of the retirement and social security law shall retire under
19 the provisions of such article. The amount of such benefit for an eligi-
20 ble employee covered by article 11 of the retirement and social security
21 law other than a member of a teachers' retirement system or a member of
22 the New York state and local employees' retirement system with thirty or
23 more years of service, a participant in the optional age fifty-five
24 improved benefit retirement program for certain New York city employees
25 governed by section 445-d of the retirement and social security law, as
26 added by chapter 96 of the laws of 1995, with twenty-five or more years
27 of service, or a participant in the optional age fifty-five retirement
28 program for New York city teachers and certain other members governed by
29 section 445-i of the retirement and social security law, with twenty-
30 five or more years of service, shall be reduced by six percent for each
31 of the first two years by which retirement pursuant to this section
32 precedes age sixty-two, plus a further reduction of three percent for
33 each year by which retirement pursuant to this section precedes age
34 sixty, provided, however, the foregoing reductions shall not apply: (i)
35 in any case where an eligible employee can retire pursuant to a plan
36 which permits retirement for service with immediate payability, exclu-
37 sive of this act, prior to the age of fifty-five or (ii) to any time
38 period subsequent to the point at which an eligible employee can retire
39 for service without reduction of his or her service retirement allowance
40 pursuant to article 16 of the retirement and social security law. Such
41 reduction shall be prorated for partial years. The amount of such bene-
42 fit for an eligible employee who is a member of a teachers' retirement
43 system or a member of the New York state and local employees' retirement
44 system with thirty or more years of service, a participant in the
45 optional age fifty-five improved benefit retirement program for certain
46 New York city employees governed by section 445-d of the retirement and
47 social security law, as added by chapter 96 of the laws of 1995, with
48 twenty-five or more years of service, or a participant in the optional
49 age fifty-five retirement program for New York city teachers and certain
50 other members governed by section 445-i of the retirement and social
51 security law, with twenty-five or more years of service and who is
52 covered by article 11 of the retirement and social security law shall be
53 reduced by five percent for each year by which retirement pursuant to
54 this section precedes age fifty-five. Such reduction shall be prorated
55 for partial years. There shall be no reduction for an eligible New York
56 city employee in a physically taxing position and who is a participant

in the optional age fifty-five improved benefit retirement program for certain New York city employees governed by section 445-d of the retirement and social security law, as added by chapter 96 of the laws of 1995, with twenty-five or more years of service.

An eligible employee serving in an eligible title who is not covered by article 11 or 15 of the retirement and social security law shall retire under the provisions of the plan by which he or she is covered. The amount of such benefit shall be reduced by five percent for each year by which retirement pursuant to this section precedes age fifty-five, provided, however, the foregoing reductions shall not apply: (i) in any case where an eligible employee can retire pursuant to a plan which permits retirement for service with immediate payability, exclusive of this act, prior to the age of fifty-five or (ii) to any time period subsequent to the point at which an eligible employee can retire for service without reduction of his or her service retirement allowance pursuant to article 16 of the retirement and social security law. Such reduction shall be prorated for partial years.

An eligible employee serving in an eligible title who participates in a retirement plan which provides for a retirement allowance equal to fifty percent of final average salary upon the completion of twenty-five years of service without regard to age and who is otherwise eligible to retire shall retire under the provisions of such plan. Such employee shall, at the time of retirement, be credited with one-twelfth of a year of additional retirement service credit for each year of service credited under such plan as of the date of retirement, up to a maximum of three years of retirement service credit, subject to the provisions of subdivision b of this section. If such employee has not accrued, excluding additional credit granted pursuant to this act, the minimum number of years of service required to retire with an allowance equal to fifty percent of final average salary under such plan, but has, with the inclusion of the additional credit provided under this act, accrued such number of years of credit, the benefit payable shall be the percentage of final average salary that would ordinarily be applicable to such individual upon retirement with such amount of credit (including incentive credit), reduced by five per centum per year for each year by which the number of years of service otherwise required to retire with an allowance equal to fifty percent of final average salary under such plan exceeds the amount of service credited to such employee under such plan at retirement (excluding the additional retirement incentive service credit provided pursuant to this act). Such reduction shall be prorated for partial years.

b. A participant in an optional retirement program who is entitled to a retirement incentive pursuant to section five of this act shall receive an additional employer contribution equal to an amount, which shall be calculated as follows: (one-twelfth for each year of service) multiplied by (fifteen percent) multiplied by (the employee's earnable annual salary rate in effect on March 1, 2010 or the effective date of this act if the employee retires prior to March 1, 2010), such amount not to exceed forty-five percent of such salary rate. Such contribution shall be made to the employee's retirement annuity under the optional retirement program up to the maximum contribution allowable under section 415 of the internal revenue code. Any contribution in excess of that limit shall be contributed by the employer to an internal revenue code section 403(b) contract on behalf of the employee to the extent it can be contributed on a before-tax basis under the maximum limits allowed under the internal revenue code. Contributions in excess of that

amount shall be paid in cash to the participant in three equal installments during a twenty-four month period commencing on such eligible employee's effective date of retirement. Provided, however, if the employee is employed by the city university of New York and in the active service of such employer on October 1, 2010 or the effective date of this act if the employee retires prior to October 1, 2010, the employee's earnable annual salary rate shall be the annual salary rate in effect on such applicable date.

§ 7. a. An employee of a state employer, other than the city university of New York, who retires pursuant to this act may defer calculation of the value of accumulated sick leave credits, if any, and participation in the state health insurance plan.

b. Notwithstanding any other provision of law, any termination pay or leave arising from accrued sick leave or accrued annual leave for an eligible employee who has elected the retirement incentive provided by this act and who is a member of the New York city teachers' retirement system employed by the board of education of the city of New York shall be paid in three equal installments during a twenty-four month period commencing on such eligible employee's effective date of retirement.

c. An employee of the city of New York or the city university of New York, as defined in subdivision 2 of section 6202 of the education law, who retires under the retirement incentive provided by this act, who is eligible for terminal leave pursuant to an applicable collective bargaining agreement or a personnel policy or rule or retirement leave pursuant to section 3107 of the education law or who has an accrued annual leave balance on the effective date of retirement shall be paid in three equal installments two months, fourteen months and twenty-four months following such eligible employee's effective date of retirement.

§ 8. a. With respect to employees of the executive branch of a state employer, any position, other than a position supported by special revenue funds, vacated as a result of an eligible employee in an eligible title receiving the retirement incentive provided by section six of this act shall be eliminated unless such position is identified by the director of state operations as one into which another state employee can be appointed, transferred or reassigned pursuant to the civil service law, rules or regulations, in which case the former position of the state employee so appointed, transferred or reassigned shall be eliminated.

b. The director of state operations shall direct the department of civil service to prepare a report designating the title, grade level, salary, and classification, according to appointing authority, (i) of each position which is eliminated pursuant to subdivision a of this section, (ii) of each position into which another state employee was appointed, transferred, or reassigned and the former position of such state employee, and (iii) of each position which is eliminated as a result of an appointment, transfer or reassignment referred to in paragraph (ii) of this subdivision. Such report shall be available no later than ninety days after the last date of the open period related to such positions.

§ 9. Notwithstanding any inconsistent provision of section eight of this act or any other provision of law:

a. A participating employer or a state employer described in paragraphs (b) through (e) of subdivision d of section one of this act shall not be required to eliminate the positions of eligible employees in eligible titles receiving the retirement incentive provided by section six of this act if such employer can demonstrate that it will achieve a

1 compensation savings such that the total amount of base salary paid for
2 the two-year period subsequent to the effective date of retirement for
3 such eligible employees in eligible titles to those new hires, if any,
4 who otherwise would not have been hired by such employer after the
5 effective date of this act but for the retirement incentive provided
6 herein shall be no more than one-half of the total amount of base salary
7 that would have been paid to such eligible employees from their date of
8 retirement for such two-year period. Each such employer shall make
9 available its plans for achieving these savings.
10 b. The city of New York or the city university of New York, as defined
11 in subdivision 2 of section 6202 of the education law, shall not be
12 required to eliminate the positions of eligible employees in eligible
13 titles receiving the retirement incentive provided by section six of
14 this act if such participating employer can demonstrate that it will
15 achieve a compensation or equivalent headcount savings such that the
16 total amount of compensation including benefits paid for the two-year
17 period subsequent to the effective date of retirement for such eligible
18 employees in eligible titles to those new hires, if any, who otherwise
19 would not have been hired by such employer after the effective date of
20 this act but for the retirement incentive provided herein shall be no
21 more than one-half of the total amount of base salary that would have
22 been paid to such eligible employees from their date of retirement for
23 such two-year period. For purposes of this subdivision, the "city of New
24 York" shall mean the city of New York or a participating employer a
25 majority of the members of whose governing body are: (a) appointed by
26 the mayor of the city of New York or other citywide elected official, a
27 borough president of the city of New York, or any combination thereof;
28 (b) designated by virtue of their city of New York office or position or
29 their office or position with a participating employer whose governing
30 board is described in paragraph (a) of this subdivision; or (c)
31 appointed or designated by any combination of the foregoing. Each such
32 employer shall make available its plans for achieving these savings.
33 c. To the extent any transfer of personnel between the state employer
34 described in paragraph (a) of subdivision d of section one of this act
35 and the state employer described in paragraph (b) of subdivision d of
36 section one of this act occurs pursuant to a voluntary transfer of state
37 personnel, or otherwise, the provisions of subdivision a of this section
38 with respect to achieving savings shall be applicable. Nothing herein
39 shall be construed to impair the authority of the director of state
40 operations pursuant to subdivision g of section one or section two of
41 this act.
42 § 10. Nothing in this act shall be used to provide benefits that shall
43 exceed the limits contained in section 415 of the internal revenue code.
44 Provided, however, any service retirement benefit which has been reduced
45 because of section 415 of the internal revenue code shall be increased
46 when (and consistent with) the dollar limits in section 415 of the
47 internal revenue code are adjusted by the internal revenue service for
48 cost of living increases. Such increases shall not increase the benefit
49 in excess of the service retirement benefit otherwise payable.
50 § 11. Any eligible employee who retires pursuant to the provisions of
51 this act and enters or reenters public service as defined in subdivision
52 e of section 210 of the retirement and social security law and joins or
53 rejoins any public retirement system of the state as defined in subdivi-
54 sion 6 of section 152 of the retirement and social security law or
55 elects to participate in an optional retirement program shall if the
56 additional benefit was provided pursuant to: (a) subdivision a of

section six of this act, forfeit the additional benefit authorized by this act at the time of his or her subsequent retirement; or (b) subdivision b of section six of this act, repay to the state or participating employer such additional contribution together with the appropriate interest as determined by the state comptroller.

§ 12. Notwithstanding any other provision of law, if the service retirement benefit of a member of a retirement system is subject to a maximum retirement benefit, the additional benefit authorized by this act will be computed by multiplying the final average salary times the number of years of service credit granted by section six of this act times the benefit fraction of the plan under which such member retires.

§ 13. The provisions of section 430 of the retirement and social security law shall not apply to any benefit or benefit improvement provided by this act.

§ 14. The pension benefit costs of subdivision a of section six of this act shall be paid by employers as provided by applicable law for each retirement system covered by this act over a period not to exceed five years commencing in the state fiscal year ending March 31, 2012.

§ 15. Where an employee is eligible to receive the benefit authorized under section six and the retirement benefit provided for under section five of part B of the chapter of the laws of 2010 which added this part, such employee may elect a section under which he or she will participate. Any other provision of this act or any other law to the contrary notwithstanding, an employee eligible for the retirement benefit under chapter 45 of the laws of 2010 and otherwise eligible to receive the benefit provided under section six of this act shall not be eligible to receive the benefit authorized under section six of this act unless such employee elects to receive such benefit in lieu of the benefit under chapter 45 of the laws of 2010. In no event shall the benefits provided for in section six of this act be received by any employee in conjunction with the benefits of section five of part B of this act or the benefits of chapter 45 of the laws of 2010.

§ 16. This act shall take effect immediately.

PART B

Section 1. Definitions. As used in this act, unless the context clearly requires otherwise:

a. "Retirement system" means the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city teachers' retirement system, the New York city board of education retirement system or the New York city employees' retirement system, exclusive of the retirement plans established pursuant to sections 13-156 and 13-157 of the administrative code of the city of New York.

b. "Teachers' retirement system" means the New York state teachers' retirement system or the New York city teachers' retirement system.

c. "State employer" means (a) the executive branch of the state, (b) the state-operated institutions of the state university of New York, (c) the statutory and contract colleges operated pursuant to section 357 of the education law, (d) the state university construction fund (hereinafter referred to in this act as the "fund"), (e) a cooperative extension association (hereinafter referred to in this act as the "association"), and (f) the city university of New York as defined in subdivision 2 of section 6202 of the education law, (g) the unified

court system, (h) the senate, (i) the assembly, and (j) joint legislative employers.

d. (a) "Participating employer" means an employer, other than a state employer, which participates in a retirement system; such term shall include a community college operating under the program of state university of New York.

(b) "Educational employer" means a participating employer which is a school district, a board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section 4201 of the education law, or a school district as enumerated in section 1 of chapter 566 of the laws of 1967, as amended.

e. "Eligible employee" means a person who is a member of a retirement system who is an employee in the executive branch of a state employer or an employee of a state employer or a participating employer who has attained age fifty-five and has at least twenty-five years of creditable service in a retirement system, but such term shall not include the following persons:

(a) elected officials, judges or justices appointed to or serving in court of record and acting village justices;

(b) chief administrative officers of participating employers which participate in a teachers' retirement system;

(c) officers described in sections 4, 41-a, 46, 61, 70, 70-a, 169 (including those officers whose salary is established pursuant to salary plans under subdivision 3 of section 169), 180 and subdivision 1 of section 41 of the executive law and any agency or department head appointed by the governor, comptroller or attorney general;

(d) appointed members of boards or commissions any of whose members are appointed by the governor or by another state officer or body;

(e) nonjudicial officers and employees of the unified court system unless the chief administrator of the courts elects as provided herein, which election shall cover only nonjudicial officers and employees holding positions in any title in the classified service of the unified court system;

(f) officers or employees of the senate unless the senate adopts a resolution authorizing the temporary president to file the election as provided in this subdivision;

(g) officers or employees of the assembly unless the assembly adopts a resolution authorizing the speaker of the assembly to file the election as provided in this subdivision; and

(h) officers or employees of joint legislative employers unless:

(i) with respect to officers or employees of the legislative library, legislative messenger service, legislative health service, legislative ethics committee, the legislative bill drafting commission, and the joint line of the legislative task force on demographic research and reapportionment, the senate and assembly adopt a concurrent resolution authorizing the temporary president of the senate and the speaker of the assembly to jointly file an election as provided in this subdivision;

(ii) with respect to officers or employees of components of the senate as identified pursuant to section 90 of the legislative law, the senate adopts a resolution authorizing the temporary president to file an election for officers or employees of those components designated in such resolution; and

(iii) with respect to officers or employees of components of the assembly as identified pursuant to section 90 of the legislative law, the assembly adopts a resolution authorizing the speaker of the assembly

1 to file an election for officers or employees of those components desig-
2 nated in such resolution.
3 Any election under paragraphs (e) through (h) of this subdivision to
4 make available the retirement incentive provided by this act shall be in
5 writing and filed with the state comptroller not later than ninety days
6 after the effective date of this act. Notwithstanding any other
7 provision of this act, each such filing shall specify the commencement
8 date of the open period.
9 For the purposes of such paragraph (f), (g) or (h) of this subdivi-
10 sion, an employee of the legislature shall be as such term is defined in
11 section 7-a, 7-b or 7-d of the legislative law or by any other provision
12 of law which classifies employees of an entity to be legislative employ-
13 ees for all purposes, but shall not include senators or members of the
14 assembly. The term "joint legislative employer" shall mean legislative
15 commissions, committees, task forces, councils or similar bodies whose
16 membership is comprised of both senators and assembly members, or which
17 consist of commissioners, or the majority of whose membership is
18 appointed by one or more of the following: the temporary president of
19 the senate, the speaker of the assembly, the minority leader of the
20 senate, and/or the minority leader of the assembly. The temporary presi-
21 dent of the senate and the speaker of the assembly shall be the joint
22 legislative employer of the employees of the legislature referred to in
23 sections 7-a and 7-b of the legislative law.
24 f. "College faculty" means an employee, not in the classified service,
25 of a state employer described in paragraphs (b), (c), (d), (e) and (f)
26 of subdivision c of this section or of a community college who is a
27 member of a teachers' retirement system, or the New York state and local
28 employees' retirement system.
29 g. "Active service" means service while being paid on the payroll,
30 provided that (a) a leave of absence with pay shall be deemed active
31 service; (b) other approved leave without pay not to exceed twelve weeks
32 from February 1, 2010 and the commencement of the designated open peri-
33 od; and (c) the period of time subsequent to the June 2010 school term
34 and on or before August 31, 2010 for a teacher (or other employee
35 employed on a school-year basis) who is otherwise in active service on
36 the effective date of this act shall be deemed active service.
37 h. "Open period" means the period beginning with the commencement date
38 as defined in subdivision i of this section and shall be ninety days in
39 length; provided however that there shall be only one such open period
40 and any such period shall not extend beyond September 30, 2010 for a
41 state employer and December 31, 2010 for a participating employer. For
42 educational employers who make election after June 1, 2010, the open
43 period shall begin immediately after such election, and shall not extend
44 beyond August 31, 2010. For the purposes of retirement pursuant to this
45 act, a service retirement application must be filed with the appropriate
46 retirement system not less than fourteen days prior to the effective
47 date of retirement to become effective, unless a shorter period of time
48 is permitted under law.
49 i. "Commencement date" means the first day the retirement benefit
50 mandated by this act shall be made available, which shall mean a date or
51 dates on or after the effective date of this act to be determined by the
52 director of state operations for the executive branch of the state, or
53 for any other state employer or any participating employer which elects
54 to participate pursuant to section three of this act a date on or after
55 the effective date of this act; provided, however, that for an educa-
56 tional employer which elects to participate pursuant to section three of

1 this act, the commencement date shall be June 1, 2010; or immediately
2 after election of the retirement incentive for educational employers who
3 elect after June 1, 2010 and provided, further that for participating
4 employers which elect to participate pursuant to section three of this
5 act, except the city of New York and participating employers which are
6 not empowered to act by local law, the commencement date shall be Octo-
7 ber 1, 2010. The director of state operations shall notify the head of
8 the appropriate retirement system of the date of the open period appli-
9 cable to employees of the executive branch or of a state employer prior
10 to the commencement date.
11 § 2. a. A state employer which elects to participate pursuant to
12 section three of this act, participating employer which is not empowered
13 to act by local law which elects to participate pursuant to section
14 three of this act, or the city of New York, if it elects to participate
15 pursuant to section three of this act shall establish a commencement
16 date for the retirement benefit established under section five of this
17 act in the following manner: (a) for the executive branch, the director
18 of state operations shall establish the commencement date in writing to
19 the appropriate retirement system; (b) for state employers described in
20 paragraphs (b), (c), (d), (e) and (f) of subdivision c of section one of
21 this act and participating employers that are not empowered to act by
22 local law, its governing body shall adopt a resolution establishing a
23 commencement date; (c) for state employers described in paragraphs (g),
24 (h), (i) and (j) of subdivision c of section one of this act, the person
25 or persons who make the election to offer the retirement incentive
26 pursuant to part A of the chapter of the laws of 2010 which added this
27 part shall establish a commencement date in writing to the appropriate
28 retirement system; and (d) for the city of New York, the chief executive
29 officer shall issue an executive order establishing the commencement
30 date, provided, however, no executive order, in the case of the city of
31 New York issued pursuant to this section, shall in any manner supersede
32 any local charter. A copy of any such resolution or executive order in
33 the case of the city of New York establishing a commencement date shall
34 be filed with the appropriate retirement system or systems, and, if
35 applicable, on forms provided by such system. The resolution or execu-
36 tive order in the case of the city of New York shall be accompanied by
37 the affidavit of the chief executive officer or other comparable offi-
38 cial certifying the commencement date.
39 b. A state employer, participating employer which is not empowered to
40 act by local law which elects to participate pursuant to section three
41 of this act, or the city of New York if it elects to participate pursu-
42 ant to section three of this act shall be required to establish a
43 commencement date under paragraph a of this subdivision for the retire-
44 ment benefit established under section five of this act. In the event
45 that a state employer, participating employer which is not empowered to
46 act by local law which elects to participate pursuant to section three
47 of this act, or the city of New York if it elects to participate pursu-
48 ant to section three of this act fails to establish a commencement date
49 for the retirement benefit established under section five of this act,
50 the commencement date for the eligible employees of a state employer
51 shall be July 1, 2010. The commencement date for the eligible employees
52 of all other employers referenced in this subdivision shall be September
53 1, 2010.
54 § 3. On or before September 1, 2010, a participating employer or a
55 state employer described in paragraphs (b), (c), (d), (e) and (f) of
56 subdivision c of section one of this act may elect to provide its

employees the retirement incentive authorized by this act by (a) the enactment of a local law or (b) in the case of a participating employer which is not so empowered to act by local law or a state employer described in paragraphs (b), (c), (d), (e) and (f) of subdivision c of section one of this act, by the adoption of a resolution of its governing body; provided however, no local law or resolution enacted pursuant to this section shall in any manner supersede any local charter, provided further, that for an educational employer such election must be made by July 1, 2010. For a community college operating under the program of state university of New York, such election shall be made by the board of trustees of such community college subject to the approval of its sponsor. A copy of such law or resolution shall be filed with the appropriate retirement system or systems, and, if applicable, on forms provided by such system. The local law or resolution shall be accompanied by the affidavit of the chief executive officer or other comparable official certifying the validity of such local law or resolution. The executive branch of the state shall be deemed to have made an election under this section upon its enactment.

§ 4. Notwithstanding any other provision of law, any eligible employee who (a) has been continuously in the active service of a state employer or of a participating employer from February 1, 2010 to the date immediately prior to the commencement date of the applicable open period, (b) files an application for service retirement that is effective during the open period, and (c) is otherwise eligible for a service retirement as of the effective date of the application for retirement shall be entitled to the retirement benefit provided in section five of this act.

§ 5. a. Notwithstanding any other provision of law, an eligible employee who is: (a) a member of a retirement system and (b) who is entitled to a retirement benefit pursuant to section four of this act may retire during the open period without the reduction of his or her retirement benefit that would otherwise be imposed by article 11 or 15 of the retirement and social security law if he or she has attained the age of fifty-five and has completed at least twenty-five or more years of creditable service. An eligible employee who is covered by the provisions of articles 11 and 15 of the retirement and social security law shall retire under the provisions of articles 11 and 15 of the retirement and social security law.

b. The director of state operations, the chief executive officer of the city of New York, or chief executive officer or governing board, as appropriate, of the participating employer may deny participation in the retirement benefit provided by subdivision a of this section if the director of state operations, the chief executive officer of New York city or the chief executive officer or governing board of the participating employer makes a determination that the employee holds a position that is deemed critical to the maintenance of public health and safety.

c. Where an employee is eligible for the retirement benefit under this section and the retirement incentive authorized pursuant to section six of part A of the chapter of the laws of 2010 which added this part, such employee shall elect a section under which he or she will participate. The benefits provided by subdivision a of this section shall not be conditioned upon a state or participating employer making the benefits of section six of part A of this act available to employees in their employ. Further, the benefits provided by subdivision a of this section shall not be available in conjunction with the benefits of section six of part A of the chapter of the laws of 2010 which added this part.

d. The action of the director of state operations, the chief executive officer of the city of New York, or chief executive officer or governing board, as appropriate, of the participating employer in denying the retirement benefit provided for in subdivision a of this section to any individual shall be subject to review in the manner provided for in article 78 of the civil practice law and rules. Such action for review pursuant to article seventy-eight of the civil practice law and rules shall only be commenced by the individual that was denied the retirement benefit provided by subdivision a of this section.

e. After making any such determination under subdivision b of this section, the director of state operations, the chief executive officer of the city of New York and the chief executive officer or governing board, as appropriate, of the participating employer shall notify the appropriate retirement system or teachers' retirement system of its determination.

§ 6. The pension benefit costs of section five of this act shall be paid by employers as provided by applicable law for each retirement system covered by this act over a period not to exceed five years commencing in the state fiscal year ending March 31, 2012.

§ 7. This act shall take effect immediately.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, 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, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A and B of this act shall be as specifically set forth in the last section of such Parts.

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

This bill would provide additional service credit (one-twelfth of a year for each year of non-sick leave, non-Article 19 service credited as of the date of retirement, up to a maximum of three years) for certain members of the New York State and Local Employees' Retirement System, New York State Teachers' Retirement System, New York City Teachers' Retirement System, New York City Board of Education and the New York City Employees' Retirement System. Further, for certain members who are not otherwise eligible for a service retirement benefit, this bill would provide the ability to retire with reductions. This benefit would be available to only targeted positions.

In addition, this bill would eliminate the early retirement reductions at 25 years of service instead of at 30 years of service for retirement during a specified 90 day period for Tier 2, 3 and 4 members of the New York State and Local Employees' Retirement System, New York State Teachers' Retirement System, New York City Teachers' Retirement System, New York City Board of Education and the New York City Employees' Retirement System. Employers electing this provision can declare health and safety positions to be ineligible.

Retiring members may not receive both the additional service credit and the elimination of the early retirement reductions at 25 years of service instead of at 30 years of service.

If this bill is enacted, insofar as it affects the New York State and Local Employees' Retirement System (ERS), the additional cost for each

member who receives these benefits will vary depending on the member's age, years of service, plans and final average salary.

We anticipate that the per-member cost (at retirement) of the additional service credit benefit will average approximately 60% of a member's final average salary. This cost will be borne by each employer electing the incentive over a five-year period commencing with a payment in the State fiscal year 2011-2012.

We anticipate that the per-member cost (at retirement) of the elimination of the early retirement reductions at 25 years of service instead of at 30 years of service will average approximately 110% of a member's final average salary. This cost will be borne by each employer electing the incentive over a five-year period commencing with a payment in the State fiscal year 2011-2012.

This estimate, dated April 30, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-157 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 provide a temporary retirement incentive for fiscal year 2010-2011. In Part A of the retirement incentive, employers who elect to participate would provide certain eligible employees a retirement incentive of one-twelfth of a year of additional service credit per year of accrued service credit up to a maximum of three additional years. To be eligible, a member must have attained age 50 or greater, with at least ten years of service. Members not subject to an early retirement reduction and less than age 55 at retirement will have their benefit reduced by five percent for each year their age precedes 55.

Part B of the retirement incentive would permit eligible Tier 2, 3 and 4 members of employers who elect to participate to retire without early retirement reductions upon attainment of at least age 55 with 25 years of service. Currently 30 years of service are required. In order to receive either the Part A or Part B benefit, an eligible member of an employer who has elected to participate must retire during the employer's designated open period. For Part A, such period shall be at least 30, but not more than 90 days in length, and for educational employers, shall not extend beyond August 31, 2010. For Part B, the open period for educational employers shall begin upon the later of June 1, 2010 or the date elected by the employer, and shall not extend beyond August 31, 2010. Members may not receive a benefit under both Part A and Part B, or Part A and the retirement incentive provided under Chapter 45 of the Laws of 2010. Employers participating in Part A or Part B (or both) would pay the cost of the retirement incentive over a period not to exceed five years, beginning in the state fiscal year ending March 31, 2012.

It is not possible to accurately forecast the total cost to the New York State Teachers' Retirement System employers electing to participate in this retirement incentive because the number of eligible members electing to retire under the incentive, their ages and the amount of service credited cannot be readily estimated. The Part A cost, measured as the increase in the present value of benefit per participating member, however, will range from 5% to more than 100% of final average salary, averaging between 50% and 75% of final average salary, depending on the member's age, years of service, and tier at retirement. The Part B cost per participating member will range from 3% to more than 100% of final average salary, depending on the member's age, years of service,

and tier at retirement. The potential number of members eligible to benefit under Part A is much greater than under Part B.

The source of this estimate is Fiscal Note 2010-54 dated May 18, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.

FISCAL NOTE: PROVISIONS OF PROPOSED LEGISLATION: With respect to certain New York City Retirement Systems ("NYCRS"), this proposed legislation would provide for a temporary Early Retirement Incentive Program ("ERI Program") to allow certain NYCRS members to elect immediate retirement with enhanced benefits. This proposed legislation consists of two components, each wholly contained within a part, identified as Part A and Part B.

* Part A: Additional Service Credit of 1/12 per year of service, to a maximum of three years, if at least age 50 with 10 or more years of service, or

* Part B: Unreduced Benefit on Account of Age, if at least age 55 with 25 or more years of service.

A NYCRS member eligible for Part B would be permitted to elect Part A (if eligible for Part A) but would not be permitted to combine the benefits of Part A and Part B.

In addition, to be eligible, a member of a NYCRS must be the employee of an employer participating in a NYCRS ("Obligor") who elects to participate in the ERI Program.

Additional requirements and details are set forth under the Terms of Early Retirement Incentive section that follows.

The Effective Date of the proposed legislation would be the date of enactment.

TERMS OF EARLY RETIREMENT INCENTIVE PROGRAM: Under the proposed legislation, with respect to the NYCRS, and ERI Program would be made available if elected by a participating employer, including New York City (the "City"), by enactment of a local law or resolution. Such local law or resolution would specify for employees the applicable "Open Period," anywhere from 30 to 90 days, during which time eligible NYCRS members would be permitted to elect and retire, but not beyond August 31, 2010 for educational employees and not beyond December 31, 2010 for all others.

The Mayor of the City may declare employees of the Community Colleges of the City University of New York ("CUNY") to be ineligible for Part A of the ERI Program. It is also the understanding of the Actuary that the Mayor may determine such employees to be ineligible for Part B.

This proposed legislation also provides that employers who elect Part A of the ERI Program should demonstrate certain compensation savings over the two-year period following the effective dates of retirement of those employees who participate in Part A of the ERI Program.

NYCRS RETIREMENT SYSTEMS IMPACTED: The proposed legislation would impact the following NYCRS:

* New York City Employees' Retirement System ("NYCERS"),
* New York City Teachers' Retirement System ("NYCTRS"), and
* New York City Board of Education Retirement System ("BERS").

Part A

If an employer elects to participate in Part A of the ERI Program, then an employee must meet the following criteria in order to retire under the ERI:

Eligibility - Part A: A NYCRS member must be a member of NYCERS, NYCTRS or BERS and is required to:

1. Be in Active Service - paid on payroll, or

- On leave of absence with pay, or
- Approved leave of absence without pay but not more than 12 weeks prior to the "Open Period," or
- A teacher on payroll as of February 1, 2010 which would include the period between the end of the June 2010 term and on or before August 31, 2010, and

2. Be in an Eligible Title.
- Those positions otherwise identified for layoff,
- Those positions that could be transferred or reassigned under Civil Service Law, and

3. Be eligible for Service Retirement if the ERI service credit is applied or have at least attained age 50 with 10 or more years of service, and
4. Be in Active Service between February 1, 2010 and the commencement date specified in the Open Period, and
5. File an application for Service Retirement that is effective during the Open Period, and
6. File written notification with the employer of the member on or before the 21st day prior to the end of the Open Period.

Benefits - Part A: For those NYCRS members who participate in Part A, the members would receive an ERI of:

- 1/12 of additional retirement service credit per year of pension service, up to a maximum of three years.

Such retirement service credit would be usable for both inclusion in the applicable benefit formula and for meeting eligibility requirements to retire.

Generally, there would be reductions to the retirement benefit if the eligible employee retired before a plan's normal retirement age.

In addition, for an eligible employee who participates in a retirement plan which provides for a retirement allowance equal to 50% of FAS upon the completion of 25 years without regard to age, the proposed legislation sets forth the reductions to the retirement allowance otherwise payable if the eligible employee has not accrued, excluding the additional credit granted under the proposed legislation, the minimum number of years needed to retire with such allowance.

However, the proposed legislation does not address the situation where an eligible employee is in a plan where 25 years of service is needed to retire with 55% of FAS.

It is the understanding of the Actuary that the same reductions described in the proposed legislation for plans providing 50% of FAS after 25 years of service would apply to plans providing 55% of FAS after 25 years of service.

Optional Retirement Program - Part A: For those NYCRS members who participate in an Optional Retirement Program (i.e., Internal Revenue Code ("IRC") Section 403(b) Plan or "403(b) Plan") as specified in Education Law Section 6251, there is a special Part A benefit.

A member of a 403(b) Plan would, if the member elected to retire under the Part A provisions, be entitled to an additional employer contribution equal to: 1/12 x years of service x 15% x member's annual salary rate as of March 1, 2010, such amount could not exceed 45% of such salary rate (i.e., no more than 36 years of service would be included).

Part B

If an employer elects to participate in Part B of the ERI Program, then the employees must meet the following criteria in order to retire under the ERI:

Eligibility - Part B: To be eligible for Part B, members must have attained age 55 and have completed 25 or more years of creditable service as of the effective date of retirement.

Benefits - Part B: For those NYCRS members who are eligible for Part B, such members would be entitled to receive the retirement allowance accrued under the plan in which the member participates based on the amount of credited service such member would have at retirement, but such retirement allowance would be payable without reduction for early commencement.

Note: If eligible under Part A, a NYCRS member eligible for Part B would be permitted to elect to receive the benefits under Part A in lieu of the benefits under Part B.

Part A and Part B

Any additional benefits payable under Part A or Part B would be limited to the extent that the total benefit payable were to exceed the Internal Revenue Code ("IRC") Section 415 limits.

Note: Under Chapter 623 of the Laws of 2004, the NYCRS now have Excess Benefit Plans that permit benefits in excess of the IRC Section 415 limits but the ERI Program does not recognize the availability of these Excess Benefit Plans.

With respect to the Optional Retirement Program, for any additional employer contribution made under a 403(b) Plan, such additional employer contribution would not be permitted to exceed the IRC Section 415 limits. If it were to exceed those limits, then the portion in excess of the limit would either be contributed to the employee in a separate IRC Section 403(b) contract to the extent it can be contributed on a before-tax basis under the limit or paid to the employee over a 24-month period in three equal installments.

Note: It is also the understanding of the Actuary that Part A, Section 10 (i.e., IRC Section 415 limits) and Part A, Section 13 (i.e., provisions of RSSL Section 430) would be applicable to both Part A and Part B of the proposed legislation.

FINANCIAL IMPACT - OVERVIEW: If enacted into the law, the ultimate employer cost of this proposed legislation would be determined by the number of members of the NYCRS who participate in the ERI Program and the amount of additional benefits paid.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Actuarial Present Value of Benefits ("APVB") and increase employer contributions to NYCERS, NYCTRS and BERS based on the number of members who participate in the ERI Program and the amounts of benefits that are paid.

The following Table 1 presents, based on assumptions set forth herein by the Actuary, a Hypothetical Scenario of the financial impact to provide the ERI Program for the NYCRS:

Table 1

Hypothetical Scenario of Financial Impact to Provide an Early Retirement Incentive for Certain NYCRS Members*

($ Millions)

Retirement System	Additional APVB**	Estimated Additional Employer Contributions#
NYCERS	$ 76.8	$20.0
NYCTRS	34.2	8.9
BERS	4.9	1.3
TOTAL	$115.9	$30.2

* Based on Hypothetical Scenario developed by the Actuary assuming employers were to elect to participate in the ERI Program and members were to elect to participate as set forth in Actuarial Assumptions and Methods section of this Fiscal Note.

** Estimated amounts as of June 30, 2010 based on the actuarial assumptions and methods described herein.

The amounts shown would be payable annually over five Fiscal Years beginning Fiscal Year 2012.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: Based on the census data and the actuarial assumptions and methods described herein as a Hypothetical Scenario, the enactment of this proposed legislation would increase annual employer contributions by approximately $20.0 million for NYCERS, $8.9 million for NYCTRS and $1.3 million for BERS, or a total of $30.2 million per year for the five fiscal years beginning Fiscal Year 2012.

FINANCIAL IMPACT - TIMING OF EMPLOYER CONTRIBUTIONS: The increased employer contributions to NYCERS, NYCTRS and BERS attributable to this proposed legislation would be paid over a period of not more than five years commencing with the fiscal year beginning during the New York State fiscal year ending March 31, 2012 (e.g. as applicable to most participating employers of the NYCRS, beginning with the fiscal year ending June 30, 2012).

FINANCIAL IMPACT - OTHER: The Actuary is expecting to propose revised actuarial assumptions and methods to be effective on or after Fiscal Year 2010.

The estimated financial impact of proposed legislation incorporating those revised actuarial assumptions and methods is expected to differ, possibly significantly, from the financial impact computed using the actuarial assumptions and methods continued from Fiscal Year 2010.

Further, the near certainty of payment of benefits from the NYCRS (due to the substantive level of funding and New York State Constitutional Protection of benefits), suggests that it may be appropriate to also consider a more economic-based, market-related estimate of the value of those benefits (i.e., a Financial Value estimate). Such value of benefits would likely be based on an expected pattern of benefits payments determined using discount rates consistent with those derived from default-free securities of similar duration.

Under current economic conditions, the APVB, employer cost and employer contributions determined under Financial Value concepts would be greater than those shown herein.

OTHER COSTS: Most significantly, not measured herein is any potential reduction in employer payrolls attributable to members who retire under the ERI Program.

Also not measured in this Fiscal Note is the impact of this proposed legislation on administrative costs of NYCERS, NYCTRS and BERS and their participating employers.

In addition, and potentially significant, no account has been taken of the impact of the expected increase in costs attributable to Other Post Employment Benefits ("OPEB").

CENSUS DATA: The census data used for the estimates of additional APVB and employer contributions presented herein was the active data used in the June 30, 2009 (Lag) actuarial valuations of NYCERS, NYCTRS and BERS used to determine Preliminary Fiscal Year 2011 employer contributions.

Active members as of June 30, 2009 were grouped by individual ages and services for the members who could potentially meet the age and service requirements for the ERI Program and are shown in Table 2.

Note: This slightly overstates the number of potentially eligible members as some members may have left employment after June 30, 2009.

Table 2

Active Members on June 30, 2009 Potentially Eligible for ERI Program as of June 30, 2010*

($ Millions)

	ERI-Part A		ERI-Part B	
Retirement System	Number	Salaries	Number	Salaries
NYCERS	61,682	$4,279.5	3,662	$241.9
NYCTRS	32,752	2,788.9	382	$38.4
BERS	6,160	270.4	232	$17.4
TOTAL	100,594	$7,338.8	4,276	$297.7

* Assumes NYCRS members as of June 30, 2009 remain in active service through June 30, 2010 and then meet the age and service requirements for the ERI Program as of June 30, 2010.

The following Table 3 presents the estimated number and salaries for those potential members assumed to participate in the ERI Program under the Hypothetical Scenario.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional APVB and employer contributions presented herein have been calculated, with certain additional Hypothetical Scenario assumptions, based on the actuarial assumptions and methods used for NYCERS, NYCTRS and BERS in the June 30, 2009 (Lag) actuarial valuations used to determine Preliminary Fiscal Year 2011 employer contributions to the NYCRS.

These actuarial assumptions were adopted by the Boards of Trustees of the NYCRS during Fiscal Year 2006 and are part of an overall package of actuarial assumptions and methods used to determine employer contributions to the NYCRS that includes an Actuarial Interest Rate ("AIR") assumption of 8.0% per annum.

Table 3

Active Members Assumed to Participate in ERI Program under Hypothetical Scenario*

	ERI-Part A		ERI-Part B	
Retirement System	Number	Salaries	Number	Salaries
NYCERS	996	$ 71.1	732	$48.4
NYCTRS	701	66.2	76	7.7
BERS	54	3.6	46	3.5
Total	1,751	$140.9	854	$59.6

* Based on assumptions that 20% of all potentially eligible ERI - Part B members, and that of the 25% of ERI - Part A members who are assumed to be targeted employees, 20% would elect to participate in the ERI Program.

For purposes of determining those active members who would be potentially eligible (and likely to consider Part B), it was assumed that those active members who meet the Part B eligibility conditions would prefer this Part B versus Part A if they were under attained age 61 and were not otherwise eligible to retire immediately with an unreduced benefit (excluding teacher members with 30 or more years of credited service). The balance of the potentially eligible NYCRS members were assumed to potentially participate in Part A.

For the purposes of the Hypothetical Scenario, the following additional assumptions were used to determine the additional APVB and annual employer contributions:

* Part A

** Obligors to NYCRS choose to participate in Part A, and

** Obligors target 25% of all Eligible Employees in Eligible Titles ("Targeted Employees"), and
** Only Targeted Employees with the following characteristics elect to take ERI ("Part A Eligible Employees"):
*** Age 55 and greater
*** 20 or more years of service, and
** 20% of Part A Eligible Employees elect to take the ERI

* Part B
** All Obligors to NYCRS choose to participate in Part B, and
** 20% of Part B Eligible Employees elect to take the ERI

Employer contributions have been developed under the terms of the proposed legislation that require that the APVB of such ERI be spread over five years in the fiscal year beginning in the New York State fiscal year ending March 31, 2012.

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 Qualification 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 2010 Legislative Session. It is Fiscal Note 2010-14, dated May 17, 2010 prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System and the New York City Board of Education Retirement System.

Chapter 150 Signed July 2, 2010

STATE OF NEW YORK

8245

IN SENATE

June 17, 2010

Introduced by Sens. AUBERTINE, SAVINO, STACHOWSKI -- (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 of conditions of employment of certain state officers and employees who are members of the security services collective negotiating unit and who are not eligible for binding interest arbitration pursuant to subdivision 4 of section 209 of the civil service law; to authorize funding of joint labor-management committees; to implement an agreement between the state and the employee organization representing certain members of the security services collective negotiating unit; to repeal certain provisions of the civil service law relating thereto; and making an appropriation for the purpose of effectuating certain provisions thereof

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

1 Section 1. Paragraph f of subdivision 1 of section 130 of the civil
2 service law is REPEALED and a new paragraph f is added to read as
3 follows:
4 **f. Effective on the dates indicated, salary grades for the positions**
5 **in the competitive, non-competitive and labor classes of the classified**
6 **service of the state of New York in the collective negotiating unit**
7 **designated as security services collective negotiating unit established**
8 **pursuant to article fourteen of this chapter who are not eligible for**
9 **binding interest arbitration pursuant to subdivision four of section two**
10 **hundred nine of this chapter, shall be as follows:**

11 **(1) Effective April first, two thousand seven:**

12 **NYSCOPBA-SSU SALARY SCHEDULE**
13 **NON-ARBITRATION ELIGIBLE ONLY**
14 **Effective March 29, 2007 (Institutional) and**
15 **Effective April 5, 2007 (Administrative)**

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

LBD12276-03-0

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	20176	21031	21886	22741	23596	24451	25306	855
2	20919	21820	22721	23622	24523	25424	26325	901
3	21960	22900	23840	24780	25720	26660	27600	940
4	22957	23947	24937	25927	26917	27907	28897	990
5	24055	25095	26135	27175	28215	29255	30295	1040
6	25326	26422	27518	28614	29710	30806	31902	1096
7	26773	27913	29053	30193	31333	32473	33613	1140
8	28294	29477	30660	31843	33026	34209	35392	1183
9	29886	31122	32358	33594	34830	36066	37302	1236
10	31596	32895	34194	35493	36792	38091	39390	1299
11	33477	34828	36179	37530	38881	40232	41583	1351
12	35352	36763	38174	39585	40996	42407	43818	1411
13	37476	38949	40422	41895	43368	44841	46314	1473
14	39643	41188	42733	44278	45823	47368	48913	1545
15	41936	43543	45150	46757	48364	49971	51578	1607
16	44315	45995	47675	49355	51035	52715	54395	1680
17	46817	48586	50355	52124	53893	55662	57431	1769
18	49490	51347	53204	55061	56918	58775	60632	1857
19	52201	54140	56079	58018	59957	61896	63835	1939
20	54891	56917	58943	60969	62995	65021	67047	2026
21	57855	59968	62081	64194	66307	68420	70533	2113
22	60955	63193	65431	67669	69907	72145	74383	2238
23	64264	66566	68868	71170	73472	75774	78076	2302
24	67750	70139	72528	74917	77306	79695	82084	2389
25	71540	74030	76520	79010	81500	83990	86480	2490

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	Long Max. 25 Yr. Long Step
1	26851	28210	30664	32023
2	27959	29396	31918	33356
3	29304	30804	33378	34879
4	30810	32264	34909	36363
5	32180	33837	36552	38210
6	33887	35637	38428	40178
7	35677	37494	40345	42162
8	37537	39425	42337	44225
9	39544	41517	44506	46478
10	41738	43807	46875	48943
11	44029	46182	49326	51478
12	46378	48630	51859	54112
13	48980	51326	54637	56984
14	51706	54165	57572	60031
15	54487	57047	60545	63106
16	57436	60112	63707	66383
17	60632	63447	67166	69981
18	63996	66958	70803	73766
19	67347	70438	74394	77485
20	70722	73955	78037	81270

21	74364	77735	81933	85304
22	78434	81997	86366	89929
23	82249	85923	90382	94056
24	86409	90216	94795	98602
25	90991	94961	99678	103648

(2) Effective April first, two thousand eight:

NYSCOPBA-SSU SALARY SCHEDULE
NON-ARBITRATION ELIGIBLE ONLY
Effective March 27, 2008 (Institutional) and
Effective April 3, 2008 (Administrative)

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	20781	21662	22543	23424	24305	25186	26067	881
2	21547	22475	23403	24331	25259	26187	27115	928
3	22619	23587	24555	25523	26491	27459	28427	968
4	23646	24666	25686	26706	27726	28746	29766	1020
5	24777	25848	26919	27990	29061	30132	31203	1071
6	26086	27215	28344	29473	30602	31731	32860	1129
7	27576	28750	29924	31098	32272	33446	34620	1174
8	29143	30362	31581	32800	34019	35238	36457	1219
9	30783	32056	33329	34602	35875	37148	38421	1273
10	32544	33882	35220	36558	37896	39234	40572	1338
11	34481	35873	37265	38657	40049	41441	42833	1392
12	36413	37866	39319	40772	42225	43678	45131	1453
13	38600	40117	41634	43151	44668	46185	47702	1517
14	40832	42423	44014	45605	47196	48787	50378	1591
15	43194	44849	46504	48159	49814	51469	53124	1655
16	45644	47375	49106	50837	52568	54299	56030	1731
17	48222	50044	51866	53688	55510	57332	59154	1822
18	50975	52888	54801	56714	58627	60540	62453	1913
19	53767	55764	57761	59758	61755	63752	65749	1997
20	56538	58625	60712	62799	64886	66973	69060	2087
21	59591	61767	63943	66119	68295	70471	72647	2176
22	62784	65089	67394	69699	72004	74309	76614	2305
23	66192	68563	70934	73305	75676	78047	80418	2371
24	69783	72244	74705	77166	79627	82088	84549	2461
25	73686	76251	78816	81381	83946	86511	89076	2565

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	Long Max. 25 Yr. Long Step
1	27658	29058	31586	32986
2	28798	30278	32876	34357
3	30182	31727	34378	35924
4	31736	33234	35958	37456
5	33145	34851	37648	39355
6	34905	36707	39582	41384
7	36746	38617	41554	43425

8	38666	40611	43610	45555
9	40730	42762	45841	47872
10	42990	45122	48282	50412
11	45352	47570	50808	53025
12	47768	50087	53413	55734
13	50448	52864	56275	58692
14	53255	55788	59297	61830
15	56120	58757	62360	64998
16	59162	61919	65621	68378
17	62451	65350	69181	72081
18	65918	68969	72929	75981
19	69366	72550	76625	79809
20	72845	76175	80380	83710
21	76593	80065	84389	87861
22	80787	84456	88956	92626
23	84716	88500	93093	96877
24	89004	92925	97641	101563
25	93722	97811	102670	106759

§ 2. Compensation for certain members of the collective negotiating unit designated as the security services collective negotiating unit pursuant to an agreement between the state of New York and the employee organization representing such individuals.

1. The provisions of this section shall apply to full-time annual salaried officers and employees in the collective negotiating unit designated as security services collective negotiating unit established pursuant to article 14 of the civil service law (hereinafter "security services unit") who are not eligible for binding interest arbitration pursuant to subdivision 4 of section 209 of the civil service law (hereinafter "employees who are ineligible for interest arbitration").

2. Effective April 1, 2007, the basic annual salary of members of the security services unit who are ineligible for interest arbitration and who are in full-time annual salaried employment status on March 31, 2007, shall be increased by three percent.

3. Effective April 1, 2008, the basic annual salary of members of the security services unit who are ineligible for interest arbitration and who are in full-time annual salaried employment status on March 31, 2008, shall be increased by three percent.

4. Advancement within a salary grade. Payments pursuant to the provisions of subdivision 6 of section 131 of the civil service law for members of the security services unit who are entitled to such payments and who are ineligible for interest arbitration shall be payable pursuant to the terms of an agreement between the state of New York and an employee organization representing employees subject to the provisions of this section entered into pursuant to article 14 of the civil service law (hereinafter "the agreement").

5. Effective April 1, 2007, pursuant to the terms of the agreement covering members of the security services unit who are ineligible for interest arbitration, for such unit members who are on the institutional or administrative payroll, the ten-year, the fifteen-year, the twenty-year and the twenty-five year longevity step payment for such unit members to whom the provisions of this section apply shall be that amount prescribed by paragraph f of subdivision 1 of section 130 of the civil service law as added by section one of this act.

6. Notwithstanding any of the foregoing provisions of this section, if the basic annual salary of such unit members to whom the provisions of

this section apply is identical with the hiring rate, performance advance step one, two, three, four or five, the job rate, the ten-year longevity step, the fifteen-year longevity step, the twenty-year longevity step or the twenty-five year longevity step of the salary grade of his or her position on March 31, 2007, or March 31, 2008, respectively, for such unit members to whom the provisions of this section apply on the institutional or administrative payroll, such basic annual salary shall be increased to the hiring rate, performance advance step one, two, three, four or five, the job rate, the ten-year longevity step, the fifteen-year longevity step, the twenty-year longevity step or the twenty-five year longevity step of such salary grade as contained in subparagraphs 1 and 2 of paragraph f of subdivision 1 of section 130 of the civil service law, as added by section one of this act, to take effect on April 1, 2007, or April 1, 2008, respectively, for such unit members to whom the provisions of this section apply on the institutional or administrative payroll. 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 and three of this section.

7. 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 is filled by the appointment of such unit members to whom the provisions of this section apply, 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 division of the budget may reduce the salary of any such position, which is or becomes vacant.

8. The increases in salary payable pursuant to this section shall apply on a prorated basis to officers and employees, otherwise eligible to receive an increase in salary pursuant to this section, who are paid on an hourly or per diem basis, who are employees serving on a part-time or seasonal basis and who are employees paid on any basis other than at an annual salaried rate; except that the provisions of subdivision four of this section shall not apply to employees serving on a seasonal basis, except as determined by the director of the budget.

9. 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.

10. In order to provide for the officers and employees to whom this section applies who are not allocated to salary grades, performance advancements and payments 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 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 thereof for which adjustments 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.

11. Notwithstanding any of the foregoing provisions of this section, any increase in compensation may be withheld in whole or in part from any such unit members to whom the provisions of this section apply when, in the opinion of the director of the division of the budget and the

1 director of employee relations, such increase is not warranted or is not
2 appropriate.
3 § 3. Additional compensation for certain members of the security
4 services unit.
5 1. Members of the security services unit who are in full-time annual
6 salaried employment status and who are ineligible for interest arbi-
7 tration.
8 (a) In recognition of the general requirement for full-time employees
9 of the state in the security services unit to assemble for briefing
10 prior to the commencement of duties, where and to the extent an agree-
11 ment so provides, each such employee except such an employee receiving
12 additional compensation pursuant to subdivision 5 of section 134 of the
13 civil service law, shall receive additional compensation in recognition
14 of pre-shift briefing.
15 (b) Each such employee holding such a position in the security
16 services unit shall be compensated for pre-shift briefing in accordance
17 with the terms of the agreement covering certain members of the security
18 services unit. No payments authorized pursuant to this subdivision and
19 such negotiated agreement shall be made to an employee who is in non-pay
20 status for that day.
21 (c) Any such additional compensation pursuant to this subdivision
22 shall be paid in addition to and shall not be a part of the employee's
23 basic annual salary and shall not be included as compensation for the
24 purposes of computation of overtime pay, provided, however, that such
25 additional compensation shall be included for retirement purposes.
26 Notwithstanding the foregoing provisions of this subdivision or of any
27 other law, such additional compensation shall be in lieu of the contin-
28 uation of any other additional compensation for such employees in recog-
29 nition of pre-shift briefing.
30 2. Members of the security services unit who are employed within the
31 state department of correctional services and who are designated as
32 peace officers pursuant to section 2.10 of the criminal procedure law.
33 (a) In recognition of the general requirement for these unit members
34 to assemble for briefing prior to the commencement of duties, where and
35 to the extent a determination made by the public arbitration panel so
36 provides on behalf of such unit members to whom the provisions of this
37 subdivision apply on behalf of each such employee except such employee
38 receiving additional compensation pursuant to subdivision 5 of section
39 134 of the civil service law, such members shall continue to receive
40 additional compensation in recognition of pre-shift briefing.
41 (b) Each such unit member to whom the provisions of this subdivision
42 apply, shall receive a minimum of four dollars eighty cents for each day
43 while in payroll status when such pre-shift briefing time is not other-
44 wise compensated at a greater amount at the one and one-half times the
45 hourly rate of pay provided for by subdivision 1 of section 134 of the
46 civil service law and the rules and regulations of the director of the
47 budget. Effective April 1, 2010, this amount shall be increased to eight
48 dollars for each day while in payroll status. Each such unit member to
49 whom the provisions of this subdivision apply, subject to the provisions
50 of this subdivision, shall be guaranteed a minimum of twenty-four
51 dollars per week in addition to base pay. Effective April 1, 2010, this
52 amount shall be increased to a minimum of forty dollars per week in
53 addition to base pay. No payments authorized pursuant to this subdivi-
54 sion, shall be made to an employee who is in non-pay status for that
55 day.

1 (c) Any such additional compensation pursuant to this subdivision,
2 shall be paid in addition to and shall not be a part of such employee's
3 basic annual salary and shall not be included as compensation for the
4 purposes of computation of overtime pay, provided, however, that such
5 additional compensation shall be included for retirement purposes.
6 Notwithstanding the foregoing provisions of this subdivision or of any
7 other law, such additional compensation as added by this subdivision
8 shall be in lieu of the continuation of any other additional compen-
9 sation for such unit members in recognition of pre-shift briefing.
10 § 4. Notwithstanding any law, rule or regulation to the contrary, any
11 employees of the state in the security services unit who are eligible
12 for additional compensation pursuant to subdivision 5 of section 134 of
13 the civil service law shall be deemed ineligible for such additional
14 compensation to the extent, in the manner and under the circumstances
15 provided for in a negotiated agreement on behalf of such employees.
16 § 5. Uniform cleaning and maintenance and purchase of uniform shoes.
17 In recognition of the general requirement for employees of the state in
18 the security services unit to wear a uniform and to the extent that an
19 agreement so provides, each employee who is ineligible for interest
20 arbitration and on the payroll on the first day of November preceding
21 the annual effective date shall receive an increase in allowance for
22 cleaning and maintenance by three percent to the rate of six hundred
23 forty-two dollars per year effective December 1, 2007. This amount shall
24 increase by three percent to six hundred sixty-one dollars per year
25 effective December 1, 2008. Such allowance shall be payable by separate
26 check on or about December 1 of each year. Retroactive payments shall
27 be payable as soon as practicable for the retroactive provisions of this
28 section. Any amounts due to eligible members of this unit shall be
29 offset by payments already received as uniform allowance in each year
30 and the remainder shall be calculated as part of a retroactive payment.
31 § 6. Location compensation for certain state officers and employees in
32 the collective negotiating unit designated as security services.
33 1. Pursuant to the terms of an agreement covering certain members of
34 the security services unit who are ineligible for interest arbitration,
35 and notwithstanding any inconsistent provision of law, rule or regu-
36 lation to the contrary, all members of the security services unit who
37 are ineligible for interest arbitration, and are full-time annual sala-
38 ried employees and whose principal place of employment or, in the case
39 of a field employee, whose official station as determined in accordance
40 with the regulations of the state comptroller, is in the city of New
41 York or in the county of Nassau, Suffolk, Westchester or Rockland, shall
42 receive, effective April 1, 2007 an increase in locational compensation
43 in the amount of three percent to one thousand five hundred dollars per
44 year, for employees in full-time annual salaried employment status on
45 March 31, 2007, and such eligible employees shall receive, effective
46 April 1, 2008 an increase in locational compensation in the amount of
47 three percent to one thousand five hundred forty-five dollars per year,
48 for employees in full-time annual salaried employment status on March
49 31, 2008.
50 2. Pursuant to the terms of an agreement covering certain members of
51 the security services unit who are ineligible for interest arbitration,
52 and notwithstanding any inconsistent provision of law, rule or regu-
53 lation to the contrary, effective April 1, 2007, all such members of the
54 security services unit who are full-time annual salaried employees and
55 whose principal place of employment or, in the case of a field employee,
56 whose official station as determined in accordance with the regulations

of the comptroller is located in the county of Monroe and who were eligible to receive locational pay on May 23, 1985 shall receive locational pay at the rate of two hundred three dollars per year provided they continue to be otherwise eligible.

3. Pursuant to the terms of an agreement covering certain members of the security services unit who are ineligible for interest arbitration, and notwithstanding any inconsistent provision of law, rule or regulation to the contrary, all such members of the security services unit who are full-time annual salaried employees and 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 state comptroller, is in the county of Orange, Putnam or Dutchess shall receive an increase in locational compensation by three percent to the amount of eight hundred dollars per year effective April 1, 2007, for employees in full-time annual salaried employment status on March 31, 2007, and an increase of three percent to eight hundred twenty-four dollars per year effective April 1, 2008, for employees in full-time annual salaried employment status on March 31, 2008.

4. The locational compensation as set out in all subdivisions of this section shall be equally divided over the 26 payroll periods in each fiscal year and be in addition to and shall not be a part of an employee's basic annual salary, and shall not affect or impair any performance advance or other rights or benefits to which an employee may be entitled by law, provided, however, that locational pay shall be included as compensation for the purposes of computation of overtime pay and for retirement purposes. Retroactive payments shall be payable as soon as practicable for the retroactive provisions of this section. Any amounts due to eligible members of this unit shall be offset by payments already received as locational compensation in each year, if any, and the remainder shall be calculated as part of a retroactive payment.

§ 7. Continuation of locational 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 security services unit, who is receiving locational pay pursuant to section 5 of chapter 174 of the laws of 1993 shall continue to receive such locational pay under the conditions and at the rates specified by such section 5 of chapter 174 of the laws of 1993.

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 security services unit who is receiving locational pay pursuant to subdivision 2 of section 11 of chapter 3 of the laws of 1996 shall continue to receive such locational pay under the conditions and at the rates specified by such subdivision 2 of section 11 of chapter 3 of the laws of 1996.

3. Notwithstanding this section 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 security services unit who is receiving locational pay pursuant to said section seven of this act shall continue to be eligible for such locational 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

1 different position at another work location within such Hudson Valley
2 developmental disabilities services office located outside of the county
3 of Rockland. The rate of such continued locational pay shall not exceed
4 the rate such officer or employee is receiving on the date of such reas-
5 signment, appointment or promotion.
6 § 8. Facility security pay. Pursuant to the terms of an agreement
7 covering certain members of the security services unit who are ineligi-
8 ble for interest arbitration, are full-time annual salaried employees
9 and, notwithstanding any inconsistent provision of law, rule or regu-
10 lation to the contrary, where and to the extent that an agreement so
11 provides, effective April 1, 2007, such eligible members of the security
12 services unit shall receive an increase of three percent to five hundred
13 fifteen dollars annually, and effective April 1, 2008, such eligible
14 members of the security services unit shall receive an increase of three
15 percent to five hundred thirty dollars annually, in recognition of their
16 security responsibilities. This payment will be equally divided over the
17 26 payroll periods in each fiscal year and shall count as compensation
18 for overtime and retirement purposes. Any amounts due to eligible
19 members of this unit shall be offset by payments already received as
20 facility security pay in each year and the remainder shall be calculated
21 as part of a retroactive payment. Retroactive payments shall be payable
22 as soon as practicable for the retroactive provisions of this section.
23 § 9. Security enforcement differential. Pursuant to the terms of an
24 agreement covering certain members of the security services unit who are
25 ineligible for interest arbitration, are full-time annual salaried
26 employees and, notwithstanding any inconsistent provision of law, rule
27 or regulation to the contrary, where and to the extent that an agreement
28 so provides, such eligible members of the security services unit shall
29 receive a security enforcement differential to be paid in recognition of
30 the enhanced security and law enforcement responsibilities inherent in
31 the positions covered by such bargaining unit. Effective April 1, 2007,
32 such payment shall increase by three percent for eligible unit members
33 to six hundred forty-three dollars and, effective April 1, 2008, such
34 payment to shall increase by three percent to eligible unit members to
35 six hundred sixty-two dollars. This payment will be equally divided over
36 the 26 payroll periods in each fiscal year and shall count as compen-
37 sation for overtime and retirement purposes. Retroactive payments shall
38 be payable as soon as practicable for the retroactive provisions of this
39 section. Any amounts due to eligible members of this unit shall be
40 offset by payments already received as security enforcement differential
41 in each year and the remainder shall be calculated as part of a retroac-
42 tive payment.
43 § 10. Inconvenience pay program. Pursuant to chapter 333 of the laws
44 of 1969, as amended, and an agreement covering certain members of the
45 security services unit who are ineligible for interest arbitration, are
46 full-time annual salaried employees and, notwithstanding any inconsist-
47 ent provision of law, rule or regulation to the contrary, where and to
48 the extent that an agreement so provides, effective April 1, 2007, the
49 inconvenience pay provided to eligible employees shall be increased by
50 three percent to five hundred sixty-seven dollars per year for working
51 four or more hours between the hours of 6:00 p.m. and 6:00 a.m., except
52 on an overtime basis; effective April 1, 2008, the inconvenience pay
53 provided to eligible employees shall be increased by three percent to
54 five hundred eighty-four dollars per year for working four or more hours
55 between the hours of 6:00 p.m. and 6:00 a.m, except on an overtime
56 basis. Retroactive payments shall be payable as soon as practicable for

the retroactive provisions of this section. Any amounts due to eligible members of this unit shall be offset by payments already received as inconvenience pay in each year and the remainder shall be calculated as part of a retroactive payment.

§ 11. Notwithstanding any other provision of law, rule or regulation to the contrary, where and to the extent that an agreement so provides on behalf of employees in the security services unit 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 and retirement purposes.

§ 12. During the period April 1, 2007 through March 31, 2009, there shall be a statewide joint labor-management committee continued and administered pursuant to the terms of an agreement covering employees in the security services unit which shall, after March 31, 2007, within the amounts available therefor, study and make recommendations concerning major issues of employee assistance, performance evaluation, training, review of quality of work life efforts, and provide for the implementation of the terms of agreements of such committee.

§ 13. Notwithstanding any provision of law, rule or regulation to the contrary, the appropriations contained in this act shall be available to the state of New York for the payment and publication of grievance and arbitration settlements and awards pursuant to articles 7 and 8 of the agreement covering employees in the security services unit.

§ 14. The salary increases and benefit modifications provided for by this act for state employees in the security services 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 indicating that there is in effect with respect to such negotiating unit a collective negotiation 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 certified pursuant to article 14 of the civil service law to represent such collective negotiating unit.

§ 15. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other provision of law, rule or regulation to the contrary, the increase in salary or compensation of any members of the security services unit who are ineligible for interest arbitration provided by this act shall be added to the salary of such member 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 unit members 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 by this act, with payment thereof pursuant to this section on a date prior thereto, instead of on such effective date, and shall not operate to confer any additional salary rights or benefits on such unit members. Payment of such salary increase may be deferred pursuant to section sixteen of this act.

§ 16. Deferred payment of salary increase. Notwithstanding the provisions of any other section of this act, or of any other law, rule or regulation, 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 therefore, 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. Notwithstanding any provision of law, rule or regulation to the contrary, no member of the security services unit to whom the provisions of this act apply shall be entitled to, or owed, any interest or other penalty for any reason on any monies due to such member pursuant to the terms of this act and the terms of the agreement covering employees in the security services unit.

§ 17. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal year commencing April 1, 2010 by the foregoing provisions of this act for any 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 division 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 or during the state fiscal year commencing April 1, 2010.

§ 18. 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, 2010 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. Moreover, the amounts appropriated as non-personal service may be suballocated to any state department or agency as needed. The monies hereby appropriated are available for payment of any liabilities or obligations incurred prior to or during the state fiscal year commencing April 1, 2010. No money shall be available for expenditure from this appropriation until a certificate of approval has been issued by the director of the division 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

General Fund / State Operations
State Purposes Account - 003

Personal Service

Personal service 7,307,000

Nonpersonal Service

Fringe benefits 2,196,000
Legal defense fund 150,000

Special Revenue Funds - State
Miscellaneous Special Revenue Fund - 339

Personal Service

Personal Service 20,126,000

Nonpersonal Service

Fringe Benefits 9,942,000

Environmental Conservation Special Revenue Fund - 301

Personal Service

Personal Service 180,000

Nonpersonal Service

Fringe Benefits 89,000

Lake George Park Trust Fund - 349

Personal Service

Personal Service 23,000

Nonpersonal Service

Fringe Benefits 11,000

State University Income Fund - 345

Personal Service

Personal Service 798,000

Nonpersonal Service

Fringe Benefits 394,000

Special Revenue Funds - Federal
Federal Education Fund - 267

Personal Service

Personal Service 26,000

Nonpersonal Service

Fringe Benefits 13,000

3 Federal Unemployment Insurance Administration Fund - 480

4 Personal Service

5 Personal Service 211,000

6 Nonpersonal Service

7 Fringe Benefits 104,000

8 § 22. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on and after April 1, 2007.

REPEAL NOTE. Paragraph f 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 particular titles in the security services unit employees who are ineligible for interest arbitration and is replaced and revised by salary schedules in a new paragraph f of subdivision 1 of section 130 of the civil service law, as added by section one of this act implementing an agreement between the state and the employee organization representing such unit for employees in the security services unit who are ineligible for interest arbitration. The salary schedules for the remaining employees in the security services unit are contained in paragraph g of subdivision 1 of section 130 of the civil service law.

Chapter 152 Signed July 2, 2010

STATE OF NEW YORK

8412

IN SENATE

June 29, 2010

Introduced by Sens. KLEIN, SAVINO -- (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 state officers and employees who are the members of the security supervisors unit; to amend the state finance law, in relation to the employee benefit fund for all members of the security supervisors unit; to authorize funding of joint labor-management committees; to implement an agreement between the state and the employee organization representing the members of the security supervisors unit; to repeal certain provisions of the civil service law and the state finance law relating thereto; and making an appropriation for the purpose of effectuating certain provisions thereof

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

1 Section 1. Paragraph j of subdivision 1 of section 130 of the civil
2 service law is REPEALED and a new paragraph j is added to read as
3 follows:
4 **j. Pursuant to the terms of an agreement between the state and an**
5 **employee organization entered into pursuant to article fourteen of the**
6 **civil service law covering members of the collective negotiating unit**
7 **designated as security supervisors who are employed by the state depart-**
8 **ment of correctional services and are designated as peace officers**
9 **pursuant to subdivision twenty-five of section 2.10 of the criminal**
10 **procedure law, effective on the dates indicated, salary grades for such**
11 **unit members shall be as follows:**
12 **(1) Effective April first, two thousand seven:**
13 **COUNCIL 82 - SECURITY SUPERVISORS SALARY**
14 **SCHEDULE - ARBITRATION ELIGIBLE ONLY**
15 **Effective March 29, 2007 (Institutional) and**
16 **Effective April 5, 2007 (Administrative)**

17 **Perf. Perf. Perf. Perf. Perf.**

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

LBD12294-02-0

SG	Hiring Rate	Advance Step 1	Advance Step 2	Advance Step 3	Advance Step 4	Advance Step 5	Job Rate	Perf. Adv.
1	23026	23905	24784	25663	26542	27421	28300	879
2	23790	24715	25640	26565	27490	28415	29340	925
3	24857	25822	26787	27752	28717	29682	30647	965
4	25883	26900	27917	28934	29951	30968	31985	1017
5	27010	28080	29150	30220	31290	32360	33430	1070
6	28317	29442	30567	31692	32817	33942	35067	1125
7	29803	30976	32149	33322	34495	35668	36841	1173
8	31367	32583	33799	35015	36231	37447	38663	1216
9	33003	34272	35541	36810	38079	39348	40617	1269
10	34759	36094	37429	38764	40099	41434	42769	1335
11	36693	38081	39469	40857	42245	43633	45021	1388
12	38619	40068	41517	42966	44415	45864	47313	1449
13	40801	42315	43829	45343	46857	48371	49885	1514
14	43026	44613	46200	47787	49374	50961	52548	1587
15	45384	47035	48686	50337	51988	53639	55290	1651
16	47828	49553	51278	53003	54728	56453	58178	1725
17	50399	52216	54033	55850	57667	59484	61301	1817
18	53146	55054	56962	58870	60778	62686	64594	1908
19	55931	57923	59915	61907	63899	65891	67883	1992
20	58695	60777	62859	64941	67023	69105	71187	2082
21	61739	63910	66081	68252	70423	72594	74765	2171
22	64927	67227	69527	71827	74127	76427	78727	2300
23	68325	70691	73057	75423	77789	80155	82521	2366
24	71908	74362	76816	79270	81724	84178	86632	2454
25	75802	78361	80920	83479	86038	88597	91156	2559

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	Long Max. 25 Yr. Long Step
1	29612	30925	33469	34782
2	30728	32117	34736	36126
3	32096	33544	36223	37673
4	33509	35032	37786	39308
5	35033	36635	39469	41072
6	36755	38443	41363	43052
7	38596	40351	43337	45092
8	40487	42312	45364	47190
9	42525	44430	47568	49474
10	44767	46764	49991	51990
11	47101	49180	52492	54572
12	49490	51668	55073	57249
13	52152	54419	57917	60184
14	54923	57298	60903	63279
15	57764	60240	63942	66415
16	60764	63351	67165	69750
17	64022	66741	70693	73414
18	67454	70317	74407	77268
19	70869	73854	78071	81057
20	74312	77437	81791	84917
21	78023	81279	85765	89021

22	82172	85616	90289	93734
23	86070	89620	94397	97945
24	90310	93988	98898	102576
25	94992	98825	103893	107729

(2) Effective April first, two thousand eight:

COUNCIL 82 - SECURITY SUPERVISORS SALARY
SCHEDULE - ARBITRATION ELIGIBLE ONLY
Effective March 27, 2008 (Institutional) and
Effective April 3, 2008 (Administrative)

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	23717	24622	25527	26432	27337	28242	29147	905
2	24504	25457	26410	27363	28316	29269	30222	953
3	25603	26597	27591	28585	29579	30573	31567	994
4	26659	27707	28755	29803	30851	31899	32947	1048
5	27820	28922	30024	31126	32228	33330	34432	1102
6	29167	30326	31485	32644	33803	34962	36121	1159
7	30697	31905	33113	34321	35529	36737	37945	1208
8	32308	33561	34814	36067	37320	38573	39826	1253
9	33993	35300	36607	37914	39221	40528	41835	1307
10	35802	37177	38552	39927	41302	42677	44052	1375
11	37794	39224	40654	42084	43514	44944	46374	1430
12	39778	41270	42762	44254	45746	47238	48730	1492
13	42025	43585	45145	46705	48265	49825	51385	1560
14	44317	45952	47587	49222	50857	52492	54127	1635
15	46746	48447	50148	51849	53550	55251	56952	1701
16	49263	51040	52817	54594	56371	58148	59925	1777
17	51911	53783	55655	57527	59399	61271	63143	1872
18	54740	56705	58670	60635	62600	64565	66530	1965
19	57609	59661	61713	63765	65817	67869	69921	2052
20	60456	62601	64746	66891	69036	71181	73326	2145
21	63591	65827	68063	70299	72535	74771	77007	2236
22	66875	69244	71613	73982	76351	78720	81089	2369
23	70375	72812	75249	77686	80123	82560	84997	2437
24	74065	76593	79121	81649	84177	86705	89233	2528
25	78076	80712	83348	85984	88620	91256	93892	2636

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	Long Max. 25 Yr. Long Step
1	30498	31851	34471	35823
2	31652	33082	35780	37212
3	33059	34551	37310	38804
4	34517	36085	38922	40490
5	36083	37733	40652	42303
6	37860	39598	42606	44346
7	39753	41560	44636	46444
8	41705	43584	46728	48609

9	43800	45762	48995	50958
10	46110	48167	51491	53550
11	48516	50658	54069	56212
12	50972	53216	56723	58964
13	53720	56055	59658	61993
14	56573	59020	62733	65180
15	59500	62051	65864	68411
16	62589	65253	69182	71844
17	65946	68746	72817	75619
18	69476	72425	76637	79584
19	72997	76071	80415	83490
20	76545	79764	84248	87468
21	80363	83716	88337	91691
22	84637	88185	92998	96546
23	88652	92309	97229	100884
24	93021	96810	101867	105655
25	97843	101791	107011	110962

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

(1) Effective April first, two thousand seven:

COUNCIL 82 - SECURITY SUPERVISORS UNIT - SALARY SCHEDULE
NON-ARBITRATION ELIGIBLE ONLY
Effective March 29, 2007 (Institutional) and
Effective April 5, 2007 (Administrative)

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	20176	21031	21886	22741	23596	24451	25306	855
2	20919	21820	22721	23622	24523	25424	26325	901
3	21960	22900	23840	24780	25720	26660	27600	940
4	22957	23947	24937	25927	26917	27907	28897	990
5	24055	25095	26135	27175	28215	29255	30295	1040
6	25326	26422	27518	28614	29710	30806	31902	1096
7	26773	27913	29053	30193	31333	32473	33613	1140
8	28294	29477	30660	31843	33026	34209	35392	1183
9	29886	31122	32358	33594	34830	36066	37302	1236
10	31596	32895	34194	35493	36792	38091	39390	1299
11	33477	34828	36179	37530	38881	40232	41583	1351
12	35352	36763	38174	39585	40996	42407	43818	1411
13	37476	38949	40422	41895	43368	44841	46314	1473
14	39643	41188	42733	44278	45823	47368	48913	1545
15	41936	43543	45150	46757	48364	49971	51578	1607
16	44315	45995	47675	49355	51035	52715	54395	1680
17	46817	48586	50355	52124	53893	55662	57431	1769
18	49490	51347	53204	55061	56918	58775	60632	1857
19	52201	54140	56079	58018	59957	61896	63835	1939
20	54891	56917	58943	60969	62995	65021	67047	2026
21	57855	59968	62081	64194	66307	68420	70533	2113
22	60955	63193	65431	67669	69907	72145	74383	2238
23	64264	66566	68868	71170	73472	75774	78076	2302

24	67750	70139	72528	74917	77306	79695	82084	2389
25	71540	74030	76520	79010	81500	83990	86480	2490

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	Long Max. 25 Yr. Long Step
1	26851	28210	30664	32023
2	27959	29396	31918	33356
3	29304	30804	33378	34879
4	30810	32264	34909	36363
5	32180	33837	36552	38210
6	33887	35637	38428	40178
7	35677	37494	40345	42162
8	37537	39425	42337	44225
9	39544	41517	44506	46478
10	41738	43807	46875	48943
11	44029	46182	49326	51478
12	46378	48630	51859	54112
13	48980	51326	54637	56984
14	51706	54165	57572	60031
15	54487	57047	60545	63106
16	57436	60112	63707	66383
17	60632	63447	67166	69981
18	63996	66958	70803	73766
19	67347	70438	74394	77485
20	70722	73955	78037	81270
21	74364	77735	81933	85304
22	78434	81997	86366	89929
23	82249	85923	90382	94056
24	86409	90216	94795	98602
25	90991	94961	99678	103648

(2) Effective April first, two thousand eight:

COUNCIL 82 - SECURITY SUPERVISORS UNIT - SALARY SCHEDULE
NON-ARBITRATION ELIGIBLE ONLY
Effective March 27, 2008 (Institutional) and
Effective April 3, 2008 (Administrative)

SG	Hiring Rate	Perf. Advance Step 1	Perf. Advance Step 2	Perf. Advance Step 3	Perf. Advance Step 4	Perf. Advance Step 5	Job Rate	Perf. Adv.
1	20781	21662	22543	23424	24305	25186	26067	881
2	21547	22475	23403	24331	25259	26187	27115	928
3	22619	23587	24555	25523	26491	27459	28427	968
4	23646	24666	25686	26706	27726	28746	29766	1020
5	24777	25848	26919	27990	29061	30132	31203	1071
6	26086	27215	28344	29473	30602	31731	32860	1129
7	27576	28750	29924	31098	32272	33446	34620	1174
8	29143	30362	31581	32800	34019	35238	36457	1219
9	30783	32056	33329	34602	35875	37148	38421	1273
10	32544	33882	35220	36558	37896	39234	40572	1338

11	34481	35873	37265	38657	40049	41441	42833	1392
12	36413	37866	39319	40772	42225	43678	45131	1453
13	38600	40117	41634	43151	44668	46185	47702	1517
14	40832	42423	44014	45605	47196	48787	50378	1591
15	43194	44849	46504	48159	49814	51469	53124	1655
16	45644	47375	49106	50837	52568	54299	56030	1731
17	48222	50044	51866	53688	55510	57332	59154	1822
18	50975	52888	54801	56714	58627	60540	62453	1913
19	53767	55764	57761	59758	61755	63752	65749	1997
20	56538	58625	60712	62799	64886	66973	69060	2087
21	59591	61767	63943	66119	68295	70471	72647	2173
22	62784	65089	67394	69699	72004	74309	76614	2305
23	66192	68563	70934	73305	75676	78047	80418	2371
24	69783	72244	74705	77166	79627	82088	84549	2461
25	73686	76251	78816	81381	83946	86511	89076	2565

SG	10 Yr. Long Step	15 Yr. Long Step	20 Yr. Long Step	Long Max. 25 Yr. Long Step
1	27658	29058	31586	32986
2	28798	30278	32876	34357
3	30182	31727	34378	35924
4	31736	33234	35958	37456
5	33145	34851	37648	39355
6	34905	36707	39582	41384
7	36746	38617	41554	43425
8	38666	40611	43610	45555
9	40730	42762	45841	47872
10	42990	45122	48282	50412
11	45352	47570	50808	53025
12	47768	50087	53413	55734
13	50448	52864	56275	58692
14	53255	55788	59297	61830
15	56120	58757	62360	64998
16	59162	61919	65621	68378
17	62451	65350	69181	72081
18	65918	68969	72929	75981
19	69366	72550	76625	79809
20	72845	76175	80380	83710
21	76593	80065	84389	87861
22	80787	84456	88956	92626
23	84716	88500	93093	96877
24	89004	92925	97641	101563
25	93722	97811	102670	106759

§ 3. Subdivision 2-a of section 207-a of the state finance law, as amended by chapter 213 of the laws of 2009, is amended to read as follows:

2-a. 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 or an interest arbitration award issued pursuant to subdivision four of section two hundred nine of the civil service law so provides on behalf of employees in the collective negotiating unit designated as the security supervisors unit established pursuant to

article fourteen of the civil service law, and upon audit and warrant of the comptroller, the director shall provide for the payment of moneys to such employee organization for the establishment and maintenance of an employee benefit fund established by the employee organization for the employees in the negotiating unit covered by the controlling provision of such agreement providing for such employee benefit fund, such amount to be determined consistent with said agreement on the basis of the number of full-time annual salaried employees, as determined by the comptroller, on the payroll on the last day of the payroll period in which March first, two thousand [~~three~~] **seven** falls for payments to be made on April first, two thousand [~~three~~] **seven and**, on the last day of the payroll period in which March first, two thousand [~~four~~] **eight** falls for payments to be made on April first, two thousand [~~four, on the last day of the payroll period in which March first, two thousand five falls for payments to be made on April first, two thousand five and on the last day of the payroll period in which March first, two thousand six falls for payments to be made on April first, two thousand six~~] **eight**. The amount, which will be determined pursuant to this section, for employees who are paid from special or administrative funds, other than the general fund or the capital projects fund of the state, will be paid from the appropriations as provided by law, in which case the comptroller will establish procedures to ensure repayment from said special or administrative funds. The director may enter into an agreement with an employee organization which sets forth the specific terms and conditions of the establishment and administration of an employee benefit fund as a condition for the transmittal of moneys pursuant to this section. Such agreement shall provide that any contributions paid to the employee organization for the establishment and maintenance of the employee benefit fund pursuant to this section on behalf of eligible members of this unit shall be offset by contributions already made on behalf of those members in each of the covered years, where applicable.

§ 4. Compensation for members of the collective negotiating unit designated as security supervisors pursuant to an agreement between the state of New York and the employee organization representing such individuals.

1. The provisions of this section shall apply to all full-time officers and employees in the collective negotiating unit designated as the security supervisors unit established pursuant to article 14 of the civil service law.

2. Effective April 1, 2007, the basic annual salary of all officers and employees in the security supervisors unit and who are in full-time annual salaried employment status on March 31, 2007, shall be increased by three percent.

3. Effective April 1, 2008, the basic annual salary of all officers and employees in the security supervisors unit and who are in full-time annual salaried employment status on March 31, 2008, shall be increased by three percent.

4. Advancement within a salary grade. Payments pursuant to the provisions of subdivision 6 of section 131 of the civil service law for all full-time officers and employees in the security supervisors unit who are entitled to such payments shall be payable pursuant to the terms of an agreement between the state of New York and an employee organization representing employees subject to the provisions of this section entered into pursuant to article 14 of the civil service law (hereinafter "the agreement" or "an agreement").

5. Effective April 1, 2007, pursuant to the terms of an agreement covering all full-time officer and employee members of the security supervisors unit, for such unit members who are on the institutional or administrative payroll, the ten-year, the fifteen-year, the twenty-year and the twenty-five year longevity step payment for such unit members to whom the provisions of this section apply shall be that amount prescribed by subparagraphs 1 or 2 of paragraph j of subdivision 1 of section 130 of the civil service law, as added by section one of this act, or subparagraphs 1 or 2 of paragraph b of subdivision 1 of section 130 of the civil service law, as added by section two of this act.

6. Notwithstanding any of the foregoing provisions of this section, if the basic annual salary of such unit members to whom the provisions of this section apply is identical with the hiring rate, performance advance step one, two, three, four or five, the job rate, the ten-year longevity step, the fifteen-year longevity step, the twenty-year longevity step or the twenty-five year longevity step of the salary grade of his or her position on March 31, 2007 or 2008, respectively, for such unit members to whom the provisions of this section apply on the institutional or administrative payroll, such basic annual salary shall be increased to the hiring rate, performance advance step one, two, three, four or five, the job rate, the ten-year longevity step, the fifteen-year longevity step, the twenty-year longevity step or the twenty-five year longevity step of such salary grade as contained in either subparagraph one of paragraph j of subdivision one of the civil service law as added by section one of this act, or subparagraph one of paragraph b of subdivision one of section 130 of the civil service law as added by section two of this act, to take effect on April 1, 2007 or 2008, respectively, for such unit members to whom the provisions of this section apply on the institutional or administrative payroll. 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 and three of this section.

7. 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 is filled by the appointment of such unit members to whom the provisions of this section apply, 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.

8. The increases in salary payable pursuant to this section shall apply on a prorated basis to officers and employees, otherwise eligible to receive an increase in salary pursuant to this section, 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 salaried rate; except that 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.

9. 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.

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

1 whom this section applies who are allocated to salary grades, the direc-
2 tor of the budget is authorized to add appropriate adjustments to the
3 compensation which such officers and employees are otherwise entitled to
4 receive. The director of the budget shall issue certificates which shall
5 contain schedules of positions and the salaries thereof for which
6 adjustments are made pursuant to the provisions of this subdivision, and
7 a copy of each such certificate shall be filed with the state comp-
8 troller, the department of civil service, the chairman of the senate
9 finance committee and the chairman of the assembly ways and means
10 committee.
11 11. Notwithstanding any of the foregoing provisions of this section,
12 any increase in compensation may be withheld in whole or in part from
13 any such unit members to whom the provisions of this section apply when,
14 in the opinion of the director of the division of the budget and the
15 director of employee relations, such increase is not warranted or is not
16 appropriate.
17 § 5. Additional compensation for all members of the security supervi-
18 sors unit who are in full-time annual salaried employment status.
19 1. In recognition of the general requirement for full-time employees
20 of the state in the security supervisors unit to assemble for briefing
21 prior to the commencement of duties, where and to the extent an agree-
22 ment so provides, each such employee except such an employee receiving
23 additional compensation pursuant to subdivision 5 of section 134 of the
24 civil service law, shall receive additional compensation in recognition
25 of pre-shift briefing.
26 2. Each such employee holding a position in the security supervisors
27 unit shall be compensated for pre-shift briefing in accordance with the
28 terms of the agreement covering certain members of the security supervi-
29 sors unit. No payments authorized pursuant to this section and such
30 negotiated agreement shall be made to an employee who is in non pay
31 status for that day.
32 3. Any such additional compensation pursuant to this section shall be
33 paid in addition to and shall not be a part of the employee's basic
34 annual salary and shall not be included as compensation for the purposes
35 of computation of overtime pay, provided, however, that such additional
36 compensation shall be included for retirement purposes. Notwithstanding
37 the foregoing provisions of this section or of any other law, such addi-
38 tional compensation shall be in lieu of the continuation of any other
39 additional compensation for such employees in recognition of pre-shift
40 briefing.
41 § 6. Corrections command pay. Pursuant to the terms of an agreement
42 covering members of the collective negotiating unit designated as secu-
43 rity supervisors who are eligible for interest arbitration and are full-
44 time annual salaried and are employed by the state department of correc-
45 tional services and are designated as peace officers pursuant to
46 subdivision twenty-five of section 2.10 of the criminal procedure law,
47 and notwithstanding any law, rule, or regulation to the contrary, the
48 corrections command pay received by these employees shall be increased
49 by three percent to one thousand five hundred forty-five dollars effec-
50 tive April 1, 2007, in recognition of the command duties and responsi-
51 bilities performed by these designated peace officers with regard to
52 infectious disease, mental health, crime scene control, prisoner trans-
53 port and other inter-agency issues which arise in correctional facili-
54 ties. Effective April 1, 2008, the corrections command pay received by
55 these employees shall be increased by three percent to one thousand five
56 hundred ninety-one dollars. This payment will be equally divided over

the 26 payroll periods in each fiscal year and shall count as compensation for overtime and retirement purposes. Any amounts already received by eligible members of this unit shall be offset by payments already received in corrections command pay in each year and the remainder shall be calculated as part of a retroactive payment.

§ 7. Notwithstanding any law, rule or regulation to the contrary, any employees of the state in the security supervisors unit who are eligible for additional compensation pursuant to subdivision 5 of section 134 of the civil service law shall be deemed ineligible for such additional compensation to the extent, in the manner and under the circumstances provided for in the agreement negotiated on behalf of such employees.

§ 8. Uniform allowance. Pursuant to the terms of an agreement covering certain members of the security supervisors unit who are ineligible for interest arbitration, and in recognition of the general requirement for employees in the security services unit who are ineligible for interest arbitration to wear a uniform, each such employee on the payroll on the first day of November preceding the annual effective date shall receive an increase of three percent in the allowance for cleaning and maintenance at the rate of six hundred forty-two dollars per year effective December 1, 2007 in accordance with the agreement, and an increase of three percent to six hundred sixty-one dollars per year effective December 1, 2008 in accordance with the agreement. Such allowance shall be payable by separate check on or about December 1 of each year. Retroactive payments shall be payable as soon as practicable for the retroactive provisions of this section. Any amounts already received by eligible members of this unit shall be offset by payments already received as uniform allowance in each year and the remainder shall be calculated as part of a retroactive payment.

§ 9. Location compensation for certain state officers and employees in the collective negotiating unit designated as security supervisors for arbitration ineligible members.

1. Pursuant to the terms of an agreement covering certain members of the security supervisors unit who are ineligible for interest arbitration, and notwithstanding any inconsistent provision of law, rule or regulation to the contrary, effective April 1, 2007, all members of the security supervisors unit who are ineligible for interest arbitration and are full-time annual salaried employees and 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 county of Monroe and who were eligible to receive locational pay on May 23, 1985 shall receive locational pay at the rate of two hundred three dollars per year provided they continue to be otherwise eligible.

2. Pursuant to the terms of an agreement covering certain members of the security supervisors unit who are ineligible for interest arbitration, and notwithstanding any inconsistent provision of law, rule or regulation to the contrary, all members of the security supervisors unit who are ineligible for interest arbitration and are full-time annual salaried employees and 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 state comptroller, is in the city of New York or in the county of Nassau, Suffolk, Westchester or Rockland shall receive locational compensation in the amount of one thousand five hundred dollars per year effective April 1, 2007, for employees in full-time annual salaried employment status on March 31, 2007, and an increase of three percent to one thousand five hundred forty-five

dollars per year effective April 1, 2008, for employees in full-time annual salaried employment status on March 31, 2008.

3. Pursuant to the terms of an agreement covering certain members of the security supervisors unit who are ineligible for interest arbitration, and notwithstanding any inconsistent provision of law, rule or regulation to the contrary, all members of the security supervisors unit who are ineligible for interest arbitration, and are full-time annual salaried employees and 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 state comptroller, is in the county of Orange, Putnam or Dutchess shall receive an increase in locational compensation by three percent to the amount of eight hundred dollars per year effective April 1, 2007, for employees in full-time annual salaried employment status on March 31, 2007, and an increase by three percent to eight hundred twenty-four dollars per year effective April 1, 2008, for employees in full-time annual salaried employment status on March 31, 2008.

4. The locational compensation as set out in all subdivisions of this section 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 performance advance or other rights or benefits to which an employee may be entitled by law, provided, however, that locational pay shall be included as compensation for the purposes of computation of overtime pay and for retirement purposes. This payment will be equally divided over the 26 payroll periods in each fiscal year. Retroactive payments shall be payable as soon as practicable for the retroactive provisions of this section. Any amounts already received by eligible members of this unit shall be offset by payments already received as locational compensation in each year, if any, and the remainder shall be calculated as part of a retroactive payment.

§ 10. Location compensation for arbitration eligible members. Pursuant to the terms of an agreement covering certain members of the security supervisors unit who are eligible for interest arbitration, and notwithstanding any inconsistent provision of law, effective April 1, 2007, all members of this unit who are employed by the state department of correctional services as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, and are full-time annual salaried employees and 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 state comptroller, is located in the city of New York, or in the county of Putnam, Orange, Dutchess, Rockland, Westchester, Nassau or Suffolk, shall receive an increase in location pay by three percent to the following annual amounts:

Orange, Putnam, Dutchess	$1,160
NYC, Rockland, Westchester	$3,117
Nassau, Suffolk	$3,186

Effective April 1, 2008, all members of this unit who are employed by the state department of correctional services as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, and are full-time annual salaried employees and 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 state comptroller, is located in the city of New York, or in the county of Putnam, Orange, Dutchess, Rockland, Westchester, Nassau or Suffolk, shall receive an increase in location pay by three percent to the following annual amounts:

1 Orange, Putnam, Dutchess $1,195
2 NYC, Rockland, Westchester $3,210
3 Nassau, Suffolk $3,281
4 This payment will be equally divided over the 26 payroll periods in
5 each fiscal year and shall count as compensation for overtime and
6 retirement purposes. Any amounts to be received by eligible members of
7 this unit shall be offset by payments already received as location pay
8 in each year and the remainder, if any, shall be calculated as part of a
9 retroactive payment. Retroactive payments shall be payable as soon as
10 practicable for the retroactive provisions of this section.
11 § 11. Continuation of locational compensation for certain officers and
12 employees of the Hudson Valley developmental disabilities services
13 office.
14 1. Notwithstanding any law, rule or regulation to the contrary, any
15 officer or employee of the Hudson Valley developmental disabilities
16 services office represented in the security supervisors unit, who is
17 receiving locational pay pursuant to section 5 of chapter 174 of the
18 laws of 1993 shall continue to receive such locational pay under the
19 conditions and at the rates specified by such section 5 of chapter 174
20 of the laws of 1993.
21 2. Notwithstanding any law, rule or regulation to the contrary, any
22 officer or employee of the Hudson Valley developmental disabilities
23 services office represented in the security supervisors unit who is
24 receiving locational pay pursuant to subdivision 2 of section 11 of
25 chapter 3 of the laws of 1996 shall continue to receive such locational
26 pay under the conditions and at the rates specified by such subdivision
27 2 of section 11 of chapter 3 of the laws of 1996.
28 3. Notwithstanding section seven of this act or any other law, rule or
29 regulation to the contrary, any officer or employee of the Hudson Valley
30 developmental disabilities services office represented in the security
31 supervisors unit who is receiving locational pay pursuant to said
32 section seven of this act shall continue to be eligible for such loca-
33 tional pay if such officer's or employee's principal place of employment
34 is changed to a location outside of the county of Rockland as the result
35 of a reduction or redeployment of staff, provided, however, that such
36 officer or employee is reassigned to or otherwise appointed or promoted
37 to a different position at another work location within such Hudson
38 Valley developmental disabilities services office located outside of the
39 county of Rockland. The rate of such continued locational pay shall not
40 exceed the rate such officer or employee is receiving on the date of
41 such reassignment, appointment or promotion.
42 § 12. Facility security supervisor pay. Pursuant to the terms of an
43 agreement covering certain members of the security supervisors unit who
44 are ineligible for interest arbitration, are full-time annual salaried
45 employees and, notwithstanding any inconsistent provision of law, rule
46 or regulation to the contrary, where and to the extent that an agreement
47 so provides, effective April 1, 2007, such eligible members of the secu-
48 rity supervisors unit who are ineligible for interest arbitration shall
49 receive an increase of three percent to five hundred fifteen dollars
50 annually, in recognition of their facility security supervisory respon-
51 sibilities. Effective April 1, 2008, this payment shall be increased by
52 three percent to five hundred thirty dollars for any such eligible
53 members of the security supervisors unit who are ineligible for interest
54 arbitration. This payment will be equally divided over the 26 payroll
55 periods in each fiscal year and shall count as compensation for overtime
56 and retirement purposes. Retroactive payments shall be payable as soon

as practicable for the retroactive provisions of this section. Any amounts already received by eligible members of this unit shall be offset by payments already received as facility security supervisor pay in each year and the remainder shall be calculated as part of a retroactive payment.

§ 13. Security enforcement differential. Pursuant to the terms of an agreement covering certain members of the security supervisors unit who are ineligible for interest arbitration, are full-time annual salaried employees and, notwithstanding any inconsistent provision of law, rule or regulation to the contrary, where and to the extent that an agreement so provides, effective April 1, 2007, such eligible members shall receive an increase by three percent to six hundred forty-three dollars to be paid in recognition of the enhanced security and law enforcement responsibilities inherent in the positions covered by such bargaining unit. Effective April 1, 2008, the security enforcement differential received by these employees shall be increased by three percent to six hundred sixty-two dollars. This payment will be equally divided over the 26 payroll periods in each fiscal year and shall count as compensation for overtime and retirement purposes. Retroactive payments shall be payable as soon as practicable for the retroactive provisions of this section. Any amounts already received by eligible members of this unit shall be offset by payments already received as security enforcement differential in each year and the remainder shall be calculated as part of a retroactive payment.

§ 14. Inconvenience pay program for arbitration ineligible employees. Pursuant to chapter 333 of the laws of 1969, as amended, and an agreement covering certain members of the security supervisors unit who are ineligible for interest arbitration, are full-time annual salaried employees and, notwithstanding any inconsistent provision of law, rule or regulation to the contrary, where and to the extent that an agreement so provides, effective April 1, 2007, the inconvenience pay provided to eligible employees shall be increased by three percent to five hundred sixty-seven dollars per year for working four or more hours between the hours of 6:00 p.m. and 6:00 a.m., except on an overtime basis. Effective April 1, 2008, the inconvenience pay provided to eligible employees shall be increased by three percent to five hundred eighty-four dollars per year for working four or more hours between the hours of 6:00 p.m. and 6:00 a.m., except on an overtime basis. Retroactive payments shall be payable as soon as practicable for the retroactive provisions of this section. Any amounts already received by eligible members of this unit shall be offset by payments already received as inconvenience pay in each year and the remainder shall be calculated as part of a retroactive payment.

§ 15. Inconvenience pay program for arbitration eligible employees. Pursuant to the terms of an agreement covering certain members of the security supervisors unit who are eligible for interest arbitration and who are employed by the state department of correctional services and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, effective April 1, 2007, such unit members to whom the provisions of this section apply who work the evening shift as defined by the individual facilities within the department of correctional services, shall continue to be paid $1,800 per year in equal bi-weekly installments for work on such shift. Effective April 1, 2007, such unit members to whom the provisions of this section apply who work the night shift as defined by the individual facilities within the department of correctional services shall continue

1 to be paid $900 per year in equal bi-weekly installments for work on
2 such shift. Such amounts, for such unit members to whom the provisions
3 of this section apply and who work both the evening shift and the night
4 shift as specified above, shall be offset by payments already received
5 as inconvenience pay effective April 1, 2007 and the remainder shall be
6 calculated as part of a retroactive payment. Such unit members to whom
7 the provisions of this section apply on approved paid leave shall
8 continue to receive inconvenience payments as provided above. Any such
9 additional compensation pursuant to this section shall be included as
10 compensation for retirement purposes.
11 § 16. Premium, maintenance, and command compensation. To the extent
12 the terms of an agreement covering certain members of the security
13 supervisors unit so provides, the employer shall provide additional
14 premium, maintenance and/or command compensation for employees otherwise
15 eligible in the amounts or rates provided in accordance with such agree-
16 ment.
17 § 17. Notwithstanding any other provision of law, rule or regulation
18 to the contrary, where and to the extent that an agreement so provides
19 on behalf of employees in the security supervisors unit, the state shall
20 contribute an amount designated in such agreement and for the period
21 covered by such agreement to the accounts of such employees enrolled for
22 dependent care deductions pursuant to section 201-a of the state finance
23 law. Such amounts shall be from funds appropriated in this act and shall
24 not be part of basic annual salary for overtime and retirement purposes.
25 § 18. During the period April 1, 2007 through March 31, 2009, there
26 shall be a statewide joint labor-management committee continued and
27 administered pursuant to the terms of an agreement covering employees in
28 the security supervisors unit which shall, after March 31, 2007, within
29 the amounts available therefor, study and make recommendations concern-
30 ing major issues of employee assistance, performance evaluation, train-
31 ing and provide for the implementation of the terms of agreements of
32 such committee.
33 § 19. Family benefits. Pursuant to the terms of an agreement covering
34 all members of the security supervisors including those who are employed
35 by the state department of correctional services and are designated as
36 peace officers pursuant to subdivision twenty-five of section 2.10 of
37 the criminal procedure law and those who are ineligible for interest
38 arbitration and, notwithstanding any inconsistent provision of law, rule
39 or regulation to the contrary, where and to the extent that an agreement
40 so provides, the employer shall increase the funding for DCAA, LifeWorks
41 and Directions by three percent effective April 1, 2007, and effective
42 April 1, 2008, increase the amount of funding for DCAA, LifeWorks and
43 Directions by an additional three percent.
44 § 20. Education and training. Effective April 1, 2007, in recognition
45 of the educational and training programs for all employees in the secu-
46 rity services unit, the programs set forth in articles 13.1, 13.4,
47 13.5(a) and 13.5(b) of the agreement covering employees in the security
48 supervisors unit shall each receive an increase of three percent to
49 their respective appropriations as of March 31, 2007. Effective April 1,
50 2008, in recognition of the educational and training programs for all
51 employees in the security services unit, the programs set forth in arti-
52 cles 13.1, 13.4, 13.5(a) and 13.5(b) of the agreement covering employees
53 in the security supervisors unit shall each receive an increase of three
54 percent to their respective appropriations as of March 31, 2008.
55 § 21. Notwithstanding any provision of law, rule or regulation to the
56 contrary, the appropriations contained in this act shall be available to

the state of New York for the payment and publication of grievance and arbitration settlements and awards pursuant to articles 7 and 8 of the agreement covering employees in the security supervisors unit.

§ 22. Notwithstanding any provision of law, rule or regulation to the contrary, and where and to the extent an agreement covering employees in the security supervisors unit so provides, the salaries of employees newly hired on or after September 1, 1992 into state service in positions within said negotiating unit shall not be subject to the provisions of subdivision 2-a of section 200 of the state finance law.

§ 23. The salary increases and benefit modifications provided for by this act for state employees in the security supervisors 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 indicating that there is in effect with respect to such negotiating unit a collective negotiation 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 certified pursuant to article 14 of the civil service law to represent such collective negotiating unit.

§ 24. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other provision of law, rule or regulation to the contrary, the increase in salary or compensation of all members of the security supervisors unit, including those who are employed by the state department of correctional services and are peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, and those who are ineligible for interest arbitration, shall be added to the salary of such member 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 unit members 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 by this act, with payment thereof pursuant to this section on a date prior thereto, instead of on such effective date, and shall not operate to confer any additional salary rights or benefits on such unit members. Payment of such salary increase may be deferred pursuant to section twenty-five of this act.

§ 25. Deferred payment of salary increase. Notwithstanding the provisions of any other section of this act, or of any other law, rule or regulation, 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. Notwithstanding any provision of law, rule or regulation to the contrary, no member of the security supervisors unit to whom the provisions of

1 this act apply shall be entitled to, or owed, any interest or other
2 penalty for any reason on any monies due to such member pursuant to the
3 terms of this act and the terms of the agreement covering employees in
4 the security supervisors unit.
5 § 26. Use of appropriations. Notwithstanding any provision of the
6 state finance law or any other provision of law to the contrary, the
7 state comptroller is authorized to pay any amounts required by the fore-
8 going provisions of this act. To the extent that existing appropriations
9 available to any state department or agency in any fund are insufficient
10 to accomplish the purposes set forth in this section, the director of
11 the budget is authorized to allocate to the various departments and
12 agencies, from any appropriations available in any fund, the amounts
13 necessary to make such payments. Any appropriations or other funds
14 available to any state department or agency for personal service or for
15 other related employee benefits during the fiscal year commencing April
16 1, 2010 shall be available for the payment of any liabilities or obli-
17 gations incurred pursuant to the foregoing provisions of this act,
18 whether incurred prior to or during the state fiscal year commencing
19 April 1, 2010.
20 § 27. Appropriations. Notwithstanding any provision of the state
21 finance law or any other provision of law to the contrary, the several
22 amounts as hereinafter set forth in this section, or so much thereof as
23 may be necessary, are hereby appropriated from the fund so designated
24 for use by any state department or agency for the fiscal year beginning
25 April 1, 2010 to supplement appropriations from each respective fund
26 available for personal service, other than personal service and fringe
27 benefits, and to carry out the provisions of this act. Moreover, the
28 amounts appropriated as non-personal service may be suballocated to any
29 state department or agency as needed. The monies hereby appropriated are
30 available for payment of any liabilities or obligations incurred prior
31 to April 1, 2010 in addition to liabilities or obligations associated
32 with the state fiscal year commencing April 1, 2010. For this purpose,
33 these appropriations shall remain in full force and effect for the
34 payment of liabilities incurred on or before April 1, 2010. No money
35 shall be available for expenditure from this appropriation until a
36 certificate of approval has been issued by the director of the budget
37 and a copy of such certificate or any amendment thereto has been filed
38 with the state comptroller, the chairperson of the senate finance
39 committee and the chairperson of the assembly ways and means committee.

40 ALL STATE DEPARTMENTS AND AGENCIES

41 General Fund / State Operations
42 State Purposes Account - 003

43 Personal Service

44 Personal service 10,305,000

1 Nonpersonal Service

2 Fringe benefits 863,000
3 Employee training and development 40,000
4 Quality of work life committee 30,000
5 Family benefits committee 27,000
6 Employee assistant program 7,000
7 Contract administration 50,000
8 Employee benefit fund 44,000
9 Legal defense fund 20,000
10 Management directed training 27,000
11 Organizational alcoholism program 10,000
12 Joint Committee on Health Benefits 13,000

13 Special Revenue Funds - Other
14 Environmental Conservation Special Revenue Fund - 301

15 Personal Service
16 Personal Service 10,000

17 Nonpersonal Service
18 Fringe benefits 5,000

19 Special Revenue Funds - Other
20 Miscellaneous Special Revenue Fund - 339

21 Personal Service
22 Personal Service 950,000
23 Nonpersonal Service

24 Fringe benefits 469,000

25 Special Revenue Federal
26 Federal Unemployment Insurance Administration - 480

27 Personal Service

28 Personal Service 12,000

29 Nonpersonal Service

30 Fringe benefits 6,000

31 § 28. This act shall take effect immediately and shall be deemed to
32 have been in full force and effect on and after April 1, 2007.

REPEAL NOTE. -- Paragraph j of subdivision 1 of section 130 of the civil service law is REPEALED and replaced by a new paragraph j reflecting the new salary schedule negotiated between the state and employee organizations representing employees in the security supervisors negotiating unit established by article 14 of the civil service law.

Subparagraphs 1, 2, 3, 4 and 5 of paragraph b of subdivision 1 of section 130 of the civil service law are REPEALED and replaced by new subparagraphs 1 and 2 reflecting the new salary schedule negotiated between the state and employee organizations representing employees in the security supervisors negotiating unit established by article 14 of the civil service law.

Chapter 171 Signed July 15, 2010

STATE OF NEW YORK

S. 6888--C A. 9976--C

SENATE - ASSEMBLY

February 22, 2010

IN SENATE -- Introduced by Sens. HASSELL-THOMPSON, PARKER, ADAMS, ADDABBO, DILAN, DUANE, ESPADA, HUNTLEY, KRUEGER, KRUGER, MONTGOMERY, OPPENHEIMER, PERALTA, PERKINS, SAMPSON, SCHNEIDERMAN, SMITH, SQUADRON, STACHOWSKI, STEWART-COUSINS, THOMPSON, VALESKY -- 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 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. PEOPLES-STOKES, AUBRY, BENJAMIN, BING, CASTRO, GIBSON, JACOBS, JAFFEE, JOHN, ROSENTHAL, SKARTADOS, ROBINSON, BRODSKY, JEFFRIES, TOWNS, SCHROEDER, MILLMAN, BARRON, PERRY, WRIGHT, ESPAILLAT, N. RIVERA, TITUS, SCARBOROUGH, HOOPER, BOYLAND -- Multi-Sponsored by -- M. of A. COOK, CRESPO, DelMONTE, DenDEKKER, DESTITO, DINOWITZ, FARRELL, GLICK, GOTTFRIED, HEASTIE, HYER-SPENCER, KOON, MAYERSOHN, MENG, P. RIVERA, SCHIMEL -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, the education law, the workers' compensation law and the state finance law, in relation to increasing participation by minority and women-owned business enterprises

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

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

LBD15736-06-0

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state MWBE asset management and financial institution
3 strategy".
4 § 2. Legislative findings. 1. The New York state MWBE asset manage-
5 ment and financial institution strategy is hereby established to codify
6 and replicate, across certain fiduciary-controlled entities established
7 by New York state law, best practices with respect to the inclusion of
8 minority and women-owned business enterprises that are asset managers,
9 investment banks, and financial and professional service firms in the
10 opportunity to provide services to such fiduciary-controlled entities --
11 the New York state common retirement fund, New York state teachers'
12 retirement system, the New York insurance fund, and the New York state
13 deferred compensation plan. Certain fiduciary-controlled entities have
14 recently adopted emerging manager programs to increase opportunities for
15 firms that include small, disadvantaged or minority and women-owned
16 business enterprises. These programs and similar programs in other
17 states have shown that there is a growing pool of minority and women-
18 owned asset managers, investment banks and financial and professional
19 services firms that are qualified to provide investment management,
20 investment banking, underwriting and other financial and professional
21 services to such fiduciary-controlled entities. The intent of this act
22 is to institutionalize access to opportunities for MWBE firms in such
23 fiduciary-controlled entities that use such services, to create reason-
24 able objectives for conducting business with such firms, and to facili-
25 tate transparency by creating a regime of public reporting about the use
26 of such firms for such services. Nothing in this act shall be deemed to
27 preempt or affect in any way existing laws or fiduciary obligations of
28 the trustees, plan sponsors, fiduciaries, board members or executive
29 officers of any of such fiduciary-controlled entities, to create quotas
30 or other unlawful preferences, or to diminish the ability of any entity
31 covered by this act to make independent decisions consistent with best
32 practices for procuring the services covered hereby.
33 2. In 2006, the New York state department of economic development
34 (NYSDED) commissioned a study to assist the state in evaluating whether
35 the state's minority and women-owned business enterprise (MWBE) initi-
36 atives were still necessary to remedy discrimination in state contract-
37 ing programs. On May 5, 2010, the study was presented to NYSDED, members
38 of the legislature and other stakeholders. The study's findings indicted
39 that: (a) there is both statistical and anecdotal evidence of business
40 discrimination against MWBEs in the private sector of the New York state
41 market area; (b) there is evidence of discrimination against MWBEs in
42 the New York state market area in the small business credit market; (c)
43 MWBEs in the state's market area report suffering business related
44 discrimination in large numbers and with statistically significant
45 greater frequency than non-MWBEs; and (d) in general, minorities and
46 women reported that race and gender-conscious contracting programs are
47 needed to ensure full and fair access to government.
48 3. As a result of such findings, the governor and the state legisla-
49 ture are considering amendments to article 15-A of the executive law and
50 certain provisions of the public authorities law that cover MWBE
51 procurement programs, to improve outreach to MWBEs by state agencies and
52 state authorities, to increase transparency and public reporting on
53 direct and indirect expenditures with MWBEs, to generally eliminate
54 artificial barriers to entry for MWBE firms and to strengthen the effi-
55 cacy of the state's MWBE programs.

4. Many studies have shown that, as it relates to asset management, diversification of asset management contracts through hiring smaller asset managers, including managers that are minority and women-owned business enterprises, creates greater investment portfolio diversity and improves investment returns thereby fulfilling the fiduciary obligations of fiduciary-controlled entities. Increasingly, legislators in other jurisdictions such as Illinois and Maryland and public pension plan fiduciaries in states such as California, Connecticut, Illinois, New York and Texas among others have adopted strategies to increase the diversification of their financial service providers, including by designing emerging manager programs to identify underrepresented, qualified asset managers, broker-dealers and investment banks to increase business activity with such firms. On the federal level on July 30, 2007, the House of Representatives passed a resolution on the topic, the "financial services diversity initiative" (H.R. 110-278), which among other things "encourages financial institutions and public and private pension funds to seek qualified women- and minority-owned firms as asset managers, underwriters, and other business relationships and to appoint more women and minorities as Board members."

5. On December 11, 2009, chapter 506 of the laws of 2009 was signed into law by the governor, which among other things, expanded the contracting areas covered under article 15-A of the executive law to include financial and professional services, which previously had been specifically excluded from such article. This act is an effort to apply the principles inherent to MWBE programs to fiduciary-controlled entities established by the laws of New York state.

6. Certain fiduciary-controlled entities have each voluntarily adopted separate successful programs that include making investments with firms that include minority and women-owned business enterprises engaged in asset management. The legislature finds such efforts to be important and consistent with the goals set forth in this act. The legislature deems it necessary to take such successes a step further by codifying the best practices in this area to attain institutional change in ensuring inclusion of MWBE firms by such fiduciary-controlled entities that procure asset management, investment banking and other financial and professional services.

§ 3. Section 176 of the retirement and social security law is amended by adding six new subdivisions 4, 5, 6, 7, 8 and 9 to read as follows:

4. The term "MWBE asset manager" shall mean an asset manager in any of the following asset classes: public equity or fixed income securities, hedge funds, fund of hedge funds, private equity (including venture capital), fund of private equity funds, real estate investment funds, fund of real estate funds, or any other asset class for which an applicable fiduciary-controlled entity engages external asset managers that is (a) a MWBE; and (b) a registered investment advisor or exempt from such registration and (c) certified pursuant to the provisions of subdivision three of section four hundred twenty-three-c of this chapter.

5. The term "minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the black African racial groups;

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

6. The term "MWBE" for the purpose of engaging in business with the fiduciary-controlled entities covered by this section, means a business enterprise, including without limitation, a sole proprietorship, partnership, limited partnership, limited liability partnership, limited liability company, corporation or other similar entity whether domestic or foreign, that is:

(a)(i) at least fifty-one percent owned by (A) one or more minority group members, or (B) one or more women, in each case, who have significant experience in asset management, brokerage, other financial services or related professional services such as accounting, valuation or legal services, or (ii) substantially owned and/or operated by women or minority group members who have significant experience in asset management, brokerage, other financial services or related professional services such as accounting, valuation or legal services;

(b) an enterprise in which such minority or women ownership or operation is real, substantial and continuing;

(c) an enterprise in which such minority or women ownership or operation has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state; and

(e) an enterprise certified by the state comptroller pursuant to section four hundred twenty-three-c of this chapter.

7. The term "MWBE financial institution" shall mean (a) as it relates to brokerage services, a registered broker dealer that is an MWBE certified pursuant to the provisions of subdivision three of section four hundred twenty-three-c of this chapter and (b) as it relates to any other financial services, an MWBE certified pursuant to the provisions of subdivision three of section four hundred twenty-three-c of this chapter that provides banking, financial advisory, insurance, financial research, valuation or other financial services.

8. The term "fiduciary-controlled entities" shall mean the common retirement fund, state teachers retirement fund, state insurance fund and state deferred compensation plan.

9. The term "best execution" shall refer to the obligation of an entity that purchases or sells publicly-traded securities to ensure the optimal mix of price improvement (getting a better price than is currently quoted), speed and likelihood of execution.

§ 4. The retirement and social security law is amended by adding a new section 423-c to read as follows:

§ 423-c. MWBE asset management and financial institution strategy. 1. Within the discretion of the state comptroller and in accordance with and subject to his or her fiduciary duties and obligations as trustee of the common retirement fund and to the members, retirees and beneficiaries of such fund and such other investment limitations as may be prescribed by this chapter, the comptroller is authorized to establish an MWBE asset management and financial institution strategy including reasonable goals for utilization of MWBE asset managers, MWBE financial institutions and MWBE financial and professional service firms, which strategy shall include, but shall not be limited to, the following objectives:

(a) investing assets of the common retirement fund with MWBE asset managers;

(b) subject to best execution: (i) conducting trades of public equity securities with MWBE financial institutions; and (ii) conducting trades of fixed-income securities through MWBE financial institutions;

(c) allocating investments of assets of the common retirement fund either through: (i) direct investments in the equities and debt securities of MWBEs; or (ii) indirectly through special programs involving MWBE asset managers; and

(d) awarding contracts for accounting, banking, financial advisory, insurance, legal, research, valuation and other financial and professional services to MWBE financial institutions and other MWBE professional service firms.

2. The comptroller is also authorized to: (a) periodically advertise the existence of the strategy established in this section so that MWBE asset managers, MWBE financial institutions and other MWBE professional service firms are made aware of the opportunities made available pursuant to such strategy;

(b) within sixty days of the end of each fiscal year following the effective date of this section, the state comptroller shall report to the governor, legislature and the chief diversity officer of the state of New York on the participation of MWBE asset managers, MWBE financial institutions and MWBE professional service providers in investment and brokerage transactions with or as providers of services for the common retirement fund, including a comparative analysis of such activity relative to such activity with all asset managers, financial institutions and professional service providers for the relevant period and on the progress and success of the efforts undertaken during such period to achieve the goals of such strategy. Each report shall be simultaneously published on the website of the common retirement fund for not less than sixty days following its release to the governor and the other recipients named above;

(c) work with the other fiduciary-controlled entities to create a database of such MWBE entities; and

(d) periodically, but not less than annually, hold a conference to promote such strategy in conjunction with the other fiduciary-controlled entities.

3. (a) The state comptroller shall establish and adopt a certification process and guidelines for the sole purpose of identification and reporting on MWBE firms providing asset management, brokerage, or other financial or professional services as such term is defined in subdivision six of section one hundred seventy-six of this chapter. Such certification shall differentiate and the comptroller shall maintain separate categories for MWBE asset managers meeting the criteria of subparagraph (i) of paragraph (a) of subdivision six of section one hundred seventy-six of this chapter and MWBE asset managers meeting the criteria of subparagraph (ii) of paragraph (a) of such subdivision.

(b) Such certification process shall include, but need not be limited to, a request for the following information relating to each managing principal, principal, operating principal, chief financial officer, operating vice-president, vice-president, partner, owner and employee associated with a prospective MWBE entity:

(i) title;

(ii) position;

(iii) ownership percentage;

(iv) ethnicity;

1 (v) gender; and
2 (vi) length of service.
3 § 5. The education law is amended by adding a new section 508-a to
4 read as follows:
5 § 508-a. New York state teachers' retirement system MWBE asset manage-
6 ment and financial institution strategy. 1. Within the discretion of
7 the retirement board and in accordance with and subject to its fiduciary
8 duties and obligations as trustees of the teachers retirement system and
9 to the members, retirees and beneficiaries of such system and such other
10 investment limitations as may be prescribed by this chapter, the retire-
11 ment board is authorized to establish on MWBE asset management and
12 financial institution strategy pursuant to section four hundred twenty-
13 three-c of the retirement and social security law including reasonable
14 goals for utilization of MWBE asset managers, MWBE financial insti-
15 tutions and MWBE financial and professional services firms, as such
16 terms are defined in section one hundred seventy-six of the retirement
17 and social security law which strategy shall include, but shall not be
18 limited to, the following objectives:
19 a. investing assets of the teachers' retirement system with MWBE asset
20 managers;
21 b. subject to best execution, (1) conducting trades of public equity
22 securities with MWBE financial institutions and (2) conducting trades of
23 fixed-income securities through MWBE financial institutions;
24 c. allocating investments of assets of the teacher's retirement system
25 either through (1) direct investments in the equities and debt securi-
26 ties of MWBEs or (2) indirectly through special programs involving MWBE
27 asset managers; and
28 d. awarding contracts for accounting, banking, financial advisory,
29 insurance, legal, research, valuation and other financial and profes-
30 sional services to MWBE financial institutions and other MWBE profes-
31 sional services firms.
32 As used in this section, the terms "MWBE asset manager", "MWBE finan-
33 cial institutions", "MWBE", "fidiuciary-controlled entities", and "best
34 execution" shall have the meanings specified in section one hundred
35 seventy-six of the retirement and social security law, and shall be
36 certified in a manner consistent with the provisions of subdivision
37 three of section four hundred twenty-three-c of the retirement and
38 social security law.
39 2. The retirement board is also authorized to:
40 a. periodically advertise the existence of such strategy so that MWBE
41 asset managers, MWBE financial institutions and other MWBE professional
42 service firms are made aware of the opportunities made available pursu-
43 ant to such strategy;
44 b. within sixty days of the end of each fiscal year following the
45 effective date of this section, the retirement board shall report to the
46 governor, legislature and the chief diversity officer of the state of
47 New York on the participation of MWBE asset managers, MWBE financial
48 institutions and MWBE professional service providers in investment and
49 brokerage transactions with or as providers of services for the teach-
50 ers' retirement system, including a comparative analysis of such activ-
51 ity relative to such activity with all asset managers, financial insti-
52 tutions and professional service providers for the relevant period and
53 on the progress and success of the efforts undertaken during such period
54 to achieve the goals of such strategy. Each report shall be simultane-
55 ously published on the website of the teachers' retirement system for

not less than sixty days following its release to the governor and the other recipients named above;

c. work with the other fiduciary-controlled entities to create a database of such MWBE entities; and

d. periodically, but not less than annually, hold a conference to promote such strategy in conjunction with the other fiduciary-controlled entities.

§ 6. The workers' compensation law is amended by adding a new section 87-i to read as follows:

§ 87-i. New York state insurance fund MWBE asset management and financial institution strategy. 1. Within the discretion of the commissioners of the state insurance fund and in accordance with and subject to their fiduciary duty and obligations as trustees of the state insurance fund and to the beneficiaries of such fund and such other investment limitations as may be prescribed by this chapter, the commissioners are authorized to establish an MWBE asset management and financial institution strategy including reasonable goals for utilization of MWBE asset managers, MWBE financial institutions and MWBE financial and professional service firms, which strategy shall include, but shall not be limited to, the following objectives:

(a) investing assets of the state insurance fund with MWBE asset managers;

(b) subject to best execution, (1) conducting trades of public equity securities with MWBE financial institutions; and (2) conducting trades of fixed-income securities through MWBE financial institutions;

(c) allocating investments of assets of the state insurance fund either through (1) direct investments in the equities and debt securities of MWBEs; or (2) indirectly through special programs involving MWBE asset managers; and

(d) awarding contracts for accounting, banking, financial advisory, insurance, legal, research, valuation and other financial and professional services to MWBE financial institutions and other MWBE professional service firms.

As used in this section, the terms "MWBE asset manager", "MWBE financial institutions", "MWBE", "fiduciary-controlled entities" and "best execution" shall have the meanings specified in section one hundred seventy-six of the retirement and social security law and shall be certified in a manner consistent with the provisions of subdivision three of section four hundred twenty-three-c of the retirement and social security law.

2. The commissioners are also authorized to:

(a) periodically advertise the existence of such strategy so that MWBE asset managers, MWBE financial institutions and other MWBE professional service firms are made aware of the opportunities made available pursuant to this strategy;

(b) within sixty days of the end of each fiscal year following the effective date of this section, the commissioners shall report to the governor, the legislature and the chief diversity officer of the state of New York on the participation of MWBE asset managers, MWBE financial institutions and MWBE professional service providers in investment and brokerage transactions with or as providers of services for the state insurance fund, including a comparative analysis of such activity relative to such activity with all asset managers, financial institutions and professional service providers for the relevant period and on the progress and success of the efforts undertaken during such period to achieve the goals of such strategy. Each report shall be simultaneously

published on the website of the state insurance fund for not less than sixty days following its release to the governor and the other recipients named above;

(c) work with the other fiduciary-controlled entities to create a database of such MWBE entities; and

(d) periodically, but not less than annually, hold a conference to promote such strategy in conjunction with the other fiduciary-controlled entities.

§ 7. Paragraphs c, d, e and f of subdivision 2 of section 5 of the state finance law are relettered paragraphs e, f, g and h and two new paragraphs c and d are added to read as follows:

c. Within the discretion of the deferred compensation board and in accordance with and subject to its fiduciary duty and obligations to the deferred compensation plan for state employees and to the members and beneficiaries of such plan and such other investment limitations as may be prescribed by this chapter, the deferred compensation board is authorized to establish an MWBE asset management and financial institution strategy including reasonable goals for utilization of MWBE asset managers, MWBE financial institutions and MWBE professional service firms, which shall include, but shall not be limited to, the following objectives:

(i) conducting procurement procedures in a manner that will assure the inclusion of MWBE asset managers in any request for proposal or search process for asset management services undertaken in accordance with the rules and regulations and of the board;

(ii) subject to best execution policies, developing a strategy to (1) conduct trades of public equity securities with MWBE financial institutions and (2) conduct trades of fixed-income securities through MWBE financial institutions;

(iii) conducting procurement procedures in a manner that will assure the inclusion of MWBE financial institutions and other MWBE professional service firms in procurements for services that include accounting, banking, financial advisory, insurance, legal, research, valuation and other financial and professional services that are undertaken in accordance with the rules and regulations of the board;

(iv) cooperating with other fiduciary controlled entities and state agencies and offices to identify MWBE asset managers, MWBE financial institutions and MWBE professional service firms.

As used in this section, the terms "MWBE asset manager", "MWBE financial institutions", "MWBE", "fiduciary-controlled entities" and "best execution" shall have the meanings specified in section one hundred seventy-six of the retirement and social security law.

d. The board is also authorized to:

(i) periodically provide notice of the existence of such strategy so that MWBE asset managers, MWBE financial institutions and other MWBE professional service firms are made aware of the opportunities made available pursuant to this strategy;

(ii) within sixty days of the end of each fiscal year following the effective date of this paragraph, the board shall report to the governor, legislature and the chief diversity officer of the state of New York on the participation of MWBE asset managers, MWBE financial institutions and MWBE professional service providers in investment and brokerage transactions with or as providers of services for the deferred compensation plans, including a comparative analysis of such activity relative to such activity with all asset managers, financial institutions and professional service providers for the relevant period and

1 **on the progress and the success of the efforts undertaken during such**
2 **period to achieve the goals of such strategy. Each report shall be**
3 **simultaneously published on the website of the deferred compensation**
4 **plans for not less than sixty days following its release to the governor**
5 **and the other recipients named above;**
6 **(iii) work with the other fiduciary-controlled entities to create a**
7 **database of such MWBE entities; and**
8 **(iv) periodically, but not less than annually, hold a conference to**
9 **promote such strategy in conjunction with the other fiduciary-controlled**
10 **entities.**
11 § 8. The provisions of this act are severable, and if any part or
12 provision hereof, or the application thereof to any person or circum-
13 stance, shall be adjudged by any court of competent jurisdiction to be
14 invalid or unenforceable, such judgment shall not affect, impair or
15 invalidate the remaining provisions to any person or circumstance, but
16 shall be confined in its operation to the provision, person or circum-
17 stance directly involved in the controversy in which such judgment shall
18 have been rendered.
19 § 9. This act shall take effect on the ninetieth day after it shall
20 have become a law.

Chapter 337 Signed August 13, 2010

STATE OF NEW YORK

8076--A

2009-2010 Regular Sessions

IN ASSEMBLY

May 4, 2009

Introduced by M. of A. OAKS -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize the village of Lyons to offer an optional twenty year retirement plan to certain police officers employed by such village

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the village of Lyons, a participating employer in the New York state and
3 local police and fire retirement system, which previously elected to
4 offer the optional twenty year retirement plan, established pursuant to
5 section 384-d of the retirement and social security law, to police offi-
6 cers employed by such village, is hereby authorized to make partic-
7 ipation in such plan available to John Flock and Scott VanDuyne, police
8 officers employed by the village of Lyons, who, for reasons not ascriba-
9 ble to their own negligence, failed to make a timely application to
10 participate in such optional twenty year retirement plan. The village of
11 Lyons may so elect by filing with the state comptroller, on or before
12 December 31, 2010, a resolution of its local legislative body together
13 with certification that such police officers did not bar themselves from
14 participation in such retirement plan as a result of their own negli-
15 gence. Thereafter, such police officers may elect to be covered by the
16 provisions of section 384-d of the retirement and social security law,
17 and shall be entitled to the full rights and benefits associated with
18 coverage under such section, by filing a request to that effect with the
19 state comptroller on or before June 30, 2011.
20 § 2. All employer costs associated with implementing the provisions of
21 this act shall be borne by the village of Lyons and the past service

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

LBD10914-04-0

1 costs associated with this act may be amortized over a period of five or
2 ten years.
3 § 3. This act shall take effect immediately.

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

This bill will allow the Village of Lyons to reopen the provisions of Section 384-d of the Retirement and Social Security Law for police officers John J. Flock and Scott W. VanDuyne.

If this legislation is enacted during the 2010 legislative session, we anticipate that there will be an increase of approximately $2,800 in the annual contributions of the Village of Lyons for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $43,000, which would be borne by the Village of Lyons as a one-time payment, assuming a payment date of February 1, 2011. If the Village so elects, the past service can be amortized over a period of five (5) or ten (10) years. The cost for the first year will be approximately $9,980 or $5,940, respectively.

This estimate, dated April 16, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-138, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 361 Signed August 13, 2010

STATE OF NEW YORK

10741

IN ASSEMBLY

April 19, 2010

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend chapter 104 of the laws of 2005 enacting the September 11th worker protection task force act, in relation to increasing the composition of the September 11th worker protection task force and extending the expiration of such chapter

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

Section 1. The opening paragraph and paragraph 10 of subdivision (a) of section 3 of part B of chapter 104 of the laws of 2005 enacting the September 11th worker protection task force act, as amended by chapter 93 of the laws of 2005, are amended and a new paragraph 11 is added to read as follows:

The September 11th workers protection task force is hereby created consisting of [~~19~~] **20** members. Such members shall be appointed as follows:

10. the commissioner of the state department of civil service, or his or her representative[~~.~~]**; and**

11. the medical director of the Mount Sinai Irving J. Selikoff Center for Occupational and Environmental Medicine, or his or her designee.

§ 2. Section 11 of part B of chapter 104 of the laws of 2005 enacting the September 11th worker protection task force act, is amended to read as follows:

§ 11. This act shall take effect September 11, 2005, and shall expire and be deemed repealed on June 10, [~~2010~~] **2015**.

§ 3. This act shall take effect immediately, provided, however, that the amendments to section 3 of part B of chapter 104 of the laws of 2005 made by section one of this act shall not affect the repeal of such part and shall be deemed repealed therewith.

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

LBD16596-01-0

Chapter 439 Signed August 30, 2010

STATE OF NEW YORK

9914--A

IN ASSEMBLY

February 11, 2010

Introduced by M. of A. MARKEY, SPANO, M. MILLER, MAISEL, PHEFFER, JAFFEE, BENEDETTO, BOYLAND, SCHIMEL, PERRY, CASTRO, HOOPER, MILLMAN, ZEBROWSKI, STIRPE, ESPAILLAT -- Multi-Sponsored by -- M. of A. COOK, DenDEKKER, GIBSON, HEASTIE, HYER-SPENCER, JOHN, MENG, NOLAN, SWEENEY, WEISENBERG -- 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 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 305 of the laws of 2009, is amended to read as follows:

c. Commencing July first, two thousand [~~nine~~] **ten** 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	[~~157.5%~~] **165.2%**
1978	[~~150.0%~~] **157.5%**
1979	[~~142.7%~~] **150.0%**
1980	[~~135.7%~~] **142.7%**
1981	[~~128.8%~~] **135.7%**
1982	[~~122.1%~~] **128.8%**
1983	[~~115.7%~~] **122.1%**
1984	[~~109.4%~~] **115.7%**
1985	[~~103.3%~~] **109.4%**
1986	[~~97.4%~~] **103.3%**

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

LBD15558-05-0

1987	[~~91.6%~~] **97.4%**
1988	[~~86.0%~~] **91.6%**
1989	[~~80.6%~~] **86.0%**
1990	[~~75.4%~~] **80.6%**
1991	[~~70.2%~~] **75.4%**
1992	[~~65.3%~~] **70.2%**
1993	[~~60.5%~~] **65.3%**
1994	[~~55.8%~~] **60.5%**
1995	[~~51.3%~~] **55.8%**
1996	[~~46.9%~~] **51.3%**
1997	[~~42.6%~~] **46.9%**
1998	[~~38.4%~~] **42.6%**
1999	[~~34.4%~~] **38.4%**
2000	[~~30.5%~~] **34.4%**
2001	[~~26.7%~~] **30.5%**
2002	[~~23.0%~~] **26.7%**
2003	[~~19.4%~~] **23.0%**
2004	[~~15.9%~~] **19.4%**
2005	[~~12.6%~~] **15.9%**
2006	[~~9.3%~~] **12.6%**
2007	[~~6.1%~~] **9.3%**
2008	[~~3.0%~~] **6.1%**
2009	[~~0.0%~~] **3.0%**
2010	**0.0%**

§ 2. Subdivision c of section 361-a of the retirement and social security law, as amended by chapter 305 of the laws of 2009, is amended to read as follows:

c. Commencing July first, two thousand [~~nine~~] **ten** 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	[~~157.5%~~] **165.2%**
1978	[~~150.0%~~] **157.5%**
1979	[~~142.7%~~] **150.0%**
1980	[~~135.7%~~] **142.7%**
1981	[~~128.8%~~] **135.7%**
1982	[~~122.1%~~] **128.8%**
1983	[~~115.7%~~] **122.1%**
1984	[~~109.4%~~] **115.7%**
1985	[~~103.3%~~] **109.4%**
1986	[~~97.4%~~] **103.3%**
1987	[~~91.6%~~] **97.4%**
1988	[~~86.0%~~] **91.6%**
1989	[~~80.6%~~] **86.0%**
1990	[~~75.4%~~] **80.6%**
1991	[~~70.2%~~] **75.4%**
1992	[~~65.3%~~] **70.2%**
1993	[~~60.5%~~] **65.3%**
1994	[~~55.8%~~] **60.5%**
1995	[~~51.3%~~] **55.8%**
1996	[~~46.9%~~] **51.3%**

1997	[~~42.6%~~]	**46.9%**
1998	[~~38.4%~~]	**42.6%**
1999	[~~34.4%~~]	**38.4%**
2000	[~~30.5%~~]	**34.4%**
2001	[~~26.7%~~]	**30.5%**
2002	[~~23.0%~~]	**26.7%**
2003	[~~19.4%~~]	**23.0%**
2004	[~~15.9%~~]	**19.4%**
2005	[~~12.6%~~]	**15.9%**
2006	[~~9.3%~~]	**12.6%**
2007	[~~6.1%~~]	**9.3%**
2008	[~~3.0%~~]	**6.1%**
2009	[~~0.0%~~]	**3.0%**
2010		**0.0%**

§ 3. This act shall take effect July 1, 2010.

FISCAL NOTE.--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 2010.

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 $345,000 above the approximately $7.7 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 February 5, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-112, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

FISCAL NOTE.--PROVISIONS OF PROPOSED LEGISLATION - OVERVIEW: With respect to the City of New York (the "City"), this proposed legislation would amend General Municipal Law ("GML") Section 208-f.c to increase certain Special Accidental Death Benefits ("SADB") for line-of-duty widows/widowers and/or children of former uniformed employees of the City and the New York City Health and Hospitals Corporation and certain former employees of the Triborough Bridge and Tunnel Authority who were members of certain New York City Retirement Systems ("NYCERS").

In addition, the proposed legislation would amend Retirement and Social Security Law Section 361-a.c to cover such SADB for certain survivors of deceased members of the New York State and Local Police and Fire Retirement System.

The Effective Date of the proposed legislation would be July 1, 2010.

IMPACT ON BENEFITS - SADB RECIPIENTS: The proposed legislation would impact the SADB payable to certain survivors of members of one of the following NYCRS:

* New York City Employees' Retirement System ("NYCERS"),
* New York City Police Pension Fund ("POLICE"), or
* New York City Fire Pension Fund ("FIRE"), and

who were employed at one of the following employers in certain positions:

* New York City Police Department - Uniformed Position,
* New York City Fire Department - Uniformed Position,
* New York City Housing Authority - Uniformed Position,
* New York City Transit Authority - Uniformed Position,
* New York City Department of Correction - Uniformed Position,

* New York City - Unformed Position as Emergency Medical Technician ("EMT),
* New York City Health and Hospitals Corporation - Uniformed Position as EMT, or
* Triborough Bridge and Tunnel Authority - Bridge and Tunnel Position.

DESCRIPTION OF BENEFITS PAYABLE: Under the GML, the basic SADB is defined to equal:

The salary of the deceased member at date of death (or, in certain instances, a greater salary based on rank or other status) less:

* Any death benefit as adjusted by any Supplementation or Cost-of-Living Adjustment ("COLA") paid by the NYCRS to the member's survivors,
* Any death benefit paid by Social Security to the member's survivors, and
* Any Worker's Compensation benefit paid to the member's survivors.

The SADB is paid to the deceased member's surviving widow or widower, if alive. If the widow/widower is no longer alive, then the SADB is paid to the deceased member's children until age eighteen or while attending school until age twenty-three.

The GML also provides that the SADB is subject to escalation based on years since the date of death. Each year since Calendar Year 1979 the SADB has been increased by an additional percentage of Final Salary.

Under the proposed legislation, the additional percentage of Final Salary to be effective July 1, 2010 would be 3.0%.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES OF BENEFITS ("APVB"): Under the actuarial assumptions and methods as noted herein, the enactment of this proposed legislation would result in an increase in additional APVB for the additional Final Salary to be effective July 1, 2010 with respect to NYCRS members. This increase in APVB would be approximately $23.6 million as of June 30, 2010.

FINANCIAL IMPACT - EMPLOYER PAYMENTS: As these SADB are provided on a pay-as-you-go basis, the additional annual employer payments expected to be paid during the first year, if the proposed legislation is enacted, would equal approximately $2.3 million.

Note: These additional payments represent an increase of approximately 5.0% in the annual rate of SADB being paid.

The SADB payments are made by the NYCRS who are reimbursed by the City who is then reimbursed by the State of New York.

OTHER COSTS: The enactment of this proposed legislation would also be expected to result in modest increases in administrative expenses of NYCERS, POLICE, FIRE, the employers and certain New York City agencies.

CENSUS DATA: The financial impact of the proposed legislation is based upon the census data for such widows, widowers and children provided by the NYCRS and adjusted, as necessary, to prepare the computations and for consistency with other data.

The following table shows, by Retirement System as of June 30, 2009, the number of deceased members with eligible survivors and the estimated annual SADB rate prior to the increase proposed to be effective as of July 1, 2010.

Table 1
SADB Census Data as of June 30, 2009
($ Millions)

Retirement System	Number of Deceased Members with Eligible Survivors	Annual SADB Rate Prior to Proposed July 1, 2010 Increase
NYCERS	29	$ 1.1

POLICE	288	12.6
FIRE	**611**	**31.9**
Total	928	$45.6

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB have been computed based in the actuarial assumptions and methods in effect for the June 30, 2008 (Lag) actuarial valuations of NYCERS, POLICE and FIRE used to determine Fiscal Year 2010 Employer Contributions.

In addition, it has also been assumed that the average age and the estimated percentage increase in benefits for survivors in receipt of benefits as of June 30, 2010 would be comparable with that for the survivors in receipt of benefits as of June 30, 2009.

The increase in estimated additional APVB was computed based on the additional Final Salary as of July 1, 2010 that was assumed to remain level in the future.

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 Qualification 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 2010 Legislative Session. It is Fiscal Note 2010-08, dated March 11, 2010, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Police Pension Fund and the New York City Fire Pension Fund.

Chapter 496 Signed September 17, 2010

STATE OF NEW YORK

9913

IN ASSEMBLY

February 11, 2010

Introduced by M. of A. CROUCH -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the village of Port Dickinson, in the county of Broome, to offer an optional twenty year retirement plan to Sean D. Crouse and Paul Buttacovoli, Jr.

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the village of Port Dickinson, in the county of Broome, a participating
3 employer in the New York state and local police and fire retirement
4 system, which previously elected to offer the optional twenty year
5 retirement plan, established pursuant to section 384-d of the retirement
6 and social security law, to police officers employed by such village, is
7 hereby authorized to make participation in such plan available to Sean
8 D. Crouse, the chief of police, and Paul Buttacovoli, Jr., a police
9 officer employed by the village of Port Dickinson, who, for reasons not
10 ascribable to their own negligence failed to make timely applications to
11 participate in such optional twenty year retirement plan.
12 The village of Port Dickinson may so elect by filing with the state
13 comptroller, on or before December 31, 2010, a resolution of its govern-
14 ing body together with certification that such chief of police and
15 police officer did not bar themselves from participation in such retire-
16 ment plan as a result of their own negligence. Thereafter, such chief of
17 police and police officer may elect to be covered by the provisions of
18 section 384-d of the retirement and social security law, and shall be
19 entitled to the full rights and benefits associated with coverage under
20 such section, by filing a request to that effect with the state comp-
21 troller on or before June 30, 2011.
22 § 2. All employer costs associated with implementing the provisions of
23 this act shall be borne by the village of Port Dickinson over a period
24 of ten years.
25 § 3. This act shall take effect immediately.
FISCAL NOTE.--Pursuant to Legislative Law, section 50:

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

LBD10895-04-0

A. 9913 2

This bill will allow the Village of Port Dickinson to elect to reopen

the provisions of Section 384-d of the Retirement and Social Security Law for Police Officers Paul Buttacavoli,Jr. and Sean D. Crouse.

If this bill is enacted and the above officers become covered under Section 384-d, we anticipate that there will be an increase of approximately $2,400 in the annual contributions of the Village of Port Dickinson for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $54,100 which would be borne by the Village of Port Dickinson. This estimate is based on the assumption that payment will be made on February 1, 2011. If this cost were amortized over a period of ten (10) years, the costs for the first year including interest would be approximately $7,460.

This estimate, dated February 5, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-90, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 497 Signed September 17, 2010

STATE OF NEW YORK

S. 6861 A. 9947

SENATE - ASSEMBLY

February 17, 2010

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

IN ASSEMBLY -- Introduced by M. of A. ALESSI -- read once and referred to the Committee on Governmental Employees

AN ACT authorizing William Bianco and Eric Lipinsky to file for retroactive membership in the optional 20 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 Riverhead, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional 20 year retirement plan established pursuant to section 384-d of the retirement and social security law, and the additional pension benefits to members of such plan, established pursuant to section 384-e of the retirement and social security law to police officers employed by such Town, is hereby authorized to make participation available to William Bianco and Eric Lipinsky, police officers employed by the Town of Riverhead, who, for reasons not ascribable to their own intentional negligence, failed to make timely application to participate in such optional 20 year retirement plan. The Town of Riverhead may so elect by filing with the state comptroller, on or before December 31, 2010, a resolution of the Riverhead 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 and section 384-e 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, 2011.

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

LBD15471-02-0

1 § 2. All past service costs associated with implementing the
2 provisions of this act shall be borne by the Town of Riverhead.
3 § 3. This act shall take effect immediately.

FISCAL NOTE.-- This bill will allow the Town of Riverhead to elect to reopen the provisions of Section 384-d together with the provisions of Section 384-e of the Retirement and Social Security Law for Police Officers William Bianco and Eric Lipinsky.

If this bill is enacted and the above officers become covered under Section 384-e, we anticipate that there will be an increase of approximately $6,900 in the annual contributions of the Town of Riverhead for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $11,100 which would be borne by the Town of Riverhead as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2011.

This estimate, dated February 5, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-91, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 498 Signed September 17, 2010

STATE OF NEW YORK

10109

IN ASSEMBLY

March 4, 2010

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

AN ACT to amend the retirement and social security law, in relation to allowing members of the New York state and local police and fire retirement system who retire to elect the alternative option and providing for cessation of membership in such system upon occurrence of certain conditions

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

1 Section 1. Subdivision a-1 of section 514 of the retirement and social
2 security law, as added by chapter 106 of the laws of 1996, is amended to
3 read as follows:
4 a-1. A member of the New York state and local employees' retirement
5 system **or the New York state and local police and fire retirement system**
6 who retires pursuant to the provisions of this article, may elect, in
7 lieu of the options set forth in subdivision a of this section, the
8 following optional settlement:
9 Alternative Option. The actuarial equivalent of the member's retire-
10 ment allowance at the time of retirement, in the form of a smaller
11 retirement allowance payable to such members for life and some other
12 benefit or benefits paid either to the member or to such person or
13 persons as he shall nominate, provided such other benefit or benefits,
14 together with such smaller allowance, shall be certified by the actuary
15 of such retirement system to be of equivalent actuarial value to his
16 retirement allowance and shall be approved by the head of such retire-
17 ment system and provided further that nothing herein shall require such
18 retirement system to pay a benefit in violation of paragraph nine of
19 subsection a of section four hundred one of the Internal Revenue Code of
20 1986, as amended, 26 U.S.C. § 401(a)(9).
21 § 2. The opening paragraph of section 517-a of the retirement and
22 social security law, as added by chapter 774 of the laws of 1986, is
23 amended to read as follows:
24 With respect to the New York state employees' retirement system **and**
25 **the New York state and local police and fire retirement system**, member-

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

LBD16021-02-0

1 ship in the retirement system shall cease upon the occurrence of any one
2 of the following conditions:
3 § 3. This act shall take effect immediately.

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

This bill would make technical changes to Article 14 of the Retirement and Social Security Law affecting members who joined the New York State and Local Police and Fire Retirement System (PFRS) on and after July 1, 2009. Members would be allowed to elect an actuarially equivalent alternate retirement option upon retirement. Further, it would establish certain conditions upon which membership shall cease.

If this bill is enacted, there would be no additional costs.

This estimate, dated March 3, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note Number 2010-117 prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 500 Signed September 17, 2010

STATE OF NEW YORK

10268

IN ASSEMBLY

March 16, 2010

Introduced by M. of A. TOWNSEND -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the town of Kirkland, in the county of Oneida, to offer an optional twenty year retirement plan to police officers Christine M. Griffin, Horace T. Knight, Pete J. Cania and Wayne R. Smoulcey

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 Kirkland, in the county of Oneida, 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, and the additional pension benefits to members of such plan, established pursuant to section 384-e of the retirement and social security law, to police officers employed by such town, is hereby authorized to make participation in such plan and benefits available to Christine M. Griffin, Horace T. Knight, Pete J. Cania and Wayne R. Smoulcey, police officers employed by the town of Kirkland, who, for reasons not ascribable to his or her own negligence failed to make a timely application to participate in such optional twenty year retirement plan and the additional pension benefits therefor. The town of Kirkland may so elect by filing with the state comptroller, on or before December 31, 2010, a resolution of its town board together with certification that such police officers did not bar himself or herself from participation in such retirement plan and additional pension benefits as a result of his or her own negligence. Thereafter, such police officers may elect to be covered by the provisions of sections 384-d and 384-e of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such sections, by filing a request to that effect with the state comptroller on or before June 30, 2011.

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

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

LBD14808-02-0

1 § 3. This act shall take effect immediately.

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

This bill will allow the town of Kirkland to elect to reopen the provisions of Section 384-d together with the provisions of Section 384-e of the Retirement and Social Security Law for Police Officers Griffin, Knight, Cania and Smoulcey.

If this bill is enacted and the above officers become covered under Section 384-e, we anticipate that there will be an increase of approximately $6,370 in the annual contributions of the town of Kirkland for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $32,700 which would be borne by the town of Kirkland as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2011.

This estimate, dated February 5, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-83, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 513 Signed September 17, 2010

STATE OF NEW YORK

5533--A

2009-2010 Regular Sessions

IN SENATE

May 14, 2009

Introduced by Sens. SAVINO, THOMPSON -- (at request of the State Comptroller) -- 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 bringing certain provisions of such law into accordance with the requirements of the federal older workers' benefit protection act (OWBPA)

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

1 Section 1. Declaration of legislative intent. This act is intended to
2 bring the statutory provisions pertaining to the New York state and
3 local employees' retirement system and the New York state and local
4 police and fire retirement system into compliance with the Federal Older
5 Workers' Benefit Protection Act, P.L. 101-433, by providing death and
6 disability benefits for which the cost incurred on behalf of an older
7 member is no less than that incurred on behalf of a younger member of
8 such systems, as permissible under section 1625.10 of Title 29 of the
9 Code of Federal Regulations.
10 § 2. Paragraph 1 of subdivision b of section 62 of the retirement and
11 social security law, as amended by chapter 1087 of the laws of 1969, is
12 amended to read as follows:
13 1. If the member has attained age sixty when such retirement becomes
14 effective, his **or her** retirement allowance shall be equal to that which
15 he **or she** would receive in the case of superannuation retirement**, unless**
16 **the member is enrolled in a plan provided under section seventy-a,**
17 **seventy-one-a or seventy-five of this article, in which case the benefit**
18 **shall be calculated in the manner described in clause two of subpara-**
19 **graph (c) of paragraph two of this subdivision**.

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

LBD10320-04-0

§ 3. Paragraph 1 of subdivision b of section 362 of the retirement and social security law, as amended by chapter 1087 of the laws of 1969, is amended to read as follows:

1. If a member has attained age sixty when such retirement becomes effective, his **or her** retirement allowance shall be equal to that which he **or she** would receive in the case of superannuation retirement**, unless the member is enrolled in a plan provided under section three hundred seventy-a, three hundred seventy-one-a or three hundred seventy-five of this article, in which case the benefit shall be calculated in the manner described in clause two of subparagraph (c) of paragraph two of this subdivision**.

§ 4. Paragraph 2 of subdivision a of section 448 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

2. A benefit upon the death of a member in service equal to the member's salary upon his **or her** completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than 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, **the New York state and local employees' retirement system or the New York state and local police and fire retirement system,** such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he **or she** last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he **or she** last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he **or she** last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he **or she** last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he **or she** last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than 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, **the New York state and local employees' retirement system or the New York state and local police and fire retirement system,** commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety [~~percentum~~] **per centum** of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten [~~percentum~~] **per centum** per year of the original benefit otherwise payable, but not below ten [~~percentum~~] **per centum** of the original benefit otherwise payable.

In the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-one, the benefit other-

wise provided pursuant to this paragraph [~~two~~] shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-five per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to five per centum per year of the original benefit otherwise payable, but not below fifty per centum of the original benefit otherwise payable. **In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age or a member of the New York state and local police and fire retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable.** Upon retirement from any retirement system, the benefit in force shall be reduced by fifty [~~percentum~~] **per centum**; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five [~~percentum~~] **per centum**, and upon commencement of the third year of retirement, the benefit shall be ten [~~percentum~~] **per centum** of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten [~~percentum~~] **per centum** of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. **Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.**

§ 5. Subdivision a of section 506 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

a. A member in active service who is not eligible for a normal retirement benefit shall, upon completing five years or more of service, be eligible for the ordinary disability benefit described in subdivision b of this section if such member has been determined to be eligible for primary social security disability benefits; 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

the New York state and local employees' retirement system who is otherwise eligible for ordinary 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.

§ 6. Subdivision a of section 507 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is 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 **or the New York state and local employees' 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.

§ 6-a. Subdivision c of section 507 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

c. In the case of a member of a retirement system other than **the New York state and local employees' retirement system,** 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, the accidental disability benefit hereunder shall be a pension equal to two percent of final average salary times years of credited service which such member would have attained if employment had continued until such member's full escalation date, not in excess of the maximum years of service creditable for the normal service retirement benefit, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable.

In the case of a member of **the New York state and local employees' retirement system,** 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, the accidental disability benefit hereunder shall be a pension equal to sixty percent of final average salary, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. In the event a disability retiree from any retirement system is not eligible for the primary social security disability benefit and continues to be eligible for disability benefits hereunder, such disability benefit shall be reduced by one-half of such retiree's primary social security retirement benefit, commencing at age sixty-two, in the same manner as provided for service retirement benefits under section five hundred eleven of this article.

§ 7. Paragraph 2 of subdivision a of section 508 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

2. A benefit upon the death of a member in service equal to the member's salary upon his **or her** completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than 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, **or the New York state and local employees' retirement system,** such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he **or she** last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he **or she** last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he **or she** last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he **or she** last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he **or she** last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than 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, **or the New York state and local employees' retirement system,** commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety [~~percentum~~] **per centum** of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten [~~percentum~~] **per centum** per year of the original benefit otherwise payable, but not below ten [~~percentum~~] **per centum** of the original benefit otherwise payable.

Notwithstanding any other provision of this paragraph, in the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-five per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to five per centum

per year of the original benefit otherwise payable, but not below fifty per centum of the original benefit otherwise payable. **In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable.** Upon retirement from any retirement system, the benefit in force shall be reduced by fifty [~~**percentum**~~] **per centum**; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five [~~**percentum**~~] **per centum**, and upon commencement of the third year of retirement, the benefit shall be ten [~~**percentum**~~] **per centum** of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten [~~**percentum**~~] **per centum** of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. **Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.**

§ 8. Section 508 of the retirement and social security law is amended by adding a new subdivision f to read as follows:

f. With respect to a member of the New York state and local employees' retirement system who was covered by paragraph two of subdivision a of the former section five hundred eight of this chapter, as added by chapter eight hundred ninety of the laws of nineteen hundred seventy-six, prior to its repeal pursuant to chapter six hundred seventeen of the laws of nineteen hundred eighty-six and who is entitled under the state constitution to have benefits calculated under such provision as it read prior to such nineteen hundred eighty-six amendment, the lump sum death benefit shall be determined pursuant to subdivision a of this section. With respect to a member of the New York state and local employees' retirement system who was covered by subdivision b of the former section five hundred eight of this chapter, as added by chapter eight hundred ninety of the laws of nineteen hundred seventy-six, prior to its repeal pursuant to chapter six hundred seventeen of the laws of nineteen hundred eighty-six and who is entitled under the state constitution to have benefits calculated under such provision as it read prior to such nineteen hundred eighty-six amendment, the lump sum death benefit shall be determined pursuant to subdivision a of this section.

§ 9. Subdivision d of section 605 of the retirement and social security law is amended by adding a new paragraph 4 to read as follows:

4. Notwithstanding the provisions of this subdivision, the minimum benefit payable to a member of the New York state and local employees' retirement system who has been determined to be physically or mentally

incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by willful negligence sustained in the performance of duties in active service while actually a member of the retirement system shall be a pension of one-third of such member's final average salary.

§ 10. Paragraph 2 of subdivision a of section 606 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

2. A benefit upon the death of a member in service equal to the member's salary upon his **or her** completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than 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 **or the New York state and local employees' retirement system**, such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he **or she** last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he **or she** last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he **or she** last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he **or she** last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he **or she** last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than 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 **or the New York state and local employees' retirement system**, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety [~~percentum~~] **per centum** of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten [~~percentum~~] **per centum** per year of the original benefit otherwise payable, but not below ten [~~percentum~~] **per centum** of the original benefit otherwise payable.

In the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system,

commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-five per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to five per centum per year of the original benefit otherwise payable, but not below fifty per centum of the original benefit otherwise payable. **In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable.** Upon retirement, from any retirement system, the benefit in force shall be reduced by fifty [~~percentum~~] **per centum**; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five [~~percentum~~] **per centum**, and upon commencement of the third year of retirement, the benefit shall be ten [~~percentum~~] **per centum** of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten [~~percentum~~] **per centum** of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. **Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.**

§ 11. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after October 16, 1992, provided, however, that: (i) this act shall not apply to any payment of benefits which became payable prior to October 16, 1992; and (ii) sections seven and eight of this act shall be effective if and, in such case, only to the extent section 1 of chapter 617 of the laws of 1986 is unconstitutional insofar as it abrogates the rights pursuant to section 508 of the retirement and social security law as added by section 1 of chapter 890 of the laws of 1976, of public employees who became members of the New York state and local employees' retirement system on or after July 27, 1976 and before September 1, 1983.

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

This bill would change the Retirement and Social Security Law as it affects the New York State and Local Employees' Retirement System (NYSLERS) and the New York State and Local Police and Fire Retirement System (NYSLPFRS) to comply with the requirements of the Federal Older Workers' Benefit Protection Act ("OWBPA"). Provisions relating to disability benefits, ordinary death benefits, and post-retirement death benefits would be modified to be consistent with the benefits currently being paid by the Retirement Systems, as required by OWBPA.

If this bill is enacted, there will be no increase in benefits being paid by the NYSLERS and NYSLPFRS to members or beneficiaries. Therefore, there will be no cost if this bill is enacted.

This estimate, dated January 29, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-111 prepared by the Actuary for the New York State and Local Police and Fire Retirement System and the New York State and Local Employees' Retirement System.

Chapter 514 Signed September 17, 2010

STATE OF NEW YORK

5775--A

2009-2010 Regular Sessions

IN SENATE

June 4, 2009

Introduced by Sen. SEWARD -- 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 authorize the city of Oneonta, in the county of Otsego, to offer an optional twenty year retirement plan to police sergeant Douglas W. Brenner

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 Oneonta, in the county of Otsego, 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 Douglas W. Brenner, a police sergeant employed by the city of Oneonta, 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 Oneonta may so elect by filing with the state comptroller, on or before December 31, 2010, a resolution of its governing body together with certification that such police sergeant did not bar himself from participation in such retirement plan as a result of his own negligence. Thereafter, such police sergeant 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 for the service rendered with the city of Oneonta only, by filing a request to that effect with the state comptroller on or before June 30, 2011.

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

LBD11444-07-0

1 § 2. All employer costs associated with implementing the provisions of
2 this act shall be borne by the city of Oneonta.
3 § 3. This act shall take effect immediately.

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

This bill will allow the City of Oneonta to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for Police Officer Douglas W. Brenner. Officer Brenner may elect the coverage under section 384-d and will be credited with the service rendered with the City of Oneonta only.

If this bill is enacted and the above officer becomes covered under Section 384-d, we anticipate that there will be an increase of approximately $3,300 in the annual contributions of the City of Oneonta for the fiscal year ending March 31, 2011.

There will be no past service costs.

This estimate, dated January 19, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-75, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 517 Signed September 17, 2010

STATE OF NEW YORK

6152--B

2009-2010 Regular Sessions

IN SENATE

September 2, 2009

Introduced by Sen. OPPENHEIMER -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize the village of Mamaroneck, in the county of Westchester, to offer certain retirement options to police officers Scott Fraioli and Dominick Lanza

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the village of Mamaroneck, in the county of Westchester, a participating
3 employer in the New York state and local police and fire retirement
4 system, which previously elected to offer the optional retirement plan
5 established pursuant to section 384-d of the retirement and social secu-
6 rity law to police officers employed by such village, is hereby author-
7 ized to make participation in such plan available to Scott Fraioli and
8 Dominick Lanza, police officers employed by the village of Mamaroneck,
9 who, on the effective date of this act are covered under the provisions
10 of section 375-i of the retirement and social security law, and who, for
11 reasons not ascribable to their own negligence failed to make a timely
12 application to participate in such optional retirement plan. The village
13 of Mamaroneck may so elect by filing with the state comptroller, on or
14 before December 31, 2010, a resolution of its legislative body together
15 with certification that any such police officers did not bar themselves
16 from participation in such retirement plan as a result of their own
17 negligence. Thereafter, such police officers may elect to be covered by
18 the provisions of section 384-d of the retirement and social security
19 law, and shall be entitled to the full rights and benefits associated

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

LBD14671-08-0

1 with coverage under such section, by filing a request to that effect
2 with the state comptroller on or before June 30, 2011.
3 § 2. All costs associated with implementing the provisions of this act
4 shall be borne by the village of Mamaroneck.
5 § 3. This act shall take effect immediately.

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

This bill will allow the Village of Mamaroneck to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for all Police Officers currently employed by the Village.

If this bill is enacted and the two eligible officers become covered under Section 384-d, we anticipate that there will be an increase of approximately $9,900 in the annual contributions of the Village of Mamaroneck for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $165,000 which would be borne by the Village of Mamaroneck as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2011.

This estimate, dated January 11, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-57, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 519 Signed September 17, 2010

STATE OF NEW YORK

S. 6926--A A. 10026--A

SENATE - ASSEMBLY

February 25, 2010

IN SENATE -- Introduced by Sen. WINNER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. O'MARA -- 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 authorize the county of Chemung to offer an optional twenty-five year retirement plan to certain deputy sheriffs

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the county of Chemung, a participating employer in the New York state
3 and local police and fire retirement system, which previously elected to
4 offer the optional twenty-five year retirement plan established pursuant
5 to section 551 of the retirement and social security law, to sheriffs,
6 undersheriffs and deputy sheriffs employed by such county, is hereby
7 authorized to make participation in such plan available to Michael
8 Skrosknik, E. Scott Smith, Joseph Dieterle, Richard Mathews, Kasey
9 Slater, Ryan Wheeler, James Ritter and John M. Allen, deputy sheriffs
10 employed by the county of Chemung, who, for reasons not ascribable to
11 their own negligence failed to make timely application to participate in
12 such optional twenty-five year retirement plan. The county of Chemung
13 may so elect by filing with the state comptroller, on or before December
14 31, 2010, a resolution of the Chemung county legislature together with
15 certification that such deputy sheriffs did not bar themselves from
16 participation in such retirement plan as a result of their own negli-
17 gence. Thereafter, such deputy sheriffs may elect to be covered by the
18 provisions of section 551 of the retirement and social security law, and
19 shall be entitled to the full rights and benefits associated with cover-

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

LBD14423-06-0

1 age under such section, by filing a request to that effect with the
2 state comptroller on or before June 30, 2011.
3 § 2. All past service costs associated with implementing the
4 provisions of this act shall be borne by the county of Chemung.
5 § 3. This act shall take effect immediately.

FISCAL NOTE.--This bill will authorize Chemung County to reopen the provisions of Section 551 of the Retirement and Social Security Law for deputy sheriffs Michael Skrosknik, E. Scott Smith, Joseph Dieterle, Richard Mathews, Kasey Slater, Ryan Wheeler, James Ritter, and John M. Allen who are currently not covered by that Section.

If this bill is enacted, we anticipate that there would be an estimated increase in the annual contributions of Chemung County of approximately $3,900 for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $2,500 which will be borne by Chemung County, assuming a payment date of February 1, 2011.

This estimate, dated February 12, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-89, prepared by the Actuary for the New York State and Local Employees' Retirement System.

Chapter 520 Signed September 17, 2010

STATE OF NEW YORK

6984

IN SENATE

March 3, 2010

Introduced by Sen. LARKIN -- 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 Montgomery, in the county of Orange, to offer an optional twenty year retirement plan to police officer Kenneth M. Byrnes

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 Montgomery, in the county of Orange, 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, and the additional pension benefits to members of such plan, established pursuant to section 384-e of the retirement and social security law, to police officers employed by such town, is hereby authorized to make participation in such plan and benefits available to Kenneth M. Byrnes, a police officer employed by the town of Montgomery, who, for reasons not ascribable to his own negligence failed to make a timely application to participate in such optional twenty year retirement plan and the additional pension benefits therefor. The town of Montgomery may so elect by filing with the state comptroller, on or before December 31, 2010, a resolution of its town board together with certification that such police officer did not bar himself from participation in such retirement plan and additional pension benefits as a result of his own negligence. Thereafter, such police officer may elect to be covered by the provisions of sections 384-d and 384-e of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such sections, by filing a request to that effect with the state comptroller on or before June 30, 2011.

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

§ 3. This act shall take effect immediately.

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

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

LBD06315-05-0

This bill will allow the Town of Montgomery to elect to reopen the provisions of Section 384-d together with 384-e of the Retirement and Social Security Law for police officer Kenneth M. Byrnes. There are other police officers who are similarly situated who are not covered by this legislation.

If this bill is enacted, and officer Byrnes becomes covered under Section 384-e, we anticipate that there will be an increase of approximately $5,800 in the annual contributions of the Town of Montgomery for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $123,000 which would be borne by the Town of Montgomery as a one time payment. This estimate is based on the assumption that payment will be made on February 1, 2011.

This estimate, dated February 5, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-85, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 521 Signed September 17, 2010

STATE OF NEW YORK

7182--A

IN SENATE

March 19, 2010

Introduced by Sen. LARKIN -- 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 Cornwall-on-Hudson, in the county of Orange, to offer an optional twenty year retirement plan to certain police officers

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 Cornwall-on-Hudson, in the county of Orange, 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 Patricia Willard, Jill Nye, Seth Armstrong and Michael Lug, police officers employed by the village of Cornwall-on-Hudson, who, for reasons not ascribable to their own negligence failed to make timely applications to participate in such optional twenty year retirement plan.

The village of Cornwall-on-Hudson may so elect by filing with the state comptroller, on or before December 31, 2010, a resolution of its governing body 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, 2011.

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the village of Cornwall-on-Hudson over a period of ten years.

§ 3. This act shall take effect immediately.

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

LBD16451-03-0

FISCAL NOTE.--This bill will allow the Village of Cornwall-on-Hudson to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for Police Officers Seth T. Armstrong, Michael G. Lug, Jill L. Nye, and Patricia Willard.

If this bill is enacted and the above officers become covered under Section 384-d, we anticipate that there will be an increase of approximately $2,300 in the annual contributions of the Village of Cornwall-on-Hudson for the fiscal year ending March 31, 2011.

In addition to the contributions discussed above, there will be an immediate past service cost of approximately $81,700, assuming payment will be made on February 1, 2011. The Village may amortize this cost over a period of ten (10) years. The first year cost, including interest, will be approximately $11,300.

This estimate, dated May 20, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-167, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 525 Signed September 17, 2010

STATE OF NEW YORK

7544--A
Cal. No. 1102

IN SENATE

April 20, 2010

Introduced by Sens. VALESKY, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee and committed to the Committee on Rules -- reported favorably from said committee, 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 to amend the retirement and social security law, in relation to allowing state police officers to receive an improved death benefit where such officers die without twenty years of service credit

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

1 Section 1. Subdivision aaa of section 360-a of the retirement and
2 social security law, as added by chapter 358 of the laws of 2002, is
3 amended to read as follows:
4 aaa. Provided further, notwithstanding any other provision of this
5 article to the contrary, where the member is an officer or member of the
6 state police and would have been entitled to a service retirement bene-
7 fit at the time of his or her death and where his or her death occurs on
8 or after July first, two thousand, the beneficiary or beneficiaries may
9 elect to receive, in a lump sum, an amount payable which shall be equal
10 to the pension reserve that would have been established had the member
11 retired on the date of his or her death, or the value of the death bene-
12 fit and the reserve-for-increased-take-home-pay, if any, whichever is
13 greater. **Provided further, that for the purpose of determining entitle-**
14 **ment to the benefit provided by this subdivision, and notwithstanding**
15 **the provisions of subdivision j of section three hundred forty-one of**
16 **this article, the total number of days of unused sick leave and accumu-**
17 **lated vacation credit accrued by the member at the time of his or her**
18 **death shall be considered in meeting the total creditable service**
19 **required to qualify for a service retirement benefit provided without**

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

LBD16864-03-0

regard to age where his or her death occurs on or after July second, two thousand nine.

§ 2. Paragraph 2 of subdivision b of section 448 of the retirement and social security law, as amended by chapter 666 of the laws of 2002, is amended to read as follows:

2. Provided further, notwithstanding any other provision of this article to the contrary, where the member is a police officer or firefighter and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand, the beneficiary or beneficiaries nominated for the purposes of this subdivision may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater, provided further **that for the purpose of determining entitlement to the benefit provided by this subdivision, and notwithstanding subdivision j of section three hundred forty-one of this chapter, where the member is an officer or member of the state police the total number of days of unused sick leave and accumulated vacation credit accrued by the member at the time of his or her death shall be considered in meeting the total creditable service required to qualify for a service retirement benefit provided without regard to age where his or her death occurs on or after July second, two thousand nine. Provided further** that where such police officer or firefighter dies on or after July first, two thousand, after having retired from service, but before a first payment of a retirement allowance, such person shall be deemed to have been in service at the time of his or her death for the purposes of this subdivision only, and provided further that the pension reserve established pursuant to this paragraph for a person who dies after retiring from service, but before first payment of a retirement allowance, shall be determined as of the date of retirement and any pension payments payable for the period of time prior to the retiree's death shall be deducted from any benefits payable pursuant to this subdivision.

§ 3. All past service costs incurred due to enactment of this legislation shall be borne by the state of New York.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 2, 2009.

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

This bill will provide an improved death benefit equal to the pension reserve to the beneficiaries of State Police Officers by allowing their unused vacation and sick leave credit to be included with their service credit for the purpose of determining retirement eligibility. All past service costs will be paid by the State of New York, and all future costs will be shared and spread over the future working lifetimes of current members.

If this bill is enacted, for the one person known to be affected, we anticipate that there will be a cost to the State of New York of approximately $357,000, based on a billing date of March 1, 2011. In the future, we anticipate that there will be few individuals affected by this legislation.

This estimate, dated March 31, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-126, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Chapter 538 Signed October 1, 2010

STATE OF NEW YORK

5634

2009-2010 Regular Sessions

IN SENATE

May 22, 2009

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

AN ACT to amend the public authorities law, in relation to designation of certain officers and employees of subsidiary corporations as public officers or public employees

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

Section 1. Paragraph (a) of subdivision 9 of section 1265 of the public authorities law, as amended by chapter 415 of the laws of 1966, is amended to read as follows:

(a) Notwithstanding section one hundred thirteen of the retirement and social security law or any other general or special law, the authority and any of its subsidiary corporations may continue or provide to its affected officers and employees any retirement, disability, death or other benefits provided or required for railroad personnel pursuant to federal or state law[~~. **Notwithstanding any provisions of the civil service law, no officer or employee of a subsidiary corporation of the authority, other than a public benefit subsidiary corporation, shall be a public officer or a public employee**~~];

§ 2. This act shall take effect immediately.

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

LBD11512-01-9

APPROVAL MEMORANDUM - No. 30 Chapter 538

MEMORANDUM filed with Senate Bill Number 5634, entitled:

"AN ACT to amend the public authorities law, in relation to designation of certain officers and employees of subsidiary corporations as public officers or public employees"

APPROVED

Public Authorities Law (PAL) Section 1265(9)(a) provides that the Metropolitan Transportation Authority (MTA) and its subsidiaries may continue to provide its affected officers and employees with any retirement, disability, death or other benefits provided or required for railroad personnel pursuant to federal or State law. It then states: "Notwithstanding any provisions of the civil service law, no officer or employee of a subsidiary corporation of the authority, other than a public benefit subsidiary corporation, shall be a public officer or employee" (emphasis added).

This bill would delete the sentence above quoted. According to the sponsors, this sentence "prohibits the MTA Capital Construction Company...from hiring civil service employees, thereby requiring it to "borrow employees in professional titles such as architects, engineers, draft persons and others from parts of the MTA." The sponsors contend that the inability to hire civil service employees "lends itself to poor hiring and retention practices" and "disregard for the merit and fitness system in the agency." They also contend that allowing the MTA Capital Construction Company to hire qualified civil servants will save the MTA money because it will no longer have to contract out for these professional services.

Contrary to the sponsors' contention, the sentence at issue does not address hiring of civil service employees by subsidiaries of the MTA Capital Construction Company, and its deletion, therefore, does not bear on civil service hiring.

I understand that the provision sought to be deleted was enacted in 1965, as part of the law creating the MTA, in anticipation of the MTA acquiring the stock of the Long Island Rail Road (LIRR), to ensure that retirement, disability, death or other benefits provided or required for LIRR railroad personnel pursuant to federal or State law would not be affected by the acquisition. However, the LIRR subsequently was reorganized as a public benefit corporation, which rendered this language obsolete. Since this is a vestigial provision that not longer has any meaning, and appears to have caused some confusion, I think it wise to remove it, which result this bill accomplishes.

Finally, the sponsors assert in their memoranda that the bill would "require the MTA's subsidiary corporations to utilize public employees for their day to day operations." The bill clearly does nothing of the kind. The provision removed by this legislation did not apply to the MTA's subsidiaries, as they are all public benefit subsidiary corporations. The removal of a phrase that on its face does not apply to the MTA's subsidiaries cannot have any impact on those entities, much less compel them to make what would be, in some instances, significant changes in their operating practices. Since the text of the legislation itself does not in any way bring about the result the sponsors describe, I need not consider the merits of such a proposal in signing this bill into law.

The bill is approved. (signed) DAVID A. PATERSON

2010

Section II

Vetoed Legislation Affecting the New York State and Local Retirement System

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Veto M.6726 Vetoed July 30, 2010

STATE OF NEW YORK

5633--A

2009-2010 Regular Sessions

IN SENATE

May 22, 2009

Introduced by Sens. SAVINO, AUBERTINE, VALESKY -- 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 deferral of vacation days for certain members of the retirement system

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

Section 1. Section 89 of the retirement and social security law is amended by adding a new subdivision l to read as follows:

l. Notwithstanding the provisions of any general, special or local law, code, resolution or charter to the contrary, uniformed persons, uniformed personnel, or security hospital treatment assistants as defined in subdivision i of this section shall be afforded the option of postponing the use of up to five vacation days per year and taking a monetary payment in lieu thereof on the date of retirement at the pay rate applicable to such member on the date of such member's retirement. Such monetary payment shall not be utilized in the determination of final average salary for any such member who so elects to postpone vacation days pursuant to this subdivision. Any such member wishing to postpone the use of vacation days pursuant to this subdivision shall elect such postponement on an annual basis by certifying to the director of personnel of his or her respective employer of his or her intention to do so in such manner and form as the respective director shall so require.

§ 2. This act shall take effect immediately.

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

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

LBD14019-02-0

This bill would allow State Correction Officers and Security Hospital Treatment Assistants to postpone up to 5 days of vacation per year and take monetary payment in lieu thereof on the date of retirement.

If this bill is enacted, affected members would become eligible for increased lump sum payments at retirement. However, this legislation does not change any benefit calculations of the New York State and Local Employees' Retirement System (ERS). Therefore, there would not be a cost to ERS.

This estimate, dated January 19, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-81, prepared by the Actuary for the New York State and Local Employees' Retirement System.

VETO MESSAGE - No. 6723

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 3718-A, entitled:

"AN ACT to amend the retirement and social security law and chapter 511 of the laws of 1988 amending the retirement and social security law relating to a reduction in retirement age for certain members, in relation to extending the application of such provisions"

NOT APPROVED

This bill would extend until December 31, 2011, the period of employment used to calculate a reduced retirement age for members of the New York City Employees' Retirement System ("NYCERS") who hold the position of bridge and tunnel officer, bridge and tunnel sergeant, bridge and tunnel lieutenant, assistant bridge and tunnel maintainer, senior bridge and tunnel maintainer or laborer with the Triborough Bridge and Tunnel Authority ("TBTA members"). Currently, Retirement and Social Security Law ("RSSL") Article 16 provides for a reduction of the normal retirement age of 55 for TBTA members of Tier 1 and 62 for TBTA members of Tiers 2, 3 and 4. For each full year of employment occurring between December 31, 1970 and January 1, 2009, each TBTA member's normal retirement age is reduced by 4 months. Based on this calculation, these TBTA employees may retire prior to the attainment of the normal retirement age, without a reduction of their service retirement benefits.

The purpose of the bill is to extend the early retirement benefit of RSSL Article 16 to include credited service for employment through December 31, 2011. Thus, this bill would take effect immediately, be deemed to have been in full force and effect on or after December 31, 2008, and apply to employment performed by TBTA members on or before December 31, 2011 (instead of the existing cutoff of December 31, 2008). For example, if a member has 18 years of credited service as of December 31, 2008, under this extender bill he or she could reach 21 years of service as of December 31, 2011, and retire at age 55 (a reduction of seven years, or four months credit for each of the 21 years worked, from the regular retirement age of 62) without a reduction in his retirement

allowance.

Supporters of the bill point to a 1987 study of the National Institute of Occupational Safety and Health ("NIOSH"), which noted the early death risk to TBTA members who work in poorly ventilated tunnels and on bridges contaminated by unhealthy substances. They recount that Chapter 511 of the Laws of 1988, which enacted the TBTA early retirement benefit, was a response to the NIOSH report. The bill's proponents contend that inasmuch as the conditions noted in the study have not been abated, the legislature periodically has renewed this benefit. Supporters state that Chapter 665 of the Laws of 2007 and Chapter 91 of the Laws of 2008 created a task force to study toll plaza air quality in the City of New York, the final report of which is due in April 2011, and that this pension enhancement should be extended until the review of the findings of this study can be reviewed.

I acknowledge that the work of the TBTA members is physically demanding and performed under difficult conditions, and that over the last 22 years, the retirement age reduction benefit has served in part to recognize the hard work of TBTA members. I also believe it is important to determine any health impacts that may result from the present working conditions, so that they may be appropriately addressed. Yet those factors do not weigh in favor of extending the reduced retirement age under present conditions. The precarious fiscal condition of the State and its public authorities simply precludes the perfunctory extension of this law. Rather, I must apply the same scrutiny to this bill that ultimately led me last year to veto S.1409/A.3426, which would have extended Tier 2 pension benefits to new police officers and firefighters. As I stated at that time, state government is not operating in routine times. This sentiment is equally applicable now, when economic circumstances have demanded painful cuts to numerous important public functions, and require that the State's leadership scrutinize with great care practices whose continuation was previously taken for granted. Applying this heightened scrutiny, I cannot in good conscience extend a law that permits TBTA members to retire before their normal retirement age without a reduction in their service retirement benefits.

Many new public employees, including police officers and firefighters, now receive less generous pension benefits than their predecessors, as members of the new Tier 5 of the New York State Employees' Retirement System, or because of the veto described above. Members of NYCERS, however, were not included in the new Tier 5. The same austere fiscal reality that has constrained the benefits of other public employees, operates with respect to TBTA workers. Due to the recent economic downturn, pension costs will dramatically increase in the coming years. It would not be prudent to perpetuate this pension enhancement under such circumstances.

The bill is disapproved. (signed) DAVID A. PATERSON

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Veto M.6730 Vetoed July 30, 2010

STATE OF NEW YORK

6785

IN SENATE

February 5, 2010

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

AN ACT to amend the civil service law, in relation to continuation of health insurance benefits for public employees injured or taken ill in performance of duty

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

1 Section 1. The civil service law is amended by adding a new section
2 159-d to read as follows:
3 **§ 159-d. Health insurance benefits; public employees. Health insurance**
4 **benefits for a public employee injured or taken ill in the performance**
5 **of duty shall continue to be provided to such employee, and if applica-**
6 **ble, his or her spouse and/or dependents, at the same rate and to the**
7 **same extent as active employees within the same collective bargaining**
8 **unit occupying the same civil service position, until such time as the**
9 **member has returned to active service, has separated from service or**
10 **retires. Nothing in this section shall diminish or impair any rights**
11 **created by a collective bargaining agreement.**
12 § 2. This act shall take effect immediately.

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

LBD15711-01-0

VETO MESSAGE - No. 6726

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 5633-A, entitled:

"AN ACT to amend the retirement and social security law, in relation to the deferral of vacation days for certain members of the retirement system"

NOT APPROVED

This bill would amend the Retirement and Social Security Law ("RRSL") by adding a new RSSL Section 89(1) to permit certain employees of the Department of Correctional Services ("DOCS") and the Office of Mental Health ("OMH"), including but not limited to Corrections Officers ("COs") and Security Hospital Treatment Assistants ("SHTAs"), to defer up to 5 vacation days per year and receive the value of those days in a lump-sum payment at the time of retirement. The value of such days would be calculated at the pay rate applicable to each such eligible employee at the time of his or her retirement.

Supporters of the bill assert that it would establish a new savings mechanism for COs and SHTAs, who generally get 4 to 5 weeks of vacation per year, and would reduce the need for overtime usage while some employees are on vacation. The bill's sponsors and supporters also contend that the bill is necessary to retain veteran COs within DOCS, which stands to lose in the near future a significant number of its most experienced officers to retirement. The sponsors state that by giving veteran COs an option to defer vacation days and take a cash payment for the value of such days when they retire from State service, the bill would provide an incentive to such officers to remain on the job and provide additional months of public protection at no additional cost.

I appreciate the sponsors' effort to address a workforce issue without, in their view, imposing additional costs on the State. Nonetheless, since I believe that effort is based on a faulty calculus, I am constrained to veto this bill.

The bill would increase costs for the State when eligible employees cash out their deferred vacation days. The bill is not limited to employees approaching or past retirement age, whose retention is at issue, but would in fact be applicable to over 20,000 State employees. For a new CO who works 25 years, the bill would in theory enable him or her to defer and cash out a retirement 125 deferred vacation days, the equivalent of almost one-half year's pay. Moreover, the bill would require that such deferred vacation days be paid out at the rate an employee is earning at the time of retirement. Assuming modest raises for most of the 20,000 employees who would be eligible for the deferred vacation benefit under this bill, the pay rate applicable to deferred vacation days would far exceed the rate applicable when the employees initially postponed their vacation days earlier in their careers.

Further, while proponents contend that it would cut down on overtime usage, that too is a dubious assertion. This would only be the case if

DOCS regularly replaced COs on leave by use of overtime, rather than structuring its personnel usage to take such vacations into account. There is no evidence that the former is the case, and that the additional time worked as a result of this bill would result in a corresponding reduction of overtime.

In addition, a vacation deferral benefit like the one proposed in this bill should appropriately be the subject of bargaining under the Taylor Law. Vacation leave, the use of leave and payment for such leave are all negotiable terms of employment. Indeed, current agreements between the Executive Branch and the unions that represent its employees already provide for the ability of employees to cash out up to 30 days of vacation accruals at retirement. The vacation deferral benefit, which is not a retirement benefit, should only be considered in the context of collective negotiations between each bargaining unit and the State, in the context of a complete package of employee benefits and compensation. It should not be granted, in isolation, via statute.

Finally, the bill also has a substantial technical flaw that would complicate its implementation. The bill does not prescribe what would happen to an employee's deferred vacation days if an employee transfers to a title not covered by the legislation or if an employee is terminated, resigns or dies prior to his or her retirement. The lack of clarity on this issue would likely produce uncertainty and litigation.

The bill is disapproved. (signed) DAVID A. PATERSON

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Veto M.6732 Vetoed July 30, 2010

STATE OF NEW YORK

7078

IN SENATE

March 10, 2010

Introduced by Sen. SAVINO -- 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 transfer of retirement membership for employees of SUNY within the professional, scientific and technical bargaining unit

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

Section 1. The retirement and social security law is amended by adding a new section 618 to read as follows:

§ 618. Transfer of membership into New York state and local employees' retirement system. a. Definitions. Whenever used in this section:

1. The term "eligible employee" shall mean a person who as of the effective date of this section is an employee of the state university of New York in a position within the professional, scientific and technical bargaining unit and who is as of said effective date a member of the optional retirement program and who first became an employee of the state university of New York on a date between January first, nineteen hundred ninety-four and December thirty-first, two thousand and who is still employed by the state university of New York as of the date said employee files an application pursuant to subdivision b of this section;

2. The term "optional retirement program" shall mean the optional retirement program established pursuant to article eight-B of the education law.

b. Notwithstanding any other provision of law, an eligible employee shall be allowed to become a member of the New York state and local employees' retirement system by filing an application with said retirement system no later than December thirty-first, two thousand eleven.

c. An eligible employee who files an application to become a member of the New York state and local employees' retirement system shall be deemed to be a member of that retirement system with a date of membership as of the date said eligible employee was first employed by the state university of New York. The eligible employee's membership in the optional retirement program shall terminate as of the date said application is filed.

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

LBD16067-01-0

d. An eligible employee who becomes a member of the New York state and local employees' retirement system pursuant to subdivision b of this section shall begin accruing service credit in said retirement system as of the date such application is filed, but said eligible employee shall not be entitled to any previous service credit for any period of employment during which said eligible employee was a member of the optional retirement program, except as provided in this section. An eligible employee who becomes a member of the New York state and local employees' retirement system pursuant to subdivision b of this section may elect to purchase credit for previous service for any period during which said employee was a member of the optional retirement program by filing an application with the New York state and local employees retirement system no later than December thirty-first, two thousand eleven and by paying to said retirement system an amount as determined by the comptroller equal to the full cost of such previous service credit purchased. Said payment may be made by a transfer of funds from the employee's optional retirement program account to the New York state and local employees' retirement system. Said payment may also be made in one payment by the employee or by payroll deduction over a period not to exceed five years.

§ 2. This act shall take effect immediately.

FISCAL NOTE: Pursuant to Legislative Law, Section 50:

This bill will allow employees of the State University of New York (SUNY) in a position within the Professional, Scientific and Technical bargaining unit, who first became employed with SUNY between January 1, 1994 and December 31, 2000, and who enrolled in the Optional Retirement Program to terminate their membership in the Optional Retirement Program and to apply to become members of the New York State and Local Employees' Retirement System (NYSLERS) as of such date of application. Affected members will have to pay the entire past service cost as determined by by Comptroller in order to get retirement service credit for the service rendered before their dates of membership.

If this bill is enacted, the number of employees who may be affected by this legislation cannot be readily determined. For every employee who does so elect, there will be an annual cost to the State of New York of approximately 9.2% of salary for the fiscal year ending March 31, 2011.

In addition to the annual cost above, for every member who elects this benefit, there will be a past service cost that will depend on the age, service and salary of the member. The members will be able to offset this cost by the transfer of funds from their Optional Retirement Program balances. For an individual member, if the amount transferred from the Optional Retirement Program is less than the past service cost, the member will have to make up the difference either as a one-time payment or by making a series of payments over a period of five (5) years.

This estimate, dated January 6, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-9, prepared by the Actuary for the New York State and Local Employees' Retirement System.

VETO MESSAGE - No. 6815

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 6967-A, entitled:

"AN ACT to authorize the town of North Greenbush to offer an optional twenty year retirement plan to certain police officers employed by such town"

NOT APPROVED

North Greenbush police officers are eligible to join an optional 20-year retirement plan authorized by Retirement and Social Security Law ("RSSL") Section 384-d. According to the sponsors' memoranda, seven police officers were not offered the 20-year retirement plan when they were hired. Thus, for reasons not ascribable to the negligence of the officers, they failed to make a timely application to participate in the optional 20-year retirement plan.

The bill would authorize North Greenbush to re-open the optional 20-year retirement plan authorized by RSSL Section 384-d, to allow the enrollment of these police officers: Kate Anslow, Joseph Farrell, Lisa Giddings-Fumarola, Michael Merola, Randy Pastore, Douglas Pinzer and Clifford Ruschmeyer. All past service costs associated with implementing the provisions of the bill would be borne by North Greenbush.

According to the fiscal note, the legislation would lead to an increase of approximately $21,700 in the annual pension contributions of North Greenbush for the fiscal year ending March 31, 2011, and there would be an immediate past service cost of approximately $221,000, which would be borne by North Greenbush as a one-time payment.

North Greenbush originally sought this legislation. Since the Legislature passed the bill, however, it has become clear that North Greenbush would not be able to amortize the prior service cost associated with the seven officers. At the same time, current budget constraints would prevent North Greenbush from being able to pay such costs from operating funds. In light of this situation, the town supervisor and the town board of North Greenbush have indicated that they no longer support the bill.

In matters that impact only one jurisdiction, it is important to give some deference to the wishes of that local government. Inasmuch as this bill applies only to North Greenbush, and to the extent the town has indicated it does not want this bill enacted, I am constrained to veto it.

The bill is disapproved. (signed) DAVID A. PATERSON

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Veto M.6770 Vetoed August 13, 2010

STATE OF NEW YORK

8225

IN SENATE

June 16, 2010

Introduced by Sens. ONORATO, SAVINO -- 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 alternative retirement benefits for certain members employed by the power authority of the state of New York

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

Section 1. The retirement and social security law is amended by adding a new section 89-x to read as follows:

§ 89-x. Alternative retirement benefits for qualifying members employed by the power authority of the state of New York at the Charles Poletti 825 megawatt powerhouse. a. Definitions. For purposes of this section:

1. "Charles Poletti 825 mw powerhouse" shall mean the power authority's operations at the eight hundred twenty-five (nominal) megawatt oil and gas fired electric generator powerhouse located in the borough of Queens, city of New York which ceased operation pursuant to an opinion and order of the New York state board on electric generation siting and the environment (case 99-F-1627) issued the second day of October, two thousand two. "Charles Poletti 825 mw powerhouse" shall not include any administration building, warehouse, 500 mw combined cycle plant or any other building or structure on the Poletti site.

2. "Open period" shall mean the period beginning on the first day of August, two thousand ten and ending on the fifteenth day of November, two thousand ten.

3. "Power authority" shall mean the power authority of the state of New York created pursuant to title one of article five of the public authorities law.

4. "Creditable service" shall include any and all services performed by a qualifying member while a member of a public retirement system in the state of New York.

5. "Qualifying member" shall mean any member who:

(i) has been represented by UWUA, Local 1-2, an employee organization as defined by subdivision five of section two hundred one of the civil

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

LBD17687-03-0

service law that was a party to a collective bargaining agreement with the power authority;

(ii) as of the first day of August, two thousand ten was not a provisional employee and was employed by the power authority to perform job duties at the Charles Poletti 825 mw powerhouse in one of the following job titles under such collective bargaining agreement: operating mechanic A, control operator B, mechanic A, control operation A, records and document clerk, or senior electrical technician (not assigned to metering engineering); and

(iii) on or before the fifteenth day of November, two thousand ten reached fifty years of age.

b. Eligibility. 1. Any qualifying member shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

2. Any such qualifying member shall be eligible to retire pursuant to this section without reduction of his or her retirement benefit after the completion of twenty-five years of creditable service by filing an application therefor with the comptroller during the open period not less than thirty days prior to the effective date of retirement in a manner similar to that provided in section seventy of this article.

3. No qualifying member shall be reassigned from the Charles Poletti 825 mw powerhouse to any other location at Poletti after March first, two thousand ten unless awarded a position in connection with the bidding process under the collective bargaining agreement.

c. Nothing in this section shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit for any other plan of this article to which such member is subject.

§ 2. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 295 of the laws of 2007, is amended to read as follows:

a. No member of a retirement system who is subject to the provisions of this article shall retire without regard to age, exclusive of retirement for disability, unless he is a policeman, an investigator member of the New York city employees' retirement system, fireman, correction officer, a qualifying member as defined in section eighty-nine-t, as added by chapter six hundred fifty-seven of the laws of nineteen hundred ninety-eight, of this chapter, sanitation man, a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), school safety agent, campus peace officer or a taxi and limousine commission inspector member of the New York city employees' retirement system or the New York city board of education retirement system, a dispatcher member of the New York city employees' retirement system, a police communications member of the New York city employees' retirement system, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city employees' retirement system, a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter or employed in Suffolk county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred eighty-eight of the laws of nineteen hundred ninety-seven, of this chapter, employed in Suffolk county as a correction officer, as defined in section eighty-nine-f of this chapter, or employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff,

undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, or employed in Nassau county as an ambulance medical technician, an ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, as defined in section eighty-nine-s, as amended by chapter five hundred seventy-eight of the laws of nineteen hundred ninety-eight, of this chapter, or employed in Nassau county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred ninety-five of the laws of nineteen hundred ninety-seven, of this chapter, or employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer, as defined in section eighty-nine-h of this chapter or is employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-i of this chapter or is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-l of this chapter or is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-j of this chapter or is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer, as defined in section eighty-nine-k of this chapter or is employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in such section eighty-nine-p or is employed in Broome County as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-m of this chapter or is a Monroe county deputy sheriff-court security, or deputy sheriff-jailor as defined in section eighty-nine-n, as added by chapter five hundred ninety-seven of the laws of nineteen hundred ninety-one, of this chapter or is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-o of this chapter or is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter or is employed by Suffolk county as a park police officer, as defined in section eighty-nine-r of this chapter or is a peace officer employed by a county probation department as defined in section eighty-nine-t, as added by chapter six hundred three of the laws of nineteen hundred ninety-eight, of this chapter or is employed in Rockland county as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter as added by chapter four hundred forty-one of the laws of two thousand one, or is employed in Rockland county as a superior correction officer as defined in section eighty-nine-v of this chapter as added by chapter five hundred fifty-six of the laws of two thousand one or is a paramedic employed by the police department in the town of Tonawanda and retires under the provisions of section eighty-nine-v of this chapter, as added by chapter four hundred seventy-two of the laws of two thousand one, or is a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal or chief fire marshal employed by the county of Nassau as defined in section eighty-nine-w of this chapter and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age **or is a qualifying member as defined in subdivision a of section eighty-nine-x of this chapter**. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article, subdivision c of

section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, a member in such a plan and such an occupation, other than a policeman or investigator member of the New York city employees' retirement system or a fireman, shall not be permitted to retire prior to the completion of twenty-five years of credited service; provided, however, if such a member in such an occupation is in a plan which permits retirement upon completion of twenty years of service regardless of age, he may retire upon completion of twenty years of credited service and prior to the completion of twenty-five years of service, but in such event the benefit provided from funds other than those based on such a member's own contributions shall not exceed two per centum of final average salary per each year of credited service.

§ 3. Section 603 of the retirement and social security law is amended by adding a new subdivision u to read as follows:

u. The service retirement benefit specified in section six hundred four of this article shall be payable to qualifying members as defined in subdivision a of section eighty-nine-x of this chapter if such qualifying members have met the minimum twenty-five years creditable service requirement as defined in such section upon retirement. Any such qualifying member shall be entitled to retire by filing an application therefor during the open period as defined in section eighty-nine-x of this chapter, in a manner similar to that provided in section seventy of this chapter.

§ 4. Section 604 of the retirement and social security law is amended by adding a new subdivision u to read as follows:

u. The service retirement benefit for a member who is a qualifying member as defined in subdivision a of section eighty-nine-x of this chapter shall be a pension equal to one-fiftieth of final average salary times years of qualifying service, as defined in section eighty-nine-x of this chapter, at the completion of at least twenty-five years of such service.

§ 5. This act shall take effect immediately.

FISCAL NOTE.--This bill will create new Sections 89-x, 603(u) and 604(u) of the Retirement and Social Security Law which will provide a new retirement benefit for employees of the New York Power Authority who are employed at the Charles Poletti Power Project. This new benefit will be available to such members who are at least age fifty, who have at least twenty-five years of service credit, and who retire between August 1, 2010 and November 1, 2010. This new benefit will be 2% of Final Average Salary for each year of service credit.

If this bill is enacted, it is estimated that there will be an immediate past service cost of approximately $2.57 million which will be borne by the New York Power Authority as a one time payment on February 1, 2011.

This cost is based on a list of sixteen eligible members supplied to us by the New York Power Authority. If other members became affected, this cost will change.

This estimate, dated December 10, 2009 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-51, prepared by the Actuary for the New York State and Local Employees' Retirement System.

VETO MESSAGE - No. 6732

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 7078, entitled:

"AN ACT to amend the retirement and social security law, in relation to transfer of retirement membership for employees of SUNY within the professional, scientific and technical bargaining unit"

NOT APPROVED

This bill would amend the Retirement and Social Security Law ("RSSL") by adding a new RSSL section 618 to allow certain employees of the State University of New York ("SUNY") who were hired between January 1, 1994 and December 31, 2000 to transfer their membership from the Optional Retirement Program ("ORP") to the New York State and Local Employees Retirement System ("ERS"). The former is a defined contribution plan unique to employees of the state and city university system; the latter is a "defined benefit" plan. The employees who would be eligible for such transfer are those currently employed by SUNY in positions within the professional, scientific, and technical bargaining unit (the "PST Unit"), the members of which are represented by the Public Employees Federation ("PEF"). The bill would provide that an eligible employee who transfers from ORP to ERS would be deemed to have membership in ERS from the date he or she was first employed by SUNY. An employee who transfers to ERS would have the option to purchase credit for his or her previous service for any period during which he or she was a member of ORP by paying to ERS by December 31, 2011 an amount as determined by the State Comptroller equal to the full cost of such previous service credit. Such payment could be made by a transfer of funds from the employee's ORP account to ERS, by one payment by the employee or by payroll deduction over a period not to exceed five years.

According to the sponsors' memoranda, from 1994 through 2000, some employees in temporary nursing titles were misinformed as to their retirement options and were directed to join ORP. The bill's supporters maintain that these employees should have been given the option of joining another retirement system such as ERS. They contend that when these employees became permanent, they were assigned to the PST Unit. SUNY employees in non-faculty positions who are in the PST Unit are generally eligible for membership only in ERS and do not have the option to join ORP. Education Law section 393, however, prohibits an employee from transferring from ORP to another retirement system so long as he or she is continuously employed by SUNY. As a result, these employees continue to be members of ORP despite the fact that they are employed in job titles that would typically make them eligible for membership in ERS. Thus, the bill is intended by its proponents to correct what they view as an error in the enrollment of certain members in ORP.

Unfortunately, although I am sympathetic to the purpose of this bill, I am constrained to veto it, for several reasons. First, it is not clear to me that these employees would be disadvantaged by continued membership in ORP, to which SUNY provides a generous employer contribution ranging from 8% to 13% depending on an employee's years of service.

Second, there is no way to determine whether in fact each of the employees at issue was misled into joining the ORP, as they contend, or simply regrets his or her decision to have done so now that the financial markets are no longer performing as they had been in the late 1990's, when membership in a defined contribution plan seemed particularly advantageous. It is difficult to know, in short, how to separate the current bill from an effort in which employees seek to reverse pension choices they made after the fact.

Third, the bill's definition of an "eligible employee" who could transfer from ORP to ERS is "a person who as of the effective date of this section is an employee of the state university of New York in a position within the professional, scientific and technical bargaining unit and who is as of said effective date a member of the optional retirement program and who first became an employee of the state university of New York on a date between January first, nineteen hundred ninety-four and December thirty-first, two thousand..." While supporters of the bill claim that it would apply to a limited group of temporary nursing titles, the language is broader. For example, it would encompass members of the United University Professions bargaining unit and management/confidential employees who later become part of the PS&T unit. As the Actuary for ERS points out in his fiscal note, it is not possible to determine the number of employees who may be affected by the legislation.

Fourth, while proponents contend there is no cost to this bill, that is not clear. For one thing, the annual cost of ERS next year, as a result of recent increases in contribution rates, will be higher than for ORP. Further, the bill's delineation of the process for transferring funds from ORP to ERS also creates uncertainty about the fiscal impact on the State. The bill provides that an eligible employee who becomes a member of ERS:

may elect to purchase credit for previous service for any period during which said employee was a member of the optional retirement program by filing an application with the New York state and local employees retirement system...and by paying to said retirement system an amount as determined by the comptroller equal to the full cost of such previous service credit purchased. Said payment may be made by a transfer of funds from the employee's optional retirement program account to the New York state and local employees' retirement system. Said payment may also be made in one payment by the employee or by payroll deduction over a period not to exceed five years.

The problem with this language is that it requires the eligible employee to transfer "an amount as determined by the comptroller." It is possible that the Comptroller would determine an amount less than the full cost of previous service credit, leaving it to the State to make up the difference in ERS. Indeed, the bill does not explicitly require the eligible employee to repay to ERS both the employee's and the employer's share of previous service credit he or she earned in ORP. This lack of specificity contrast with previous laws authorizing employees to buy back service credit. For example, Chapter 157 of the Laws of 2010, which

authorized certain employees of the New York City Construction Authority to purchase service credit for a period during which they were suspended from work, expressly required the employee to pay both the employee's and employer's share. In any case, even if this issue could be clarified via representations of the bill's supporters and the Comptroller, the bill would still be problematic for the reasons above stated.

The bill is disapproved. (signed) DAVID A. PATERSON

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Veto M.6805 Vetoed September 18, 2010

STATE OF NEW YORK

9950

IN ASSEMBLY

February 17, 2010

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the local finance law, in relation to authorizing and empowering the city of Kingston to amortize the cost of payments to employees upon separation of service from the city

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

1 Section 1. Paragraph a of section 11.00 of the local finance law is
2 amended by adding a new subdivision 105 to read as follows:
3 **105. Payments by the city of Kingston to employees upon separation**
4 **from employment, as may be approved by the city and including, but not**
5 **limited to, cash payment for separation incentives and/or payment of the**
6 **monetary value of accrued and accumulated but unused and unpaid sick**
7 **leave, personal leave, holiday leave, vacation time, time allowances**
8 **granted in lieu of overtime compensation and any other forms of payment**
9 **required to be paid to such employees upon separation from employment,**
10 **ten years.**
11 § 2. This act shall take effect immediately.

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

LBD15096-01-9

VETO MESSAGE - No. 6805

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 9950, entitled:

"AN ACT to amend the local finance law, in relation to authorizing and empowering the city of Kingston to amortize the cost of payments to employees upon separation of service from the city"

NOT APPROVED

In August 2009 and December 2009, the City of Kingston ("Kingston") offered its retirement-eligible employees a $10,000 incentive to separate from service (the "2009 retirement incentive") between January 1 and March 31, 2010. Of the 25 employees eligible for the 2009 retirement incentive, 14 applied, representing about 4% of Kingston's workforce. The total cost of the 2009 retirement incentive was $451,803, reflecting $140,000 for the incentive payments, $279,696 for accrued leave time, and $32,107 for the FICA tax on each. Kingston has eliminated 12 of the 14 positions, for an estimated annual savings of $785,423, or 2.4% of the city's 2009 General Fund expenditures of $33.4 million.

This bill would authorize Kingston to finance the cost of the 2009 retirement incentive. Specifically, it would amend Local Finance Law (LFL) section 11.00(a) to establish a 10-year period of probable usefulness ("PPU") for payments by Kingston to employees upon their separation from service, including but not limited to retirement incentives and the monetary value of unused leave time. By establishing a 10-year PPU for such purpose, Kingston could finance such payments through the issuance of bonds with a maximum stated maturity equal to such PPU. Under current law, Kingston has no authority to issue bonds to finance a retirement incentive and the monetary value of unused leave time because the LFL does not establish a PPU for the purpose.

Kingston's 2010 budget assumes the City will issue bonds to finance the cost of the retirement incentive. Without this legislation, I understand that Kingston could face a $451,803 shortfall in its 2010 General Fund budget of $34.6 million, representing approximately 1.3% of budgeted appropriations, and Kingston would have to address this gap by enacting midyear spending cuts or using reserves, or both. Kingston's unreserved General Fund balance as of December 31, 2009, was $1.72 million - just over 5% of its 2009 General Fund revenues of $34.2 million.

Kingston, like all governments operating in these economically difficult times, is subject to significant budgetary constraints. But I do not believe that there is any advantage to be gained by the imprudent use of debt to avoid harsh fiscal realities. Indeed, my administration has continually cautioned and decided against improvident borrowing to fund state government operations. In my view, this thinking should also inform the policy choices that affect local government finances.

Kingston should not have made the dubious assumption in its 2010 budget that it would receive authorization to finance the costs of its retirement incentive with bond proceeds. Separation incentives represent a one-time operating expense that should not be financed by issuing long-term bonds. Rather, employers generally finance such incentives with a portion of the associated current-year benefit and salary savings - which the State did last year (2009-10), for example, when it offered a $20,000 separation incentive that was funded as a 2009-10 operating expense - an option that Kingston has precluded by booking the full savings in its budget.

If a local government nonetheless wishes to fund an early retirement incentive with debt, such financing should conform to guidance issued by the Government Finance Officers Association, which recommends that bonds

used to finance an early retirement incentive should mature in no more than three to five years. Thus, for example, the State prescribed a five-year PPU for the incentive programs of Suffolk County and the Middletown School District. And while the State last year permitted Nassau County and Rockland County to finance using a 10-year PPU, those exceptional cases were justified by unique circumstances not present with respect to Kingston. Both counties were facing severe budgetary problems as a result of the significant decline in sales tax collections that occurred in 2009. Rockland County experienced an $11 million General Fund deficit in 2009 even after borrowing $11.4 million to fund its retirement incentive program. Nassau County reported a modest $1.2 million budgetary surplus in its primary operating funds in 2009, but only after borrowing $80 million to finance its retirement incentive program and $64.5 million to finance tax certiorari payments. In Nassau's case, the longer term was also justified by the high cost of the incentive, which accelerated the retirement of County police officers whose collective bargaining agreement provided for many such officers to receive termination pay of more than double their annual salary upon retirement. Kingston, in contrast, is not reporting a substantial operating deficit in its current year and, if necessary, can pay the $451,803 cost of the 2009 retirement incentive by using a portion of its unreserved fund balance, which totaled around $1.7 million in 2009.

I am also troubled by the bill's open-ended authorization. The bill does not specify a period of time or particular event during which the bonds may be used. Insofar as the bill in theory would permit Kingston, in future years, to issue bonds to finance additional retirement incentives or even routine separation costs, it may encourage unsound fiscal practices in subsequent difficult budget years. This concern, moreover, is not merely theoretical. Indeed, it is my understanding that Nassau County, using the similar, open-ended authorization it received last year, plans to issue bonds again this year to finance another retirement incentive.

I empathize with Kingston concerning the tough governmental choices that will be required in the absence of this legislation. I am confident, however, that in the long run, the fiscal condition of Kingston, and ultimately the State, will be stronger if we do not look to imprudent borrowing as a quick fix to the current predicament. This bill would establish the wrong precedent, and I am therefore compelled to veto it.

The bill is disapproved. (signed) DAVID A. PATERSON

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Veto M.6815 Vetoed September 18, 2010

STATE OF NEW YORK

S. 6967--A A. 10054--A

Cal. No. 788

SENATE - ASSEMBLY

March 1, 2010

IN SENATE -- Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee and committed to the Committee on Finance -- 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

IN ASSEMBLY -- Introduced by M. of A. CANESTRARI -- read once and referred to the Committee on Governmental Employees -- reported 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 authorize the town of North Greenbush to offer an optional twenty year retirement plan to certain police officers employed by such town

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the town of North Greenbush, a participating employer in the New York
3 state and local police and fire retirement system, which previously
4 elected to offer the optional twenty year retirement plan, established
5 pursuant to section 384-d of the retirement and social security law, to
6 police officers employed by such town, is hereby authorized to make
7 participation in such plan available to Kate Anslow, Joseph Farrell,
8 Lisa Giddings-Fumarola, Michael Merola, Randy Pastore, Douglas Pinzer
9 and Clifford Ruschmeyer, police officers employed by the town of North
10 Greenbush, who, for reasons not ascribable to their own negligence,
11 failed to make a timely application to participate in such optional
12 twenty year retirement plan. The town of North Greenbush may so elect by
13 filing with the state comptroller, on or before December 31, 2010, a
14 resolution of its local legislative body together with certification
15 that such police officers did not bar themselves from participation in
16 such retirement plan as a result of their own negligence. Thereafter,

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

LBD16047-03-0

1 such police officers may elect to be covered by the provisions of
2 section 384-d of the retirement and social security law, and shall be
3 entitled to the full rights and benefits associated with coverage under
4 such section, by filing a request to that effect with the state comp-
5 troller on or before June 30, 2011.
6 § 2. All past service costs associated with implementing the
7 provisions of this act shall be borne by the town of North Greenbush.
8 § 3. This act shall take effect immediately.

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

This bill will allow the Town of North Greenbush to reopen the provisions of Section 384-d of the Retirement and Social Security Law for police officers Kate Anslow, Joseph Farrell, Lisa Giddings-Fumarola, Michael Merola, Randy Pastore, Douglas Pinzer and Clifford Ruschmeyer.

If this legislation is enacted during the 2010 legislative session, we anticipate that there will be an increase of approximately $21,700 in the annual contributions of the Town of North Greenbush for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $221,000, which would be borne by the Town of North Greenbush as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2011.

This estimate, dated June 9, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-172, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

VETO MESSAGE - No. 6730

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 6785, entitled:

"AN ACT to amend the civil service law, in relation to continuation of health insurance benefits for public employees injured or taken ill in performance of duty"

NOT APPROVED

This bill would amend the Civil Service Law ("CSL") by adding a new CSL Section 159-d to require that health insurance benefits for a public employee injured or taken ill in the performance of duty continue to be provided to such employee, and if applicable, to his or her spouse and dependents, at the same rate and to the same extent as active employees within the same collective bargaining unit occupying the same civil service position. Such coverage would continue until such time as the member has returned to active service, has separated from service or retires.

Supporters of the bill justify it on the grounds that in certain cases where a public employee is injured or becomes ill in the performance of duty, his or her employer may suspend the employee's health insurance coverage. While the effect of the suspension of such insurance coverage

may be ameliorated by alternate sources such as workers' compensation for an employee, the employee's spouse and other dependents may be uncovered for a period of time during the employee's period of injury or illness.

While I recognize the importance and value of health insurance to injured workers and their dependents, the following considerations constrain me to veto the bill.

The bill does not define the phrase "injured or taken ill in the performance of duty." This ambiguity raises questions such as what constitutes an injury, and what kind of illness would trigger the requirement to continue health insurance. In addition, the bill fails to specify whether the injury or illness must be directly related to the employee's work duties. As written, the bill could apply to an employee who experienced a medical emergency at his or her worksite that is unrelated to the performance of that employee's work. Thus, the bill would create a situation where any public employee who suffers any illness or injury at the workplace, regardless of whether it is related to his or her work duties, would be entitled to the continued health insurance benefit provided by the bill. Taken together, these ambiguities would produce significant additional costs for the State and local governments. At the very least, they would create disputes and litigation.

The bill contains other ambiguities. It does not define the term "public employee." As a result, the bill could reasonably be interpreted to mean all employees of the State, its political subdivisions, school districts, public colleges and universities, public authorities, and any other public entity. To the extent the bill would require local governments to provide health insurance coverage to individuals who would not otherwise be eligible for coverage, without providing funding, it would be an unfunded mandate that would increase costs to local governments and their taxpayers. For this reason, the New York State Conference of Mayors and Municipal Officials ("NYCOM") and the Association of Towns of the State of New York ("AOT") oppose the bill.

Drafting issues aside, the use of a statute to provide this health insurance benefit is itself problematic. The additional benefits provided by this bill should appropriately be addressed in collective bargaining. This bill, however, would statutorily require public employers to provide continued health insurance to injured or ill employees, without those employers being able to gain something in return in the normal give-and-take of negotiations. While many of the collective bargaining agreements already contain a similar benefit for many State employees, in those cases, the benefit was agreed to in the context of overall negotiations. This bill, instead, would provide a generous benefit outside the context of the collective bargaining process.

Finally, the bill would impose administrative costs that should not be overlooked. Most public employees pay for their health insurance with payroll deductions from their paychecks. But an individual who is injured in the performance of duties typically would be eligible for benefits under the Workers' Compensation Law. In that case, he or she would not continue to receive a paycheck from the public employer unless there was a contractually negotiated benefit that supplements the work-

ers' compensation benefit. Many public employers, then, would not have a mechanism in place to collect the employee's share of the health insurance premium and would need to implement a new process for collecting such employee's share. This would create additional costs for the employer in terms of administration of this benefit and the collection of those monies.

The bill is disapproved. (signed) DAVID A. PATERSON

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2010

Section III

Legislation Affecting
the Other New York
Public Retirement Systems

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Chapter 157 Signed July 9, 2010

STATE OF NEW YORK

S. 6215--A A. 9174--A

2009-2010 Regular Sessions

SENATE - ASSEMBLY

October 14, 2009

IN SENATE -- Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to the suspension of certain employees of the New York city school construction authority

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

Section 1. Section 1738 of the public authorities law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

§ 1738. Retirement of employees. **1.** Employees of the authority shall be eligible to join the board of education retirement system as established in section twenty-five hundred seventy-five of the education law and pursuant to the usual rules of that system, provided that a new employee who upon appointment by or transfer to the authority is a member of the New York city employees retirement system may remain a member of the New York city employees retirement system if, within ninety days of the effective date of the transfer to or appointment by the authority, the employee exercises an election to do so. Furthermore, the retirement rights of employees of the city board employed on the effective date of this title shall not be impaired by reason of the enactment of this title into law.

2. a. Notwithstanding the provisions of any other general or local law, administrative code or ordinance to the contrary, any employee of the authority who was suspended on or after December first, two thousand

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

LBD14810-02-0

two because of economy measures taken by the authority, and who returned to such service prior to January eighth, two thousand eight, shall be deemed to have been in continuous service in determining length of service for retirement purposes; provided, however, that for retirement purposes, a member receiving such service credit shall pay the additional member contributions prescribed by paragraph b of this subdivision. Notwithstanding any other provision of law to the contrary, a person who otherwise meets the requirements of this paragraph for obtaining retirement service credit for such period of suspension, and who, after returning to such service from such period of suspension, retired for service or disability from a position with the authority prior to the effective date of this subdivision, may obtain retirement service credit for such period of suspension by (i) filing with the retirement system an application to purchase such retirement service credit within one hundred twenty days after the effective date of this subdivision, and (ii) paying to the retirement system the amount required by paragraph b of this subdivision within one year after the effective date of this subdivision.

b. In addition to the regular member contributions that may be payable for his or her current service, such member shall pay by deductions from his or her compensation the following additional member contributions:

(i) all regular member contributions which such member would have been required to pay to the retirement system for such period of suspension if he or she had been in service during such period of suspension; and

(ii) if such member is a participant in a special plan, the additional member contributions attributable to participation in such special plan which he or she would have been required to pay to the retirement system for such period of suspension if he or she had been in service during such period of suspension; and

(iii) an amount equivalent to the additional costs to the employer of providing retirement service credit to such member for such period of suspension, as determined by the actuary for the retirement system.

c. The deductions for the additional member contributions referred to in paragraph b of this subdivision shall be made in accordance with such equitable method and over such equitable period of time as shall be prescribed by the executive director of the member's retirement system with the approval of the board of trustees.

d. The additional member contributions referred to in subparagraph (i) of paragraph b of this subdivision shall be paid into the account established by the retirement system for the deposit and accumulation of such member's regular member contributions. The additional member contributions referred to in subparagraph (ii) of paragraph b of this subdivision shall be paid into the contingent reserve fund of such retirement system and shall be subject to the provisions of law which govern additional member contributions in the special plan in which such member is a participant. The additional member contributions referred to in subparagraph (iii) of paragraph b of this subdivision shall be paid into the contingent reserve fund of such retirement system and shall not be subject to any retirement system right or privilege of such member, unless such right or privilege is granted by other provisions of law which specifically refer to additional member contributions made pursuant to subparagraph (iii) of paragraph b of this subdivision.

e. At any time prior to completion of the deductions for the additional member contributions referred to in paragraph b of this subdivision, payment of the remainder of the total of such additional contributions required by such paragraph may be made in a lump sum.

1 § 2. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50: PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Public Authorities Law Section 1738 to provide certain employees of the New York City School Construction Authority ("SCA") an opportunity to buy back service credit for time while suspended for economy measures on and after December 1, 2002 until their return to such service prior to January 8, 2008.

It is the understanding of the Actuary that the opportunity to buy back service credit would be voluntary and this Fiscal Note reflects that understanding.

The Effective Date of the proposed legislation would be the date of enactment.

IMPACT ON MEMBERSHIP: The proposed legislation would cover those Tier IV members of the New York City Employees' Retirement System ("NYCERS") and the New York City Board of Education Retirement System ("BERS") employed by SCA who were suspended on or after December 1, 2002 and who returned to such service prior to January 8, 2008, including those who may have retired prior to the Effective Date (collectively, "Returning Furloughed Members").

The Returning Furloughed Members participate in one of the following plans:

Basic Plan - Unreduced Service Retirement at attainment of age 62 and completion of five years of credited service or Reduced Service Retirement after attainment of age 55 and completion of five years of credited service, or

55/25 Early Retirement Program - Unreduced Service Retirement at attainment of age 55 and completion of 25 years of credited service, or

57/5 Program - Unreduced Service Retirement at attainment of age 57 and completion of 5 years of credited service.

IMPACT ON MEMBER CONTRIBUTIONS: Returning Furloughed Members of NYCERS and BERS would be permitted to voluntarily buy back service credit for their periods of suspension. It is the understanding of the Actuary that this would be permitted at any time prior to retirement for active employees.

Those Returning Furloughed Members who retired, subsequent to reemployment, for Service Retirement or for Disability Retirement, would be permitted to voluntarily buy back service credit for their periods of suspension prior to retirement by filing within 120 days of the Effective Date.

The following amounts would be required to be paid by each Returning Furloughed Member for each period of suspension, including accrued interest at a rate of 5.0% per annum:

Basic Member Contributions ("BMC"):

A rate of 3.0% of salary per year, during the first 10 years of membership or to the date of 10 years of credited service, if earlier.

Additional Member Contributions ("AMC"):

For those participating in the 55/25 Early Retirement Program or the 57/5 Program, a rate of 1.85% of salary per year not to exceed 30 years.

Extra Member Contributions ("EMC"):

An amount, as determined by the Actuary, equivalent to the additional costs to the employer of providing retirement service credit for the period of suspension.

For active employees, the method of payment, including the amount of periodic deduction from payroll and the time period needed to purchase the suspension time, would be prescribed by the respective Executive

Director and approved by the Board of Trustees for each of NYCERS and BERS.

For retirees who voluntarily elect to purchase service credits for their suspension time, the time period needed to purchase such service credits would be within one year of election.

The proposed legislation would also permit Returning Furloughed Members to make a lump sum payment equal to the balance owed on any BMC, AMC, and EMC to fully purchase such service credits.

EMC contributions would be considered employer contributions and would not be available for loan or refund.

IMPACT ON BENEFITS: The proposed legislation, if enacted, would permit Returning Furloughed Members to voluntarily acquire service credits for their periods of suspension.

Once acquired, these additional service credits would result in a Returning Furloughed Member having a greater retirement allowance and possibly an earlier vesting date, an earlier retirement date and other advantages.

In the event a Returning Furloughed Member were to terminate employment prior to completing the purchase of service credits for the entire suspension period, then the amount of service credited for such suspension period would be prorated based on the amount of layoff time considered purchased.

FINANCIAL IMPACT - EMPLOYER COST: The ultimate cost of a pension plan is the benefits it pays. The financing of that ultimate cost depends upon the amounts deposited by the employer and employee, the investment return and the actuarial assumptions and methods employed.

Under the proposed legislation any additional retirement benefit costs to purchase service credits for suspension time are intended to be borne by the members.

Thus, the enactment of the proposed legislation would be expected to be cost neutral to the City of New York and would not be expected to increase employer costs to NYCERS or BERS.

Thus, any increase in benefits after crediting service for suspension time would be paid for in full by the BMC, AMC and EMC of Returning Furloughed Members.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: If the proposed legislation were enacted during the 2010 Legislative Session prior to June 30, 2010 or after June 30, 2010 and prior to June 30, 2011, there would be no expected change in employer contributions to NYCERS or to BERS for Fiscal Year 2010 or after.

OTHER COSTS: Not measured in this Fiscal Note are any other possible non-retirement benefit costs such as increased administrative costs or additional medical costs or increases in the costs of certain Other Post-Employment Benefits ("OPEB") attributable to the potential earlier retirements of Returning Furloughed Members.

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 Qualification 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 2010 Legislative Session. It is Fiscal Note 2010-02, dated January 27, 2010, prepared by the Chief Actuary for the New York City Employees' Retirement System and the New York City Board of Education Retirement System.

APPROVAL MEMORANDUM - No. 4 Chapter 157

MEMORANDUM filed with Assembly Bill Number 9174-A, entitled:

"AN ACT to amend the public authorities law, in relation to the suspension of certain employees of the New York city school construction authority"

APPROVED

Due to a fiscal crisis, the New York City School Construction Authority (SCA) laid off certain employees beginning December 1, 2002. These employees, who were able to return to active service by January 8, 2008, were unable to earn pension credit during the time they were not working.

This bill would provide these SCA employees an opportunity to buy back service credit for time during which they were suspended from their employment due to difficult economic circumstances, beginning December 1, 2002 and ending when they returned to such service on or before January 8, 2008.

In general, I do not favor a policy of permitting employees to buy back service credit to cover periods when they were not working. Typically, such buy-back authorizations allow employees to increase their pensions by purchasing years of service, which they can count toward their retirement, without paying the full actuarial costs of those benefits.

In this case, however, the bill has been constructed so that all costs would be covered by the employees themselves. An employee seeking to buy back service credit would pay the regular member contributions which he or she would have been required to pay to the retirement system for the lay-off period, if he or she had been in service during such period. In addition, the employee would pay an amount equivalent to the additional costs to the employer of providing retirement service credit to such member for the period of the layoff, as determined by the actuary for the retirement system. As a result, the fiscal note on the bill indicates it would impose no costs on the employer or on the pension system.

Insofar as the bill does not impose any cost on the SCA and the SCA does not oppose it, such a proposal is appropriate in this limited instance, under these limited factual circumstances.

The bill is approved. (signed) DAVID A. PATERSON

Chapter 265 Signed July 30, 2010

STATE OF NEW YORK

10770

IN ASSEMBLY

April 20, 2010

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the administrative code of the city of New York, in relation to the rate of regular interest used in the actuarial valuation of liabilities for the purpose of calculating contributions to the New York city employees' retirement system, the New York city teachers' retirement system, the police pension fund, subchapter two, the fire department pension fund, subchapter two and the board of education retirement system of such city by public employers and other obligors required to make employer contributions to such retirement systems, and the crediting of special interest and additional interest to members of such retirement systems, and the allowance of supplementary interest on the funds of such retirement systems

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

Section 1. Paragraph 2 of subdivision b of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 211 of the laws of 2009, is amended to read as follows:

(2) With respect to each retirement system, such rate of interest shall be as hereinafter set forth in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	8%	July 1, 2004 to June 30, [~~2010~~] **2011**
NYCTRS	8%	July 1, 2004 to June 30, [~~2010~~] **2011**
PPF	8%	July 1, 2004 to June 30, [~~2010~~] **2011**

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

LBD16969-01-0

FPF	8%	July 1, 2004 to June 30, [~~2010~~] **2011**
BERS	8%	July 1, 2004 to June 30, [~~2010~~] **2011**

§ 2. Paragraph 2 of subdivision f of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 211 of the laws of 2009, is amended to read as follows:

(2) Such special interest shall be allowed at the rates and for the periods set forth below in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
NYCTRS	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
PPF	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
FPF	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
BERS	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**

§ 3. Paragraph 2 of subdivision g of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 211 of the laws of 2009, is amended to read as follows:

(2) Such additional interest shall be included at the rates and for the periods set forth below in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
NYCTRS	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
PPF	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
FPF	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**
BERS	1 1/4%	July 1, 2004 to June 30, [~~2010~~] **2011**

§ 4. Paragraph 2 of subdivision i of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 211 of the laws of 2009, is amended to read as follows:

(2) Such supplementary interest shall be allowed at the rates and for the periods set forth below in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	1%	July 1, 2004 to June 30, [~~2010~~] **2011**
NYCTRS	1%	July 1, 2004 to June 30, [~~2010~~] **2011**
PPF	1%	July 1, 2004 to June 30, [~~2010~~] **2011**
FPF	1%	July 1, 2004 to June 30, [~~2010~~] **2011**
BERS	1%	July 1, 2004 to June 30, [~~2010~~] **2011**

§ 5. This act shall take effect July 1, 2010, except that if it shall have become a law subsequent to such date, this act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2010.

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

PROVISIONS OF PROPOSED LEGISLATION - OVERVIEW:

The enactment of this proposed legislation (referred to hereafter as "Interest Rate Extender Legislation") would amend Administrative Code of the City of New York ("ACNY") Section 13-638.2 to continue for Fiscal Year 2011 for the five actuarially-funded New York City Retirement Systems ("NYCRS") the following rates that expire on June 30, 2010:

* The 8.25% per annum rate used to credit interest on Tier I and Tier II member account balances and Increased-Take-Home-Pay ("ITHP") Reserves, and

* The 8.0% per annum Actuarial Interest Rate ("AIR") assumption used to compute employer contributions.

The Effective Date for this proposed Interest Rate Extender Legislation would be July 1, 2010.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: The continuation for Fiscal Year 2011 of the same 8.25% per annum rate that was used for Fiscal Year 2010 to credit interest on Tier I and Tier II member contributions and ITHP Reserves would not change the amount or timing of expected employer contributions.

The continuation for Fiscal Year 2011 of the AIR assumption of 8.0% per annum that was used to determine employer contributions to the NYCRS for Fiscal Year 2010 would not change the expected amount or timing of employer contributions.

Note: The Actuary anticipates developing proposed changes in actuarial assumptions and methods to be effective for Fiscal Year 2011 but not until sometime during Fiscal Year 2011.

The financial impact of implementing those proposed changes in actuarial assumptions and methods can be expected to differ from the financial impact determined using the actuarial assumptions and methods continued from Fiscal Year 2010.

OTHER COSTS: Enactment of this proposed legislation would not be expected to produce any additional costs.

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 Qualification 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 2010 Legislative Session. It is Fiscal Note 2010-11, dated March 24, 2010, prepared by the Chief Actuary for the New York City Retirement Systems.

Chapter 286 Signed July 30, 2010

STATE OF NEW YORK

5748--A

2009-2010 Regular Sessions

IN SENATE

June 3, 2009

Introduced by Sen. SAVINO -- 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 definition of the term final average salary as applied to members of the New York city teachers' retirement system

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

1 Section 1. Subdivisions b and d of section 443 of the retirement and
2 social security law, subdivision b as added by chapter 379 of the laws
3 of 1986 and subdivision d as added by chapter 663 of the laws of 1990,
4 are amended to read as follows:
5 b. Notwithstanding the provisions of subdivision a of this section,
6 with respect to the members of the New York state employees' retirement
7 system [~~and~~], **the** New York state [~~policemen's and firemen's~~] **and local**
8 **police and fire** retirement system **and the New York city teachers'**
9 **retirement system**, the final average salary, shall be equal to one-third
10 of the highest total salary earned during any continuous period of
11 employment for which the member was credited with three years of service
12 credit, exclusive of any form of termination pay (which shall include
13 any compensation in anticipation of retirement), any lump sum payment
14 for deferred compensation, sick leave, or accumulated vacation credit,
15 or any other payment for time not worked (other than compensation
16 received while on sick leave or authorized leave of absence); provided,
17 however, if the salary earned during any year of credited service
18 included in the period used to determine final average salary exceeds
19 the average of the salaries of the previous two years of credited
20 service by more than twenty per centum, the amount in excess of twenty

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

LBD10336-04-0

per centum shall be excluded from the computation of final average salary.

d. Notwithstanding the provisions of subdivisions a and b of this section, the final average salary of an employee who has been a member of the New York city employees' retirement system **or the New York city teachers' retirement system** for less than one year shall be the projected one year salary, with the calculation based upon a twelve month projection of the sums earned in the portion of the year worked. If a member has been employed for more than one year but less than two years, then the member's final average salary shall be the average of the first year and projected second year earnings based upon the calculation above, and if more than two years, but less than three years, then one-third the total of the first two years of employment plus the projected third year's earnings, calculated as indicated above.

§ 2. Subdivisions b and c of section 512 of the retirement and social security law, subdivision b as added by chapter 379 of the laws of 1986 and subdivision c as added by chapter 663 of the laws of 1990, are amended to read as follows:

b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state employees' retirement system [~~and~~]**, the** New York state [~~policemen's and firemen's~~] **and local police and fire** retirement system **and the New York city teachers' retirement system**, a member's final average salary shall be equal to one-third of the highest total wages earned during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary.

c. Notwithstanding the provisions of subdivisions a and b of this section, the final average salary of an employee who has been a member of the New York city employees' retirement system **or the New York city teachers' retirement system** for less than one year shall be the projected one year salary, with the calculation based upon a twelve month projection of the sums earned in the portion of the year worked. If a member has been employed for more than one year but less than two years, then the member's final average salary shall be the average of the first year and projected second year earnings based upon the calculation above, and if more than two years, but less than three years, then one-third the total of the first two years of employment plus the projected third year's earnings, calculated as indicated above.

§ 3. Subdivisions b and c of section 608 of the retirement and social security law, subdivision b as added by chapter 379 of the laws of 1986 and subdivision c as added by chapter 663 of the laws of 1990, are amended to read as follows:

b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state employees' retirement system **and the New York city teachers' retirement system**, a member's final average salary shall be equal to one-third of the highest total wages earned by such member during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary exceeds the average of the wages of the previous two years of credited

service by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary.

c. Notwithstanding the provisions of subdivisions a and b of this section, the final average salary of an employee who has been a member of the New York city employees' retirement system **or the New York city teachers' retirement system** for less than one year shall be the projected one year salary, with the calculation based upon a twelve month projection of the sums earned in the portion of the year worked. If a member has been employed for more than one year but less than two years, then the member's final average salary shall be the average of the first year and projected second year earnings based upon the calculation above, and if more than two years, but less than three years, then one-third the total of the first two years of employment plus the projected third year's earnings, calculated as indicated above.

§ 4. This act shall take effect immediately; provided, however, that:

(a) section one of this act shall be deemed to have been in full force and effect on and after July 1, 1973;

(b) section two of this act shall be deemed to have been in full force and effect on and after July 27, 1976; and

(c) section three of this act shall be deemed to have been in full force and effect on and after September 1, 1983.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Retirement and Social Security Law ("RSSL") Sections 443.b, 443.d, 512.b, 512.c, 608.b and 608.c to modify the definition of Final Average Salary ("FAS") for certain members of the New York City Teachers' Retirement System ("NYCTRS").

Different sections of the proposed legislation would have different retroactive Effective Dates as follows:

RSSL Section	Retroactive Effective Date
443.b	July 1, 1973
443.d	July 1, 1973
512.b	July 27, 1976
512.c	July 27, 1976
608.b	September 1, 1983
608.c	September 1, 1983

In general, the modifications in the calculations of FAS would impact a very limited number of retirees and would generally define those current and future calculations to be consistent with current administrative practice.

If not enacted, significant issues would arise regarding identifying and then recalculating reduced benefits for some existing retirees.

IMPACT ON FAS CALCULATIONS: Computation of FAS for Tier II, Tier III and Tier IV NYCTRS members is generally based on an average of any three consecutive years of salary preceding retirement date which produces the greatest average.

The yearly salaries that are used to compute this average cannot exceed the "Kingston Limit" applicable for that Tier. The Kingston Limit does not permit that portion of an annual salary that exceeds the average of the immediate two preceding salaries by a percentage ("Kingston Limit Percentage") to be used in an FAS calculation.

For Tier II members the Kingston Limit Percentage is 20%.

For Tier III and Tier IV members the Kingston Limit Percentage is 10%.

In actuality, FAS for a Tier II, Tier III or Tier IV NYCTRS member is generally calculated on the basis of any consecutive 36-month period that produces the greatest average.

Under current law, if a Tier II, Tier III or Tier IV NYCTRS member were to have a period of service interrupted by a Leave of Absence ("LOA") (with partial pay or without pay) of less than or equal to 12 months in the 36-month period preceding retirement date, then an equal number of months of earned salary preceding the interruption would be substituted for these months to compute the greatest FAS. Thus, as much as a 48-month period preceding retirement could be used for FAS purposes.

Under current law, if the time period on a LOA (with partial pay or without pay) within the 36 months preceding retirement date were to exceed 12 months, then only the earned salary during the 48 months preceding retirement would be used and the NYCTRS member would have a lesser FAS.

Note: If greater, FAS may also be based on any three consecutive years of service, not necessarily the final three years of active employment.

Under current administrative practice, however, FAS is computed to be equal to one-third of the total earnings for the continuous employment period preceding retirement date for which a NYCTRS member receives three years of service credit, subject to the Kingston Limits.

Under the proposed legislation, which would codify current administrative practice, there would be no limit as to how long a Tier II, Tier III or Tier IV NYCTRS member could be on a LOA (with partial pay or without pay) provided the entire span of time used to measure the FAS constituted a continuous period of employment for which the NYCTRS member received three years of service credit, subject to the Kingston Limits.

IMPACT OF BENEFITS: This proposed legislation would define FAS to be generally consistent with current administrative practice. It would directly impact the retirement benefits computed based on FAS for Tier II, Tier III and Tier IV NYCTRS members whose employment was interrupted for a LOA (with partial pay or without pay) of more than 12 months without the 36 months preceding retirement date.

Thus, for certain NYCTRS members the proposed legislation could impact the calculation of certain benefits, including:

Service Retirement Benefits,

Disability Retirement Benefits, and

Vested Deferred Retirement Benefits.

FINANCIAL IMPACT - ADDITIONAL ACTUARIAL PRESENT VALUES: The additional Actuarial Present Values ("APV") would depend on the number, salaries, ages and lengths of service of impacted Tier II, Tier III and Tier IV NYCTRS members whose employment near retirement was interrupted by periods of LOA (with partial pay or without pay) that exceeds 12 months.

Based on the actuarial assumptions and methods noted herein, the APV of future benefits ("APVB") would increase by approximately $11.0 million as of June 30, 2009.

FINANCIAL IMPACT - EMPLOYER COST: The ultimate cost of a pension plan is the benefits it pays. The financing of that ultimate cost depends upon the actuarial assumptions and methods employed.

In the case of this proposed legislation, the real cost may more accurately be described as the cost of benefits not otherwise reduced.

If the additional APVB is amortized over the working lifetimes of members, then the additional employer costs would equal approximately $1.1 million per year.

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 depends most upon three factors:

First, the point in time when the Actuary revises actuarial assumptions and methods to reflect estimated LOA in excess of 12 months of active members who are expected to retire with service, disability or vested deferred benefits.

This level of refinement to actuarial assumptions and methods used in the actuarial valuations of NYCTRS is unlikely ever to occur.

Second, the point in time when the Actuary creates actuarial assumptions to reflect increased expectations of certain active members retiring with LOA (with partial pay or without pay) in excess of 12 months.

This also is so immaterial as to be unlikely for the Actuary to develop any such actuarial assumptions.

Third, the impact on employer contributions of any actuarial gains or losses attributable to retirement allowances being computed on the modified FAS computation basis.

This is the most likely form of implementation and would result in the amortization of the difference in value of benefits over the working lifetimes of active members of NYCTRS.

FINANCIAL IMPACT - ADDITIONAL EMPLOYER CONTRIBUTIONS - FISCAL YEAR 2010: If this proposed legislation is enacted during the current Legislative Session before June 30, 2010, there would be no increase in employer contributions to NYCTRS for Fiscal Year 2010.

FINANCIAL IMPACT - ADDITIONAL EMPLOYER CONTRIBUTIONS - FISCAL YEARS 2011 AND LATER: If this proposed legislation is enacted during the current Legislative Session after June 30, 2010 and before June 30, 2011, the Actuary anticipates no change in employer contributions to NYCTRS for Fiscal Year 2011.

For Fiscal Years 2012 and later, employer contributions would increase by approximately 10.1% of the additional APVB attributable to the value of modified increased benefits that result from the methodology to compute FAS of certain NYCTRS members whose benefits are determined during the second preceding Fiscal Year (reflects the One-Year Lag methodology). In effect, the additional APVB would be amortized over the future working lifetimes of active members of NYCTRS.

Additional annual employer contributions for this proposed legislation would eventually tend to approximate the estimated additional annual employer costs.

OTHER COSTS: Not measured in this Fiscal Note is the impact on administrative costs that would be significantly greater if the current administrative procedures must be modified (i.e., administrative costs would increase if this proposed legislation is not enacted).

CENSUS DATA: The census data used for the estimates of APVB and employer costs presented herein include 1,344 active Tier II members with salaries of approximately $139.0 million and 108,292 active Tier IV members with salaries of approximately $7,503.1 million included in the June 30, 2008 (Lag) actuarial valuation of NYCTRS who could be potentially impacted by this proposed legislation.

In addition, approximately 19,146 Tier II and Tier IV retired members receiving retirement allowances of approximately $443.8 million were included from the June 30, 2008 (Lag) actuarial valuation of NYCTRS for such purposes.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB and employer costs are based on the results of the June 30, 2008 (Lag) actuarial valuation of NYCTRS using the actuarial assumptions and methods in effect as of June 30, 2008, including the One-Year Lag methodology.

Additional APVB was estimated as of June 30, 2008 based upon the reduction in benefits determined under the proposed legislation for a sample of current retirees. For current retirees, additional APVB is based on the assumption that approximately 1.0% of these current retirees would be impacted and the difference in their benefits would be approximately 5.0%.

With respect to the active members of the NYCTRS, it has been assumed that approximately 0.5% of future retirees would be impacted and the difference in their benefits would be approximately 5.0%.

Additional employer costs have been estimated assuming the additional APV of employer costs are financed through future normal contributions.

Additional APVB and additional employer costs were rolled-forward to June 30, 2009 on an interest-only basis.

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 Qualification 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 2010 Legislative Session. It is Fiscal Note 2010-05, dated February 3, 2010 prepared by the Chief Actuary for the New York City Teachers' Retirement System.

Chapter 299 Signed July 30, 2010

STATE OF NEW YORK

7452--A
Cal. No. 593

IN SENATE

April 12, 2010

Introduced by Sen. SAVINO -- 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, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the retirement and social security law, in relation to re-employment of retired persons by the board of higher education of the city of New York

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

Section 1. Subparagraph 3 of paragraph (a) of subdivision 2 of section 211 of the retirement and social security law, as amended by chapter 753 of the laws of 1976, is amended to read as follows:

(3) the municipal civil service commission of the city of New York if such person is to be employed in a position in the service of the city of New York or in the classified service in the board of education [~~or board of higher education~~] of such city; or

§ 2. Subparagraph 5 of paragraph (a) of subdivision 2 of section 211 of the retirement and social security law, as amended by chapter 753 of the laws of 1976, is amended to read as follows:

(5) the board of higher education of the city of New York if such person is to be employed in the **classified or** unclassified service under the board of higher education of the city of New York; or

§ 3. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York city Retirement System ("NYCRS"), this proposed legislation would amend Retirement and Social Security Law ("RSSL") Section 211 to revise the approval procedure for certain retirees reemployed pursuant to such Section.

The Effective Date of the proposed legislation would be the date of enactment.

IMPACT ON RETIREE REEMPLOYMENT PROCEDURES: Retired members of the NYCRS are permitted to return to employment in the service of New York

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

LBD16584-02-0

State ("NYS") or any of its political divisions. In particular, for certain New York City ("NYC") employment positions designated as:

A. Classified positions (i.e., non-pedagogical staff) for the Board of Education of NYC (now the NYC Department of Education ("NYC DOE")), or for the Board of Higher Education of NYC (now the City University of New York ("CUNY")),

B. Unclassified positions (i.e., pedagogical staff) for the Board of Education of NYC and Board of Higher Education of NYC, and

C. Other NYC employment for positions at other than the Board of Education of NYC or Board of Higher Education of NYC.

Note: The remainder of this Fiscal Note will generally utilize the historical terminology that most closely follows the statutory language.

For those retired employees who wish to elect to be rehired in such public service under the provisions of RSSL Section 211, one of the following entities needs to approve such rehire:

* For all classified Board of Education of NYC positions, all classified Board of Higher Education of NYC positions, and, as noted in C above, other NYC employment, the Municipal Civil Service Commission of NYC (now the NYC Department of Citywide Administrative Services ("DCAS")).

* For all unclassified NYC positions in the Board of Education of NYC, the Chancellor of the City School district of NYC.

* For all unclassified NYC positions in the Board of Higher Education of NYC, the Board of Higher Education of NYC.

Under the proposed legislation, the authority of the Municipal Civil Service Commission of NYC with respect to the approval of classified positions with the Board of Higher Education of NYC would be transferred to the Board of Higher Education of NYC.

The proposed legislation, if enacted, does not alter the responsibilities of the prospective employer with regard to the retired members. However, the prospective employer would need to be aware that the classified positions with the Board of Higher Education of NYC would require the approval of the Board of Higher Education of NYC.

FINANCIAL IMPACT - ADMINISTRATIVE EXPENSES: Currently, the approvals for the rehiring of NYCRS members for classified service in the Board of Higher Education are made by DCAS. Any expenses which arise in connection with this processing are currently funded by an allocation from the NYC budget.

If the proposed legislation were enacted, such approvals required for Board of Higher Education of NYC classified service would be transferred to the Board of Higher Education of NYC.

The Actuary does not anticipate that enactment of the proposed legislation would change the number of retirees who become reemployed in such public service at CUNY.

However, the allocations from the NYC budget for DCAS expenses could be reduced and the allocations from the Board of Higher Education of NYC budget could be increased.

Given the limited number of retirees potentially impacted, the Actuary anticipates that the workload and financial impacts on DCAS and the Board of Higher Education of NYC workloads would be marginal.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: With respect to the NYCRS, the enactment of this proposed legislation would be expected to result in only minimal, if any, changes in employer contributions to the New York City Teachers' Retirement System ("NYCTRS") or the New York City Board of Education Retirement System ("BERS").

Such changes in administrative expenses of TRS and BERS would occur only if these organizations were to need to expend funds to revise existing procedures to handle the change in approving entity for rehired retirees.

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 Qualification 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 2010 Legislative Session. It is Fiscal Note 2010-15, dated June 2, 2010, prepared by the Chief Actuary for the New York City Retirement Systems.

2010

Section IV

Vetoed Legislation Affecting the Other New York Public Retirement Systems

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Veto M.6723 Vetoed July 30, 2010

STATE OF NEW YORK

3718--A

2009-2010 Regular Sessions

IN SENATE

March 30, 2009

Introduced by Sens. SAVINO, ADDABBO, THOMPSON -- 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 and chapter 511 of the laws of 1988 amending the retirement and social security law relating to a reduction in retirement age for certain members, in relation to extending the application of such provisions

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

1 Section 1. Paragraph (ii) of subdivision a of section 651 of the
2 retirement and social security law, as amended by chapter 225 of the
3 laws of 2006, is amended to read as follows:
4 (ii) For each full year of covered employment occurring prior to Janu-
5 ary first, two thousand [~~nine~~] **twelve** which is subsequent to December
6 thirty-first, nineteen hundred seventy, his or her normal retirement age
7 shall be reduced by four months.
8 § 2. Section 2 of chapter 511 of the laws of 1988, amending the
9 retirement and social security law relating to a reduction in retirement
10 age for certain members, as amended by chapter 225 of the laws of 2006,
11 is amended to read as follows:
12 § 2. This act shall take effect immediately, and shall apply only to
13 covered employment performed on or before December 31, [~~2008~~] **2011**.
14 § 3. This act shall take effect immediately and shall be deemed to
15 have been in full force and effect on and after December 31, 2008.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Retirement and Social Security Law ("RSSL") Section 651.a(ii) to

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

LBD06282-04-0

extend special unreduced early retirement provisions for certain members of the New York City Employees' Retirement System ("NYCERS").

The Effective Date of the proposed legislation would be the date of enactment.

MEMBERS IMPACTED BY THE PROPOSED LEGISLATION: The proposed legislation would cover those members of NYCERS ("Covered Members") who are employed at the Triborough Bridge and Tunnel Authority ("TBTA") in the following job titles:

* Bridge and Tunnel Officer,
* Bridge and Tunnel Sergeant,
* Bridge and Tunnel Lieutenant,
* Assistant Bridge and Tunnel Maintainer,
* Bridge and Tunnel Maintainer,
* Senior Bridge and Tunnel Maintainer, and
* Bridge and Tunnel Laborer.

IMPACT ON BENEFITS PAYABLE: Under the provisions of Article 16 of of the RSSL, Covered Members are entitled to retire without a reduction in Retirement Allowance prior to attainment of Normal Retirement Age ("NRA") defined as:

* Age 55 - for Tier I members.
* Age 62 - for Tier II, Tier III and Tier IV members.

The Period Without Reduction Before NRA ("PWRBN") is determined in accordance with a schedule which is based upon years of employment in one of the above job titles ("Covered Employment"):

* For Covered Employment before January 1, 1971, six months per year of service.
* For Covered Employment between January 1, 1971 and December 31, 2008, four months per year of service.

Nothing in these provisions shall permit a Tier I member to retire, other than for disability, prior to age 50, or a Tier II, Tier III or Tier IV member to retire, other than for disability, prior to age 55.

In addition, such Covered Member must meet the applicable service requirements for retirement of the NYCERS Plan or Program in which the member participates.

For example, under current provisions in the Tier IV Basic Plan, a Covered Member with 18 years of credited service in Covered Employment as of December 31, 2008 would have a PWRBN period of 6.00 years (i.e., 18 years times 4 months per year equals 72 months divided by 12 equals 6.00 years). Based on the existing Normal Retirement Age of 62 in the Tier IV Basic Plan, the earliest Unreduced Retirement Age ("URA") for this Covered Member would equal age 56 (i.e., the earliest age at which benefits are paid without actuarial reduction).

The proposed legislation would extend the PWRBN provisions to include credited service for Covered Employment to December 31, 2011.

Thus, using the earlier example of a Covered Member with 18 years of credited service as a of December 31, 2008, under the proposed legislation if that Covered Member reaches 21 years of service as of December 31, 2011, the earliest URA would equal age 55.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES ("APV"): Based on the census data and the actuarial assumptions and methods noted herein, the enactment of the proposed legislation would increase the APV of Benefits ("APVB") to NYCERS by approximately $260,000.

Since the proposed legislation would allow earlier unreduced service retirement, there would be a reduction in the APV of future member contributions ("APVMCB") of approximately $1,000 and a reduction in the APV of future salary ("APVSAL") of approximately $2.9 million.

FINANCIAL IMPACT - ANNUAL EMPLOYERS COSTS AND EMPLOYER CONTRIBUTIONS: The ultimate cost of a Retirement Program is the benefits it pays. The financing of that ultimate cost is provided by contributions and investment income.

Based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2008, the enactment of this proposed legislation would increase annual employer costs to NYCERS by approximately $90,000 per year.

If enacted on or before June 30, 2010, this proposed legislation would be expected to increase employer contributions to NYCERS beginning Fiscal Year 2010.

If enacted during the 2010 Legislative Session after June 30, 2010 but on or before June 30, 2011, this proposed Legislation would increase employer contributions to NYCERS beginning Fiscal Year 2011.

OTHER COSTS: The enactment of this proposed legislation would also be expected to result in modest increases in administrative expenses of NYCERS, the employer and certain New York City agencies.

CENSUS DATA: The calculation of estimated changes in APVB, APVMCB, APVSAL, employer costs and employer contributions presented herein is based upon the census data for active members included in the June 30, 2008 (Lag) actuarial valuation of NYCERS.

For TBTA overall, census data consisted of 1,682 active members of NYCERS with annual salaries of approximately $119.8 million. There were 1,201 Covered Members with annual salaries of $80.2 million.

The subset of Covered Members who are potentially affected by the proposed legislation consisted of 273 Tier IV members with salaries of approximately $18.7 million whose average age and average service as of June 30, 2008 were 48.0 years and 15.1 years, respectively.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB, APVMCB, APVSAL, employer costs and employer contributions have been computed based on the actuarial assumptions and methods in effect for the June 30, 2008 (Lag) actuarial valuation of NYCERS for use in determining the Updated Preliminary Fiscal Year 2010 Employer Contributions.

Additional annual employer costs and employer contributions have been estimated assuming the additional APVB would be financed through future normal contributions.

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 Qualification 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 2010 Legislative Session. It is Fiscal Note 2010-07, dated March 3, 2010, prepared by the Chief Actuary for the New York City Employees' Retirement System.

VETO MESSAGE - No. 6833

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 5631-A, entitled:

"AN ACT to amend the administrative code of the city of New York, in

relation to the effect of discharge or dismissal of a police officer or firefighter with twenty years of creditable retirement service"

NOT APPROVED

This bill would amend the Administrative Code of the City of New York (the "City") to preclude the revocation of the pensions of City police officers and firefighters who are members of tiers 1 or 2 of the New York City Police ("NYPD") Pension Fund or the New York City Fire Department ("FDNY") Pension Fund ("member of tier 1 or tier 2," or "tier 1/tier 2 member"), in the event they are discharged or dismissed from employment after 20 years of service.

Proponents of the bill contend that the current law is unfair because the pensions of tier 1/tier 2 members are uniquely subject to revocation in the event of termination late in their careers for criminal or other serious misconduct. No other public employees' pensions are subject to revocation under such circumstances. The bill's supporters describe instances in which a member of tier 1 or tier 2 has committed a crime or other serious misconduct, and upon submission of his or her retirement application the Commissioner of the NYPD or FDNY has used the 30-day notice period to bring or complete a disciplinary case against a member of tier 1 or tier 2, resulting in the termination of such member's employment. In these instances, the termination has the effect of precluding a member of tier 1 or tier 2 from retiring, and thus from receiving a pension.

The bill's supporters argue that the pension of a police officer or firefighter is in essence earned, deferred income. In this view, a pension after a 20-year career is an entitlement, and its termination at that stage, regardless of the officer's misconduct, is an unreasonably harsh outcome.

The City opposes this bill, and states that the practical effect of this legislation would be to insulate from the consequences of serious misconduct and to guarantee a pension to a member of tier 1 or tier 2 even if he or she commits a felony arising from his or her official duties. Police officers and firefighters working in the unique setting of the City continually are exposed to situations that test their integrity, and the risk of losing a pension upon termination serves as an important deterrent to unlawful behavior and serious misconduct. The City also contends that in practice, tier 1/tier 2 members rarely lose their pensions. From 2006 through 2010, for example, the NYPD terminated only six police officers who had at least 20 years of creditable service. All but one officer either failed a drug test or was criminally convicted of a felony. The one exception occurred in 2006, when the City terminated an officer who was criminally convicted of a misdemeanor arising out of a fraud investigation. Most officers with over 20 years of creditable service who were charged with serious misconduct, however, as well as those who committed minor infractions, did not lose their pensions, but were permitted to negotiate their disciplinary charges and to retire, rather than being terminated by the NYPD.

I am not unsympathetic to the arguments of the firefighters and police officers. I believe the current law can lead to inequitable results and

that those should be ameliorated. During discussions my administration had with unions representing the New York City police officers and firefighters in respect of the then proposed and now enacted Tier V pension law, my support for correcting the inequity of a lack of pension protection was expressed. Contemporaneous with those discussions I met with the Municipal Labor Council and promised to it that I would not seek to impose the Tier V legislation on the City workforce in the absence of negotiation with the City administration. But that promise works both ways. I also cannot impose on the City a pension requirement that the unions have not negotiated with it.

Clearly, the appropriate forum to address the inequity that I recognize is in discussions between the unions and the City. If such negotiations were to occur, and if the City were not to discuss the issue at hand in good faith, that may be the catalyst for the next Governor to sign this legislation should it be presented to him.

Accordingly, I do not approve the legislation and cite the following additional reasons:

First, I note that this bill contains no exceptions even for the most severe misconduct. If I were to enact this bill into law, an officer could engage in a violent felony, or in gross corruption that endangers the lives of the City's residents, or even an act of treason -- and will remain entitled to his or her pension. That result is contrary to my own proposal in the 2010 Executive Budget (Part D of S.6615-A/A.9715-A), which would have made subject to forfeiture the pensions of members of the State and Local Employees Retirement System and the State and Local Police and Fire Retirement System who are convicted of certain felonies relating to the performance or failure to perform such member's official duties and responsibilities.

Second, while current law may result in harsh consequences in those instances where a Commissioner exercises his or her discretion to terminate a member of tier 1 or tier 2, I note that existing case law also protects members from abuses of such discretion. In Matter of McDougall v. Scoppetta, (2009-02176) (Index No. 28994/08), for example, the Appellate Division, Second Department, reviewed a determination of the Commissioner of the FDNY adopting the recommendation and findings of an administrative law judge made after a hearing, finding a firefighter guilty of two charges of misconduct and terminating his employment. The McDougall case presented the issue of whether the penalty of termination of McDougall's employment was disproportionate to the offense so as to constitute an abuse of discretion. The court, noting that as a result of the termination, the firefighter and his family would lose his pension and retirement benefits, valued at approximately $2,000,000, which he earned during his 25 years of service to the FDNY, annulled the imposition of a penalty of termination of the firefighter's employment and allowed him to retire and receive his pension after paying an $80,000 fine. Thus, the termination of a member of tier 1 or tier 2, and the concomitant loss of his or her pension, is reviewable in court. Indeed,

the relatively infrequent use of termination and the clear precedent established by the McDougall case reassures me that the revocation of

the pensions of long-serving tier 1/tier 2 members will not be undertaken lightly.

The City's police and fire unions also point to another inequity in current law: as a result of the Governor's Veto No. 5 of 2009, new police officers and firefighters are placed in tier 3, whose members cannot lose pension benefits once they have vested. The pension benefit provided by tier 3 is, however, less generous in almost every respect except for the particular issue addressed by the bill, including with respect to employee contributions, final average salary calculation, variable supplement funds, and length of service required before retirement. Public pension tiers often differ in the particulars of the benefits they confer.

During my consideration of this bill, I asked that it be held by the Legislature so that I could ascertain the willingness of the City's police and fire unions to work on an amendment to the bill that would benefit tier1/tier2 members but also reflect the legitimate interests of the City, by such potential steps as excluding the worst kinds of misconduct from its reach, or including countervailing provisions to address other pension issues of importance to the City. I learned that there was no willingness on the unions' part to enter into such negotiations, and the bill was therefore delivered for my consideration. As a result, I am given an all-or-nothing proposition: either I approve the bill as is, or I veto it. Faced with such a choice, Governor Mario Cuomo vetoed similar legislation in 1990 (Veto No. 16), noting the absence of any carve-out for serious felonies. I am now presented with the same dilemma as my predecessor, and am compelled to take the same action.

The bill is disapproved. (signed) DAVID A. PATERSON

Veto M.6833 Vetoed October 20, 2010

STATE OF NEW YORK

5631--A

2009-2010 Regular Sessions

IN SENATE

May 22, 2009

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- recommitted to the Committee on Cities 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 administrative code of the city of New York, in relation to the effect of discharge or dismissal of a police officer or firefighter with twenty years of creditable retirement service

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

Section 1. The administrative code of the city of New York is amended by adding a new section 13-256.1 to read as follows:

§ 13-256.1 Discharge or dismissal. Notwithstanding any other provision of law, when a member has attained at least twenty years of creditable police service in the retirement system, the discharge or dismissal from employment of such person shall not preclude such person from receiving any rights or benefits to which he or she shall otherwise be entitled as a member or retired member of the retirement system nor upon retirement shall his or her benefits be in any way diminished as a result of such discharge or dismissal.

§ 2. The administrative code of the city of New York is amended by adding a new section 13-361.1 to read as follows:

§ 13-361.1 Discharge or dismissal. Notwithstanding any other provision of law, when a member has attained at least twenty years of creditable fire uniformed force service in the retirement system, the discharge or dismissal from employment of such person shall not preclude such person from receiving any rights or benefits to which he or she shall otherwise be entitled as a member or retired member of the retirement system nor upon retirement shall his or her benefits be in any way diminished as a result of such discharge or dismissal.

§ 3. This act shall take effect immediately.

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

LBD09108-02-0

VETO MESSAGE - No. 6805

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 9950, entitled:

"AN ACT to amend the local finance law, in relation to authorizing and empowering the city of Kingston to amortize the cost of payments to employees upon separation of service from the city"

NOT APPROVED

In August 2009 and December 2009, the City of Kingston ("Kingston") offered its retirement-eligible employees a $10,000 incentive to separate from service (the "2009 retirement incentive") between January 1 and March 31, 2010. Of the 25 employees eligible for the 2009 retirement incentive, 14 applied, representing about 4% of Kingston's workforce. The total cost of the 2009 retirement incentive was $451,803, reflecting $140,000 for the incentive payments, $279,696 for accrued leave time, and $32,107 for the FICA tax on each. Kingston has eliminated 12 of the 14 positions, for an estimated annual savings of $785,423, or 2.4% of the city's 2009 General Fund expenditures of $33.4 million.

This bill would authorize Kingston to finance the cost of the 2009 retirement incentive. Specifically, it would amend Local Finance Law (LFL) section 11.00(a) to establish a 10-year period of probable usefulness ("PPU") for payments by Kingston to employees upon their separation from service, including but not limited to retirement incentives and the monetary value of unused leave time. By establishing a 10-year PPU for such purpose, Kingston could finance such payments through the issuance of bonds with a maximum stated maturity equal to such PPU. Under current law, Kingston has no authority to issue bonds to finance a retirement incentive and the monetary value of unused leave time because the LFL does not establish a PPU for the purpose.

Kingston's 2010 budget assumes the City will issue bonds to finance the cost of the retirement incentive. Without this legislation, I understand that Kingston could face a $451,803 shortfall in its 2010 General Fund budget of $34.6 million, representing approximately 1.3% of budgeted appropriations, and Kingston would have to address this gap by enacting midyear spending cuts or using reserves, or both. Kingston's unreserved General Fund balance as of December 31, 2009, was $1.72 million - just over 5% of its 2009 General Fund revenues of $34.2 million.

Kingston, like all governments operating in these economically difficult times, is subject to significant budgetary constraints. But I do not believe that there is any advantage to be gained by the imprudent use of debt to avoid harsh fiscal realities. Indeed, my administration has continually cautioned and decided against improvident borrowing to fund state government operations. In my view, this thinking should also inform the policy choices that affect local government finances.

Kingston should not have made the dubious assumption in its 2010 budget that it would receive authorization to finance the costs of its retirement incentive with bond proceeds. Separation incentives represent

a one-time operating expense that should not be financed by issuing long-term bonds. Rather, employers generally finance such incentives with a portion of the associated current-year benefit and salary savings - which the State did last year (2009-10), for example, when it offered a $20,000 separation incentive that was funded as a 2009-10 operating expense - an option that Kingston has precluded by booking the full savings in its budget.

If a local government nonetheless wishes to fund an early retirement incentive with debt, such financing should conform to guidance issued by the Government Finance Officers Association, which recommends that bonds used to finance an early retirement incentive should mature in no more than three to five years. Thus, for example, the State prescribed a five-year PPU for the incentive programs of Suffolk County and the Middletown School District. And while the State last year permitted Nassau County and Rockland County to finance using a 10-year PPU, those exceptional cases were justified by unique circumstances not present with respect to Kingston. Both counties were facing severe budgetary problems as a result of the significant decline in sales tax collections that occurred in 2009. Rockland County experienced an $11 million General Fund deficit in 2009 even after borrowing $11.4 million to fund its retirement incentive program. Nassau County reported a modest $1.2 million budgetary surplus in its primary operating funds in 2009, but only after borrowing $80 million to finance its retirement incentive program and $64.5 million to finance tax certiorari payments. In Nassau's case, the longer term was also justified by the high cost of the incentive, which accelerated the retirement of County police officers whose collective bargaining agreement provided for many such officers to receive termination pay of more than double their annual salary upon retirement. Kingston, in contrast, is not reporting a substantial operating deficit in its current year and, if necessary, can pay the $451,803 cost of the 2009 retirement incentive by using a portion of its unreserved fund balance, which totaled around $1.7 million in 2009.

I am also troubled by the bill's open-ended authorization. The bill does not specify a period of time or particular event during which the bonds may be used. Insofar as the bill in theory would permit Kingston, in future years, to issue bonds to finance additional retirement incentives or even routine separation costs, it may encourage unsound fiscal practices in subsequent difficult budget years. This concern, moreover, is not merely theoretical. Indeed, it is my understanding that Nassau County, using the similar, open-ended authorization it received last year, plans to issue bonds again this year to finance another retirement incentive.

I empathize with Kingston concerning the tough governmental choices that will be required in the absence of this legislation. I am confident, however, that in the long run, the fiscal condition of Kingston, and ultimately the State, will be stronger if we do not look to imprudent borrowing as a quick fix to the current predicament. This bill would establish the wrong precedent, and I am therefore compelled to veto it.

The bill is disapproved. (signed) DAVID A. PATERSON

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