

2008

RETIREMENT LEGISLATION

New York State Office of the State Comptroller

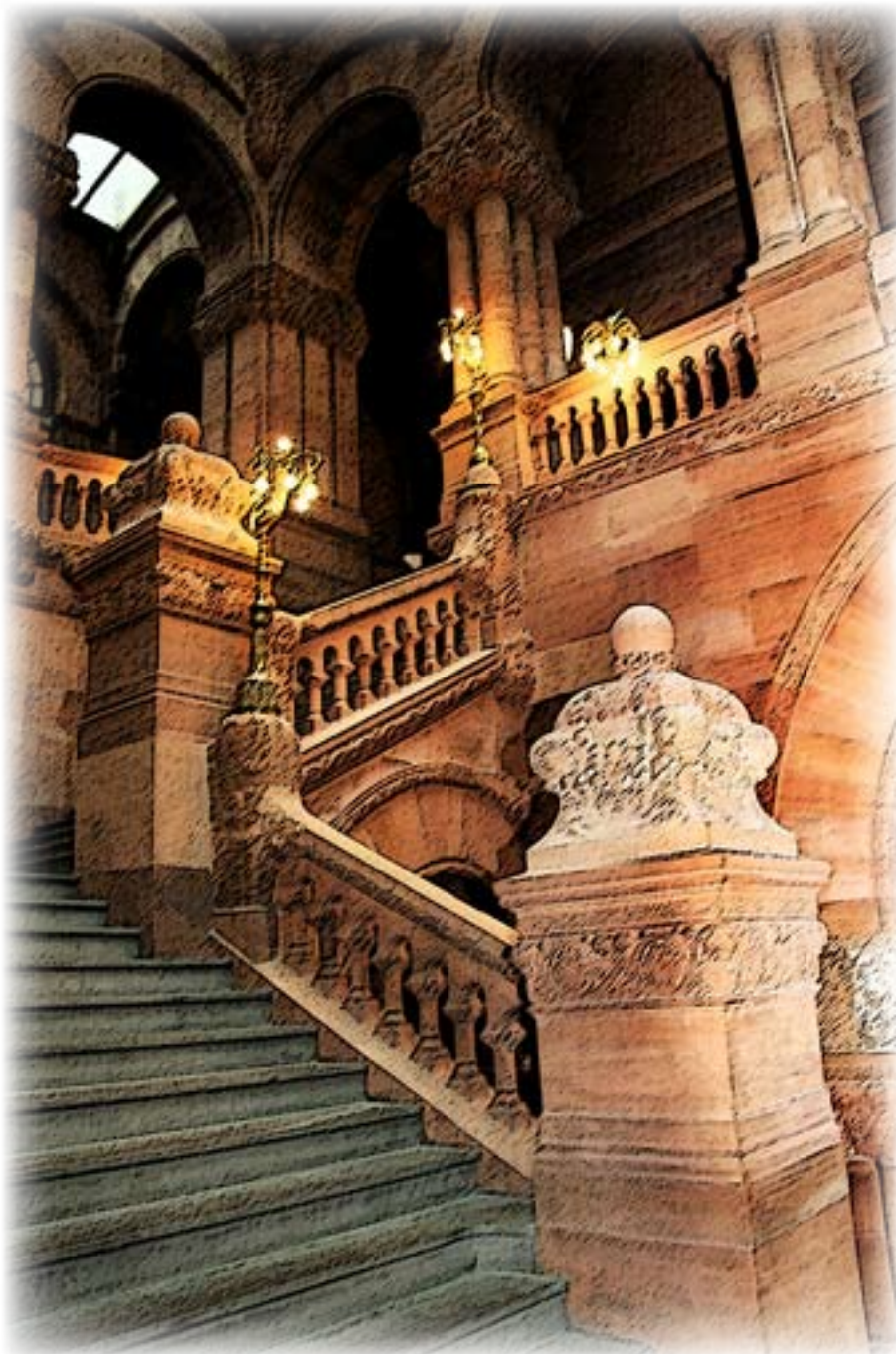
Thomas P. DiNapoli



New York State and Local Retirement System

Employees' Retirement System

Police and Fire Retirement System



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A Message from Comptroller Thomas P. DiNapoli

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

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

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

Sincerely,

A handwritten signature in black ink that reads "Tom DiNapoli". The signature is written in a cursive, flowing style.

Thomas P. DiNapoli
State Comptroller

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Chapter Titles

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

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

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

Section II

Vetoed Legislation Affecting the New York State and Local Retirement System

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

Section III

Legislation Affecting Other New York Public Retirement Systems

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

Section IV

Vetoed Legislation Affecting Other New York Public Retirement Systems

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

Cross Index

Senate Bills

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

Assembly Bills

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

SECTION I

LEGISLATION AFFECTING THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEM



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STATE OF NEW YORK

S. 6773 - A. 9816

IN SENATE

January 18, 2008

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

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

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

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

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

LBD12054-02-8

1 such Part. Any provision in any section contained within a Part, includ-
 2 ing the effective date of the Part, which makes reference to a section
 3 "of this act", when used in connection with that particular component,
 4 shall be deemed to mean and refer to the corresponding section of the
 5 Part in which it is found. Section two of this act sets forth the gener-
 6 al severability clause applying to this act. Section three of this act
 7 sets forth the general effective date of this act.

8 PART A

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

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

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

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

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

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

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

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

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

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

53		<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>		
54	<u>SG</u>	<u>HR</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>JR</u>
55	<u>1</u>	<u>22041</u>	<u>22785</u>	<u>23529</u>	<u>24273</u>	<u>25017</u>	<u>25761</u>	<u>26505</u>	<u>27249</u>
									<u>Incr</u>
									<u>744</u>

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

25 § 2. Paragraph (f) of subdivision 3 of section 130 of the civil service
 26 law, as amended by section 3 of part A of chapter 103 of the laws of
 27 2004, is amended to read as follows:

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

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

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

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

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

15 (e) ~~[Notwithstanding]~~ **(i) Prior to April first, two thousand ten, and**
16 **notwithstanding** any inconsistent provision of law, officers and employees
17 to whom paragraph a of subdivision one of this section applies who, on or
18 after April first, nineteen hundred eighty-seven, on their anniversary
19 date have five or more years of continuous service as defined by para-
20 graph (c) of this subdivision at a basic annual salary rate equal to or
21 in excess of the job rate or maximum salary of their salary grade, but
22 below the first longevity step and whose performance for the most recent
23 rating period was rated at least "satisfactory" or its equivalent, shall
24 have their basic annual salary increased to the first longevity step or
25 shall have their basic annual salary as otherwise effective increased by
26 **seven hundred fifty dollars, or by eight hundred seventy-five dollars on**
27 **or after April first, two thousand seven; or by one thousand dollars on**
28 **or after April first, two thousand eight; or by one thousand one hundred**
29 **twenty-five dollars on or after April first, two thousand nine** or as much
30 of that amount as will not result in the new basic annual salary exceed-
31 ing the step two longevity step. Notwithstanding any inconsistent
32 provision of law, officers and employees to whom paragraph a of subdivi-
33 sion one of this section apply who, on or after April first, nineteen
34 hundred eighty-seven, on their anniversary date have ten or more years of
35 continuous service as defined by paragraph (c) of this subdivision at a
36 basic annual salary rate equal to or in excess of the job rate or maximum
37 salary of their salary grade, but below the second longevity step and
38 whose performance for the most recent rating period was rated at least
39 "satisfactory" or its equivalent, shall have their basic annual salary
40 increased to the second longevity step **as found in paragraph a of subdivi-**
41 **vision one of this section.** Such increases to longevity steps by eligi-
42 ble officers or employees shall become effective on the first day of the
43 payroll period which next begins following the anniversary date which
44 satisfies the prescribed service requirements. For the purposes of this
45 paragraph the term continuous service as defined by paragraph (c) of this
46 subdivision for employees in the division of military and naval affairs
47 unit shall refer to uninterrupted service in the civilian service of the
48 division of military and naval affairs.

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

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

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

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

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

28 12-d. Notwithstanding any inconsistent provision of the court of claims
 29 act, examine, audit and certify for payment any claim submitted and
 30 approved by the head of a state department or agency, other than a
 31 department or agency specified in subdivision twelve of this section, for
 32 personal property of an employee damaged or destroyed in the course of
 33 the performance of official duties without fault on his part by an
 34 inmate, patient or client of such department or agency after March thir-
 35 ty-first, two thousand [~~three~~ seven and prior to April first, two thou-
 36 sand [~~seven~~ eleven, provided no such claim may be certified for payment
 37 to an officer or employee who is in a collective negotiating unit until
 38 the director of employee relations shall deliver to the comptroller a
 39 certificate that there is in effect with respect to such negotiating unit
 40 a written collectively negotiated agreement with the state pursuant to
 41 article fourteen of the civil service law which provides therefor.
 42 Payment of any such claim shall not exceed the sum of three hundred
 43 dollars. No person submitting a claim under this subdivision shall have
 44 any claim for damages to such personal property approved pursuant to the
 45 provision of subdivision four of section five hundred thirty of the labor
 46 law or any other applicable provision of law.

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

50 12-e. Notwithstanding any inconsistent provision of the court of claims
 51 act, where, and to the extent that, an agreement between the state and an
 52 employee organization entered into pursuant to article fourteen of the
 53 civil service law on behalf of officers and employees serving in posi-
 54 tions in the professional, scientific and technical services unit, admin-
 55 istrative services unit, institutional services unit, operational
 56 services and military and naval affairs unit so provides, examine, audit

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

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

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

47 § 8. Compensation for certain state officers and employees in collec-
48 tive negotiating units. 1. The provisions of this section shall apply to
49 full-time officers and employees in the collective negotiating units
50 designated as the administrative services unit, the institutional
51 services unit, the operational services unit, and the division of mili-
52 tary and naval affairs unit established pursuant to article 14 of the
53 civil service law.

54 2. Effective April 5, 2007 for officers and employees on the adminis-
55 trative payroll and effective March 29, 2007 for officers and employees
56 on the institutional payroll, the basic annual salary of officers and

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

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

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

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

22 6. Notwithstanding the provisions of subdivisions 2, 3, 4 and 5 of this
23 section, if the basic annual salary of an officer or employee to whom the
24 provisions of this section apply is identical with the hiring rate, step
25 one, two, three, four, five, six or job rate of the salary grade of his
26 or her position on the effective dates of the increases provided in these
27 subdivisions, such basic annual salary shall be increased to the hiring
28 rate, step one, two, three, four, five, six or job rate, respectively, of
29 such salary grade as contained in the appropriate salary schedules in
30 subparagraphs 1, 2, 3 and 4 of paragraph a of subdivision 1 of section
31 130 of the civil service law, as added by section one of this act, to
32 take effect on the dates provided in subparagraphs 1, 2, 3 and 4, respec-
33 tively. The increases in basic annual salary provided by this subdivision
34 shall be in lieu of any increase in basic annual salary provided for in
35 subdivisions 2, 3, 4 and 5 of this section.

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

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

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

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

4 10. In order to provide for the officers and employees to whom this
5 section applies who are not allocated to salary grades, increases and
6 payments pursuant to subdivision 7 of this section in proportion to those
7 provided to persons to whom this section applies who are allocated to
8 salary grades, the director of the budget is authorized to add appropri-
9 ate adjustments and/or payments to the compensation which such officers
10 and employees are otherwise entitled to receive. The director of the
11 budget shall issue certificates which shall contain schedules of posi-
12 tions and the salaries and/or payments thereof for which adjustments
13 and/or payments are made pursuant to the provisions of this subdivision,
14 and a copy of each such certificate shall be filed with the state comp-
15 troller, the state department of civil service, the chairman of the
16 senate finance committee and the chairman of the assembly ways and means
17 committee.

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

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

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

35 § 9. Compensation for certain employees of the contract colleges at
36 Cornell and Alfred universities. 1. During the period April 1, 2007 to
37 March 31, 2011, the basic annual salaries of positions in the nonprofes-
38 sional service, except those positions in the Cornell service and mainte-
39 nance unit which are subject to the terms of a collective bargaining
40 agreement between Cornell University and the employee organization
41 representing employees in such positions and except those positions in
42 the Alfred service and maintenance unit which are subject to the terms of
43 a collective bargaining agreement between Alfred University and the
44 employee organization representing employees in such positions, in insti-
45 tutions under the management and control of Cornell and Alfred universi-
46 ties as representatives of the board of trustees of the state university
47 may be increased pursuant to plans approved by the state university trus-
48 tees. Such plans may include new salary schedules which shall supersede
49 the salary schedules then in effect applicable to such employees. Such
50 increases in basic annual salary rates, exclusive of performance advance-
51 ment payments or merit recognition payments, shall not exceed in the
52 aggregate the payments provided in subdivisions 2, 3, 4 and 5 of section
53 eight of this act, for incumbents of positions subject to this subdivi-
54 sion. Such plans may provide, within the appropriations available there-
55 for, an amount for distribution in whole or in part for meritorious
56 service by Cornell and Alfred universities, in their discretion, with the

1 approval of the state university trustees to the incumbents of such posi-
2 tions.

3 2. For the purposes of this section, the basic annual salary of employ-
4 ees is that salary which is obtained through direct appropriation of
5 state moneys for the purpose of paying wages. Nothing in this section
6 shall prevent payment of additional amounts to incumbents of such posi-
7 tions in the nonprofessional service in addition to the basic annual
8 salary; provided, however, that the amounts required for such additional
9 payment, and the cost of fringe benefits attributable to such payment, as
10 determined by the comptroller, are made available to the state in accord-
11 ance with the procedures established by the state university for such
12 purposes.

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

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

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

1 1, 2008 which shall be increased to one thousand five hundred thirteen
2 dollars effective the payroll period beginning the closest to October 1,
3 2008. Such location payments shall be in addition to and shall not be a
4 part of an officer's or employee's basic annual salary, and shall not
5 affect or impair any performance advancements or other rights or benefits
6 to which an officer or employee may be entitled by law, provided, howev-
7 er, that location payments shall be included as compensation for purposes
8 of computation of overtime pay and for retirement purposes. For the sole
9 purpose of continuing eligibility for location pay in Monroe county, an
10 officer or employee previously eligible to receive location pay on March
11 31, 1985 who is on an approved leave of absence or participates in an
12 employer program to reduce to part-time service during summer months
13 shall continue to be eligible for said location pay upon return to full-
14 time state service in Monroe county.

15 § 11. Continuation of location compensation for certain officers and
16 employees of the Hudson Valley developmental disabilities services
17 office. 1. Notwithstanding any law, rule or regulation to the contrary,
18 any officer or employee of the Hudson Valley developmental disabilities
19 services office represented in the collective negotiating units desig-
20 nated as the administrative services unit, the institutional services
21 unit or the operational services unit, who is receiving location pay
22 pursuant to section 5 of chapter 174 of the laws of 1993 shall continue
23 to receive such location pay under the conditions and at the rates speci-
24 fied by such section.

25 2. Notwithstanding any law, rule or regulation to the contrary, any
26 officer or employee of the Hudson Valley developmental disabilities
27 services office represented in the collective negotiating units desig-
28 nated as the administrative services unit, the institutional services
29 negotiating unit or the operational services negotiating unit, who is
30 receiving location pay pursuant to subdivision 2 of section 9 of chapter
31 315 of the laws of 1995 shall continue to receive such location pay under
32 the conditions and at the rates specified by such subdivision.

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

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

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

3 § 13. Additional compensation for certain employees in recognition of
4 pre-shift briefing. 1. In recognition of the general requirement for
5 full-time employees of the state in the collective negotiating unit
6 designated as the division of military and naval affairs unit, estab-
7 lished pursuant to article 14 of the civil service law, to assemble for
8 briefing prior to the commencement of duties, each such employee shall
9 receive additional compensation at the rate of sixty dollars per biweekly
10 payroll period in accordance with the terms of a collectively negotiated
11 agreement between the state and an employee organization representing
12 such employees pursuant to article 14 of the civil service law. Such
13 additional compensation shall be paid in addition to and shall not be a
14 part of the employee's basic annual salary. Notwithstanding the foregoing
15 provisions of this section, or of any other law, such additional compen-
16 sation as added by this section shall be in lieu of the continuation of
17 any other additional compensation for such employees paid prior to June
18 2, 1988, in recognition of pre-shift briefing.

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

32 § 14. Assignment to duty pay. Notwithstanding any inconsistent
33 provisions of law, effective April 1, 2007, where and to the extent that,
34 an agreement between the state and an employee organization entered into
35 pursuant to article 14 of the civil service law so provide, an assignment
36 to duty lump sum shall be paid each year to an employee who is serving in
37 a particular assignment deemed qualified pursuant to such agreement. Such
38 payment shall be in an amount negotiated for those employees assigned to
39 qualifying work assignments and who work such assignments for the minimum
40 periods of time in a year provided in the negotiated agreement. Assign-
41 ment to duty pay shall not be paid in any year an employee does not meet
42 the minimum period of time in such qualifying assignment required by the
43 agreement or upon cessation of the assignment to duty program on March
44 30, 2011 unless an extension is negotiated by the parties. Such lump sum
45 shall be considered salary only for final average salary retirement
46 purposes.

47 § 15. Long term seasonal employees. Notwithstanding any inconsistent
48 provisions of law, effective April 1, 2004, where and to the extent that,
49 an agreement between the state and an employee organization entered into
50 pursuant to article 14 of the civil service law so provides, a lump sum
51 shall be paid each year to an employee who is serving in a qualifying
52 long term seasonal position. Such payment shall be in an amount negoti-
53 ated and pursuant to negotiated qualifying criteria and shall be consid-
54 ered salary only for final average salary retirement purposes. Such bene-
55 fit shall be available until March 30, 2011.

1 § 16. In recognition of the specific requirements for winter mainte-
2 nance activity for full-time employees of the state department of trans-
3 portation in the collective negotiating unit designated as the opera-
4 tional services unit, established pursuant to article 14 of the civil
5 service law, and to the extent the terms of a negotiated agreement
6 between the state and an employee organization representing such unit
7 entered into pursuant to article 14 of the civil service law so provides,
8 such employees shall receive payments for winter maintenance shifts and
9 call-out responses if otherwise eligible and in accordance with such
10 negotiated agreement.

11 § 17. Subdivision 2 of section 17 of chapter 333 of the laws of 1969
12 amending the civil service law and other laws relating to salary
13 increases for certain state officers and employees, as amended by section
14 18 of part A of chapter 103 of the laws of 2004, is amended to read as
15 follows:

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

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

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

1 § 20. During the period April 2, 2007 through April 1, 2011, there
2 shall be a statewide labor-management committee continued and adminis-
3 tered pursuant to the terms of the agreement negotiated between the state
4 and an employee organization representing employees in the collective
5 negotiating units designated as the administrative services unit, the
6 institutional services unit, the operational services unit and the divi-
7 sion of military and naval affairs unit established pursuant to article
8 14 of the civil service law which shall, after April 2, 2007, have the
9 responsibility of studying and making recommendations concerning the
10 major issues of productivity, the quality of work life and implementing
11 the agreements reached.

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

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

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

42 § 24. Deferred payment of salary increase. Notwithstanding the
43 provisions of any other section of this act, or any other law, pending
44 payment pursuant to this act of the basic annual salaries of incumbents
45 of positions subject to this act, such incumbents shall receive, as
46 partial compensation for services rendered, the rate of compensation
47 otherwise payable in their respective positions. An incumbent holding a
48 position subject to this act at any time during the period from April 1,
49 2007, until the time when basic annual salaries are first paid pursuant
50 to this act for such services in excess of the compensation actually
51 received therefor, shall be entitled to a lump sum payment for the
52 difference between the salary to which such incumbent is entitled for
53 such services and the compensation actually received therefor. Such lump
54 sum payment shall be made as soon as practicable.

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

1 budget, the comptroller is hereby authorized and directed to transfer up
 2 to \$36,941,000 from the general fund to the dedicated highway and bridge
 3 trust fund (072), on or before March 31, 2009, to carry out the
 4 provisions of section twenty-six of this act.

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

16 ALL STATE DEPARTMENTS AND AGENCIES
 17 SPECIAL PAY BILLS

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

20 Personal Service

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

25 Nonpersonal Service

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

1	Personal Service	
2	Personal Service	241,000
3	Nonpersonal Service	
4	Fringe Benefits	119,000
5	Federal Health and Human Services Fund - 265	
6	Personal Service	
7	Personal Service	1,619,000
8	Nonpersonal Service	
9	Fringe Benefits	800,000
10	Federal Education Fund - 267	
11	Personal Service	
12	Personal Service	1,066,000
13	Nonpersonal Service	
14	Fringe Benefits	527,000
15	Federal Health and Human Services Block Grant Fund - 269	
16	Personal Service	
17	Personal Service	477,000
18	Nonpersonal Service	
19	Fringe Benefits	236,000
20	Federal Operating Grants Fund - 290	
21	Personal Service	
22	Personal Service	2,495,000
23	Nonpersonal Service	
24	Fringe Benefits	1,233,000
25	Unemployment Insurance Administration Fund - 480	
26	Personal Service	
27	Personal Service	3,913,000

1	Nonpersonal Service	
2	Fringe Benefits	1,933,000
3	Special Revenue Funds - Other	
4	Combined Expendable Trust Fund - 020	
5	Personal Service	
6	Personal Service	23,000
7	Nonpersonal Service	
8	Fringe Benefits	11,000
9	NYS Archives Partnership Trust Fund - 024	
10	Personal Service	
11	Personal Service	4,000
12	Nonpersonal Service	
13	Fringe Benefits	2,000
14	Tuition Reimbursement Fund - 050	
15	Personal Service	
16	Personal Service	14,000
17	Nonpersonal Service	
18	Fringe Benefits	7,000
19	Records Management Improvement Fund - 052	
20	Personal Service	
21	Personal Service	49,000
22	Nonpersonal Service	
23	Fringe Benefits	24,000
24	Health Care Reform - 061	
25	Personal Service	
26	Personal Service	120,000
27	Nonpersonal Service	
28	Fringe Benefits	59,000
29	State Lottery Fund - 160	

1	Personal Service	
2	Personal Service	967,000
3	Nonpersonal Service	
4	Fringe Benefits	478,000
5	Sewage Treatment Management and Administration Fund -	
6	300	
7	Personal Service	
8	Personal Service	13,000
9	Nonpersonal Service	
10	Fringe Benefits	6,000
11	Environmental Conservation Special Revenue Fund - 301	
12	Personal Service	
13	Personal Service	1,177,000
14	Nonpersonal Service	
15	Fringe Benefits	581,000
16	Conservation Fund - 302	
17	Personal Service	
18	Personal Service	721,000
19	Nonpersonal Service	
20	Fringe Benefits	356,000
21	Environmental Protection and Oil Spill Compensation Fund	
22	- 303	
23	Personal Service	
24	Personal Service	111,000
25	Nonpersonal Service	
26	Fringe Benefits	55,000
27	OSHA - Training and Education Occupational Safety Fund -	
28	305	

1	Personal Service	
2	Personal Service	244,000
3	Nonpersonal Service	
4	Fringe Benefits	121,000
5	Mass Transportation Operating Assistance Fund - 313	
6	Personal Service	
7	Personal Service	13,000
8	Nonpersonal Service	
9	Fringe Benefits	6,000
10	Clean Air Fund - 314	
11	Personal Service	
12	Personal Service	593,000
13	Nonpersonal Service	
14	Fringe Benefits	293,000
15	Miscellaneous Special Revenue Fund - 339	
16	Personal Service	
17	Personal Service	28,729,000
18	Nonpersonal Service	
19	Fringe Benefits	14,192,000
20	State University Income Fund - 345	
21	Personal Service	
22	Personal Service	16,335,000
23	Nonpersonal Service	
24	Fringe Benefits	8,069,000
25	Lake George Park Trust Fund - 349	
26	Personal Service	
27	Personal Service	18,000

1	Nonpersonal Service	
2	Fringe Benefits	9,000
3	Motor Vehicle Law Enforcement - 354	
4	Personal Service	
5	Personal Service	9,000
6	Nonpersonal Service	
7	Fringe Benefits	4,000
8	Drinking Water Program Management and Administration -	
9	366	
10	Personal Service	
11	Personal Service	24,000
12	Nonpersonal Service	
13	Fringe Benefits	12,000
14	Internal Service Funds	
15	Centralized Services Fund - 323	
16	Personal Service	
17	Personal Service	589,000
18	Nonpersonal Service	
19	Fringe Benefits	291,000
20	Miscellaneous Internal Services Fund - 334	
21	Personal Service	
22	Personal Service	751,000
23	Nonpersonal Service	
24	Fringe Benefits	371,000
25	Mental Hygiene Community Stores Fund - 343	
26	Personal Service	
27	Personal Service	61,000

1	Nonpersonal Service	
2	Fringe Benefits	30,000
3	Health Insurance Internal Service Fund - 396	
4	Personal Service	
5	Personal Service	265,000
6	Nonpersonal Service	
7	Fringe Benefits	131,000
8	Correctional Industries Internal Services Fund - 397	
9	Personal Service	
10	Personal Service	1,629,000
11	Nonpersonal Service	
12	Fringe Benefits	805,000
13	Private Purpose Trust Fund	
14	Milk Product Security Fund - 022	
15	Personal Service	
16	Personal Service	4,000
17	Nonpersonal Service	
18	Fringe Benefits	2,000
19	Pension Trust Fund	
20	Common Retirement Fund - 400	
21	Personal Service	
22	Personal Service	1,782,000
23	Nonpersonal Service	
24	Fringe Benefits	880,000
25	Agency Trust Fund	
26	State Insurance Fund - 640	
27	Personal Service	
28	Personal Service	3,261,000

1	Nonpersonal Service	
2	Fringe Benefits	1,611,000
3	Enterprise Funds	
4	State Expo Fund - 325	
5	Personal Service	
6	Personal Service	28,000
7	Nonpersonal Service	
8	Fringe Benefits	14,000
9	Correction - Family Benefit Fund - 329	
10	Personal Service	
11	Personal Service	36,000
12	Nonpersonal Service	
13	Fringe Benefits	18,000
14	Agencies Enterprise Funds - 331	
15	Personal Service	
16	Personal Service	57,000
17	Nonpersonal Service	
18	Fringe Benefits	28,000
19	Mental Health and Mental Retardation Community Stores	
20	Fund - 353	
21	Personal Services	
22	Personal Service	33,000
23	Nonpersonal Service	
24	Fringe Benefits	16,000
25	Capital Project Funds - Other	
26	Dedicated Highway and Bridge Trust Fund - 072	
27	Personal Service	
28	Personal Service	24,726,000

1 Nonpersonal Service

2 Fringe Benefits 12,215,000

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

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

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

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

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

24 (1) Effective April second, two thousand seven:

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

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

(2) Effective April first, two thousand eight:

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

(3) Effective April first, two thousand nine:

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

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

17 (4) Effective April first, two thousand ten:

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

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

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

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

4 Effective April second, two thousand seven:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$102,828</u>	<u>\$140,325</u>

7 Effective April first, two thousand eight:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$105,913</u>	<u>\$144,535</u>

10 Effective April first, two thousand nine:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$109,090</u>	<u>\$148,871</u>

13 Effective April first, two thousand ten:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$113,454</u>	<u>\$154,826</u>

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

19 Effective April second, two thousand seven:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$79,964</u>	<u>\$101,049</u>

22 Effective April first, two thousand eight:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$82,363</u>	<u>\$104,081</u>

25 Effective April first, two thousand nine:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$84,834</u>	<u>\$107,203</u>

28 Effective April first, two thousand ten:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$88,227</u>	<u>\$111,491</u>

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

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

1 that such officers and employees who on their anniversary date have ten
 2 or more years of continuous service as defined by paragraph (c) of
 3 subdivision three of this section at a basic annual salary rate equal to
 4 or in excess of the job rate or maximum salary of the salary grade of
 5 their position and whose basic annual salary is less than [~~one thousand~~
 6 ~~five hundred dollars~~] one thousand seven hundred fifty dollars during
 7 fiscal year two thousand seven-two thousand eight, two thousand dollars
 8 during fiscal year two thousand eight-two thousand nine, and two thou-
 9 sand two hundred fifty dollars during fiscal year two thousand nine-two
 10 thousand ten in excess of the job rate of the salary grade of their
 11 position shall on such anniversary date receive a longevity payment
 12 increasing their basic annual salary to that of the job rate of the
 13 salary grade of their position increased by [~~one thousand five hundred~~
 14 ~~dollars~~] one thousand seven hundred fifty dollars during fiscal year two
 15 thousand seven-two thousand eight, two thousand dollars during fiscal
 16 year two thousand eight-two thousand nine, and two thousand two hundred
 17 fifty dollars during fiscal year two thousand nine-two thousand ten.
 18 Such increases shall be effective at the beginning of the pay period
 19 following the anniversary date upon which the required service is
 20 attained. Effective April first, two thousand ten, however, such
 21 longevity payments shall be made in the amount of one thousand two
 22 hundred fifty dollars to officers and employees as defined herein who on
 23 their anniversary date have five or more years of continuous service and
 24 in the amount of two thousand five hundred dollars to officers and
 25 employees as defined herein who on their anniversary date have ten or
 26 more years of continuous service. Such payments shall be made in addi-
 27 tion to and shall not be considered part of basic annual salary and
 28 shall be made by separate check as soon as practicable following the
 29 anniversary date upon which the required service is attained.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) officers or employees whose salaries are prescribed by section 40,
25 60, or 169 of the executive law;

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

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

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

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

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

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

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

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

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

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

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

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

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

39 § 6. Compensation for certain state employees in the state university
40 and certain employees of contract colleges at Cornell and Alfred univer-
41 sities. 1. Effective April 2, 2007, April 1, 2008, April 1, 2009, and
42 April 1, 2010, the basic annual salary of incumbents of positions in the
43 professional service in the state university that are designated, stipu-
44 lated, or excluded from negotiating units as managerial or confidential
45 as defined pursuant to article 14 of the civil service law, may be
46 increased pursuant to plans approved by the state university trustees.
47 Such increases in basic annual salary rates, exclusive of amounts for
48 meritorious service pursuant to subdivision 3 of this section, shall not
49 exceed in the aggregate three percent of the total basic annual salary
50 rates in effect on March 31, 2007, three percent of the total basic
51 annual salary rates in effect on March 31, 2008, three percent of the
52 total basic annual salary rates in effect on March 31, 2009, and four
53 percent of the total basic annual salary rates in effect on March 31,
54 2010.

55 2. Effective April 2, 2007, April 1, 2008, April 1, 2009, and April 1,
56 2010, the basic annual salary of incumbents of positions in the insti-

1 tutions under the management and control of Cornell and Alfred universi-
2 ties as representatives of the board of trustees of the state university
3 that, in the opinion of the director of employee relations, would be
4 designated managerial or confidential were they subject to article 14 of
5 the civil service law may be increased pursuant to plans approved by the
6 state university trustees. Such increases in basic annual salary rates,
7 exclusive of amounts for meritorious service pursuant to subdivision 3
8 of this section, shall not exceed in the aggregate three percent of the
9 total basic annual salary rates in effect on March 31, 2007, three
10 percent of the total basic annual salary rates in effect on March 31,
11 2008, three percent of the total basic annual salary rates in effect on
12 March 31, 2009, and four percent of the total basic annual salary rates
13 in effect on March 31, 2010.

14 3. (a) There shall be available an amount each year not to exceed one
15 percent of the total of the basic annual salaries on July 1, 2007, July
16 1, 2008, July 1, 2009, and July 1, 2010 of incumbents of positions in
17 the professional service in the state university that are designated,
18 stipulated, or excluded from negotiating units as managerial or confi-
19 dential as defined pursuant to article 14 of the civil service law, for
20 distribution, in whole or in part, by the state university trustees, in
21 their discretion, to such incumbents for meritorious service. Any such
22 distribution shall be effective July 1, 2007, July 1, 2008, July 1,
23 2009, and July 1, 2010 respectively.

24 (b) During the fiscal years commencing April 1, 2007, April 1, 2008,
25 April 1, 2009, and April 1, 2010, Cornell and Alfred universities, at
26 their discretion, and with the approval of the state university trus-
27 tees, may provide within the appropriations available therefor, an
28 amount each year not to exceed one percent of the total of the basic
29 annual salaries on July 1, 2007, July 1, 2008, July 1, 2009, and July 1,
30 2010 for distribution in whole or in part for meritorious service to
31 incumbents of positions in the institutions under the management of
32 Cornell and Alfred universities as representative of the board of trus-
33 tees of the state university that, in the opinion of the director of
34 employee relations, would be designated managerial or confidential were
35 they subject to article 14 of the civil service law.

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

1 2008, three percent of the total basic annual salary rates in effect on
2 March 31, 2009, and four percent of the total basic annual salary rates
3 in effect on March 31, 2010. During the fiscal years commencing April 1,
4 2007, April 1, 2008, April 1, 2009, and April 1, 2010, such plans may
5 provide, within the appropriations available therefor, an amount not to
6 exceed one percent of the total basic annual salaries on April 1, 2007,
7 April 1, 2008, April 1, 2009, and April 1, 2010 for distribution in
8 whole or in part for meritorious service by Cornell university and
9 Alfred university, at their discretion and with the approval of the
10 state university trustees, to the incumbents of such positions.

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

21 § 7. Location compensation for certain state officers and employees.

22 1. This section shall apply to all state officers and employees except
23 the following:

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

28 (b) officers and employees whose salaries are prescribed by or deter-
29 mined in accordance with section 40, 60, 169, 215 or 216 of the execu-
30 tive law;

31 (c) incumbents of allocated or unallocated positions in the profes-
32 sional service in the state university and in institutions under the
33 management and control of Cornell and Alfred universities as represen-
34 tatives of the board of trustees of the state university;

35 (d) part-time and seasonal employees;

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

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

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

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

51 (c) in the county of Dutchess, Orange, or Putnam shall receive a mid-
52 Hudson adjustment at the rate of one thousand dollars effective April 1,
53 2008 and one thousand five hundred thirteen dollars effective October 1,
54 2008.

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

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

10 § 8. Continuation of location compensation for certain officers and
 11 employees of the Hudson Valley developmental disabilities services
 12 office. 1. Notwithstanding any law, rule or regulation to the contrary,
 13 any officer or employee of the Hudson Valley developmental disabilities
 14 services office not represented in collective negotiating units estab-
 15 lished pursuant to article 14 of the civil service law who is receiving
 16 location pay pursuant to section 5 of chapter 174 of the laws of 1993
 17 shall continue to receive such location pay under the conditions and at
 18 the rates specified by such section 5 of chapter 174 of the laws of
 19 1993.

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

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

40 § 20. Vacation exchange option. Notwithstanding any other provision
 41 of law to the contrary, effective April 1, ~~[2004]~~ **2008** through March 31,
 42 ~~[2007]~~ **2011**, state employees as defined herein who are entitled to earn
 43 and accumulate vacation credits may once per fiscal year elect to
 44 receive cash payment in exchange for such earned and accumulated credits
 45 in units of full days only up to a maximum of five days, provided that
 46 at the time of such election such credits total thirty-five or more
 47 days, and provided further that the availability of such vacation
 48 exchange option shall be subject to the approval of the director of the
 49 division of the budget for each respective state fiscal year. Vacation
 50 credits designated for such an exchange shall be segregated from the
 51 employee's accrued vacation credits for future cash payment and such
 52 days shall not be included in the accrued credits of the employee for
 53 the purpose of disallowing subsequent vacation credits within the limits
 54 otherwise prescribed. The election of such an exchange shall be made by
 55 the last day of the payroll period which includes July first of each
 56 year[~~provided, however, that during the fiscal year commencing April~~

1 ~~1, 2004 such election shall be made no later than sixty days after the~~
2 ~~effective date of a]. However, if the effective date of the~~ chapter of
3 the laws of [~~2004~~] 2008 which amended this section is after April 1,
4 2008, such election for the fiscal year commencing April 1, 2008 shall
5 be made no later than sixty days after the effective date of such chap-
6 ter and employees who choose to make an election and whose accumulated
7 vacation credits totaled thirty-five or more days on a date or dates
8 during the period April 1, [~~2004~~] 2008 through sixty days after the
9 effective date of [~~a such~~] chapter [~~of the laws of 2004 which amended~~
10 ~~this section~~] may be deemed to have made such election on such date.
11 Such payment for exchanged credits shall be made during the first week
12 of December of the year of such exchange at a rate determined by the
13 employee's salary in effect on the October first immediately prior to
14 such payment. Such compensation shall be paid in addition to and shall
15 not be part of an employee's basic annual salary, nor shall it be
16 considered salary for the purpose of computing retirement benefits. For
17 the purposes of this section, "state employees" shall mean state offi-
18 cers and employees in the executive branch of the state of New York
19 whose positions have been designated managerial or confidential pursuant
20 to article 14 of the civil service law, employees covered by section 19
21 of the correction law, employees in positions in the professional
22 service in the state university which are designated, stipulated or
23 excluded from negotiating units as managerial or confidential as defined
24 pursuant to article 14 of the civil service law, employees covered by
25 paragraph (a) of subdivision 1 of section 215 of the executive law,
26 employees who have been excluded from representation rights under such
27 article pursuant to rules and regulations of the public employment
28 relations board, or civilian state employees who are employed in the
29 division of military and naval affairs in the executive department whose
30 positions are not in, or are excluded from representation rights in, any
31 recognized or certified negotiating unit, and officers or employees in
32 positions in the institutions under the management and control of
33 Cornell and Alfred universities, as representatives of the board of
34 trustees of the state university, which in the opinion of the director
35 of employee relations would be designated managerial or confidential
36 were they subject to article 14 of the civil service law, who are enti-
37 tled to earn and accumulate vacation credits, provided, however, that
38 state employees, for the purposes of this section, shall not include
39 officers or employees whose salaries are prescribed by section 169 of
40 the executive law or whose salaries were so prescribed prior to the
41 enactment of chapter 55 of the laws of 1979. The director of employee
42 relations may adopt such regulations as are deemed necessary to carry
43 out the provisions of this section.

44 § 10. Notwithstanding any provision of law to the contrary, the appro-
45 priations contained in this act shall be available to the state for the
46 payment of grievance settlements and awards pursuant to executive order
47 42, dated October 14, 1970, and title 9, part 560, official compilation
48 of codes, rules and regulations of the state of New York.

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

1 allocate to the various departments and agencies, from any appropri-
2 ations available in any fund, the amounts necessary to pay such amounts.

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

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

28 § 14. Deferred payment of salary increase. Notwithstanding the
29 provisions of any other section of this act or of any other law, pending
30 payment pursuant to this act of the basic annual salaries of incumbents
31 of positions subject to this act, such incumbents shall receive, as
32 partial compensation for services rendered, the rate of compensation
33 otherwise payable in their respective positions. An incumbent holding a
34 position subject to this act at any time during the period from April 1,
35 2007 until the time when basic annual salaries are first paid pursuant
36 to this act for such services in excess of the compensation actually
37 received therefor, shall be entitled to a lump sum payment for the
38 difference between the salary to which such incumbent is entitled for
39 such services and the compensation actually received therefor. Such lump
40 sum payments shall be made as soon as practicable.

41 § 15. 1. Notwithstanding the provisions of any other section of this
42 act or any other provision of law to the contrary, any increase in
43 compensation provided: (a) in this act, or (b) as a result of a
44 promotion, appointment, or advancement to a position in a higher salary
45 grade, or (c) pursuant to paragraph (c) of subdivision 6 of section 131
46 of the civil service law, or (d) pursuant to paragraph (b) of subdivi-
47 sion 8 of section 130 of the civil service law, or (e) pursuant to para-
48 graph (a) of subdivision 3 of section 13 of chapter 732 of the laws of
49 1988, as amended may be withheld in whole or in part from any officer or
50 employee when, in the opinion of the director of the budget, such with-
51 holding is necessary to reflect the job performance of such officer or
52 employee, or to maintain appropriate salary relationships among officers
53 or employees of the state, or to reduce state expenditures to acceptable
54 levels or when, in the opinion of the director of the budget, such
55 increase is not warranted or is not appropriate.

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

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

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

23 ALL STATE DEPARTMENTS AND AGENCIES
 24 SPECIAL PAY BILLS
 25 General Fund / State Operations
 26 State Purposes Account - 003

27 Personal Service

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

32 Nonpersonal Service

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

41 Special Revenue Funds - Federal
 42 Federal USDA - Food and Nutritional
 43 Services - 261

44 Personal Service

45 Personal Service 107,000

1	Nonpersonal Service	
2	Fringe Benefits	53,000
3	Federal Health and Human Services Fund - 265	
4	Personal Service	
5	Personal Service	2,613,000
6	Nonpersonal Service	
7	Fringe Benefits	1,291,000
8	Federal Education Fund - 267	
9	Personal Service	
10	Personal Service	639,000
11	Nonpersonal Service	
12	Fringe Benefits	316,000
13	Federal Health and Human Services Block	
14	Grant Fund - 269	
15	Personal Service	
16	Personal Service	582,000
17	Nonpersonal Service	
18	Fringe Benefits	288,000
19	Federal Operating Grants Fund - 290	
20	Personal Service	
21	Personal Service	742,000
22	Nonpersonal Service	
23	Fringe Benefits	367,000
24	Unemployment Insurance Administration Fund - 480	
25	Personal Service	
26	Personal Service	2,488,000
27	Nonpersonal Service	
28	Fringe Benefits	1,229,000
29	Special Revenue Funds - Other	

1	Combined Expendable Trust Fund - 020	
2	Personal Service	
3	Personal Service	18,000
4	Nonpersonal Service	
5	Fringe Benefits	9,000
6	NY Interest on Lawyers Account Fund - 023	
7	Personal Service	
8	Personal Service	57,000
9	Nonpersonal Service	
10	Fringe Benefits	28,000
11	Tuition Reimbursement Fund - 050	
12	Personal Service	
13	Personal Service	10,000
14	Nonpersonal Service	
15	Fringe Benefits	5,000
16	Records Management Improvement Fund - 052	
17	Personal Service	
18	Personal Service	9,000
19	Nonpersonal Service	
20	Fringe Benefits	4,000
21	Health Care Reform - 061	
22	Personal Service	
23	Personal Service	42,000
24	Nonpersonal Service	
25	Fringe Benefits	21,000
26	State Lottery Fund - 160	
27	Personal Service	
28	Personal Service	315,000

1	Nonpersonal Service	
2	Fringe Benefits	156,000
3	Sewage Treatment Management and Administration Fund -	
4	300	
5	Personal Service	
6	Personal Service	394,000
7	Nonpersonal Service	
8	Fringe Benefits	195,000
9	Environmental Conservation Special Revenue Fund - 301	
10	Personal Service	
11	Personal Service	209,000
12	Nonpersonal Service	
13	Fringe Benefits	103,000
14	Conservation Fund - 302	
15	Personal Service	
16	Personal Service	234,000
17	Nonpersonal Service	
18	Fringe Benefits	116,000
19	Environmental Protection and Oil Spill Compensation Fund	
20	- 303	
21	Personal Service	
22	Personal Service	145,000
23	Nonpersonal Service	
24	Fringe Benefits	72,000
25	OSHA - Training and Education Occupational Safety Fund -	
26	305	
27	Personal Service	
28	Personal Service	171,000
29	Nonpersonal Service	
30	Fringe Benefits	84,000
31	Mass Transportation Operating Assistance Fund - 313	

1	Personal Service	
2	Personal Service	24,000
3	Nonpersonal Service	
4	Fringe Benefits	12,000
5	Clean Air Fund - 314	
6	Personal Service	
7	Personal Service	194,000
8	Nonpersonal Service	
9	Fringe Benefits	96,000
10	Miscellaneous Special Revenue Fund - 339	
11	Personal Service	
12	Personal Service	13,416,000
13	Nonpersonal Service	
14	Fringe Benefits	6,628,000
15	Medical flexible spending account	500,000
16	State University Income Fund - 345	
17	Personal Service	
18	Personal Service	3,180,000
19	Nonpersonal Service	
20	Fringe Benefits	1,571,000
21	Lake George Park Trust Fund - 349	
22	Personal Service	
23	Personal Service	6,000
24	Nonpersonal Service	
25	Fringe Benefits	3,000
26	New York Great Lakes Protection Fund - 355	
27	Personal Service	
28	Personal Service	8,000

1	Nonpersonal Service	
2	Fringe Benefits	4,000
3	Drinking Water Program Management and Administration -	
4	366	
5	Personal Service	
6	Personal Service	157,000
7	Nonpersonal Service	
8	Fringe Benefits	78,000
9	Enterprise Funds	
10	State Expo Fund - 325	
11	Personal Service	
12	Personal Service	21,000
13	Nonpersonal Service	
14	Fringe Benefits	10,000
15	Correction - Family Benefit Fund - 329	
16	Personal Service	
17	Personal Service	42,000
18	Nonpersonal Service	
19	Fringe Benefits	21,000
20	Mental Health and Mental Retardation Community Stores	
21	Fund - 353	
22	Personal Service	
23	Personal Service	7,000
24	Nonpersonal Service	
25	Fringe Benefits	3,000
26	Internal Service Funds	
27	Centralized Services Fund - 323	
28	Personal Service	
29	Personal Service	228,000

1	Nonpersonal Service	
2	Fringe Benefits	113,000
3	Miscellaneous Internal Services Fund - 334	
4	Personal Service	
5	Personal Service	656,000
6	Nonpersonal Service	
7	Fringe Benefits	324,000
8	Joint Labor and Management Administration Fund - 394	
9	Personal Service	
10	Personal Service	182,000
11	Nonpersonal Service	
12	Fringe Benefits	90,000
13	Audit and Control Internal Service Fund -	
14	395	
15	Personal Service	
16	Personal Service	66,000
17	Nonpersonal Service	
18	Fringe Benefits	33,000
19	Health Insurance Internal Service Fund - 396	
20	Personal Service	
21	Personal Service	723,000
22	Nonpersonal Service	
23	Fringe Benefits	357,000
24	Correctional Industries Internal Services Fund - 397	
25	Personal Service	
26	Personal Service	193,000
27	Nonpersonal Service	
28	Fringe Benefits	95,000
29	Pension Trust Fund	
30	Common Retirement Fund - 400	

1	Personal Service	
2	Personal Service	973,000
3	Nonpersonal Service	
4	Fringe Benefits	481,000
5	Agency Trust Fund	
6	State Insurance Fund - 640	
7	Personal Service	
8	Personal Service	1,376,000
9	Nonpersonal Service	
10	Fringe Benefits	680,000
11	Capital Project Funds - Other	
12	Dedicated Highway and Bridge Trust Fund - 072	
13	Personal Service	
14	Personal Service	4,689,000
15	Nonpersonal Service	
16	Fringe Benefits	2,316,000

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

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

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

21 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
 22 sion, section or part contained in any part of this act shall be
 23 adjudged by any court of competent jurisdiction to be invalid, such
 24 judgment shall not affect, impair, or invalidate the remainder thereof,
 25 but shall be confined in its operation to the clause, sentence, para-
 26 graph, subdivision, section or part contained in any part thereof
 27 directly involved in the controversy which such judgment shall have been
 28 rendered. It is hereby declared to be the intent of the legislature that
 29 this act would have been enacted even if such invalid provisions had not
 30 been included herein.

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

STATE OF NEW YORK

A. 10270 - S. 7162

IN ASSEMBLY

March 13, 2008

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

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

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

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

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

	<u>SG</u>	<u>HR</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>
7	<u>1</u>	<u>19977</u>	<u>20651</u>	<u>21325</u>	<u>21999</u>	<u>22673</u>	<u>23347</u>	<u>24021</u>
8	<u>2</u>	<u>20740</u>	<u>21447</u>	<u>22154</u>	<u>22861</u>	<u>23568</u>	<u>24275</u>	<u>24982</u>
9	<u>3</u>	<u>21775</u>	<u>22514</u>	<u>23253</u>	<u>23992</u>	<u>24731</u>	<u>25470</u>	<u>26209</u>
10	<u>4</u>	<u>22726</u>	<u>23509</u>	<u>24292</u>	<u>25075</u>	<u>25858</u>	<u>26641</u>	<u>27424</u>
11	<u>5</u>	<u>23813</u>	<u>24632</u>	<u>25451</u>	<u>26270</u>	<u>27089</u>	<u>27908</u>	<u>28727</u>
12	<u>6</u>	<u>25146</u>	<u>25997</u>	<u>26848</u>	<u>27699</u>	<u>28550</u>	<u>29401</u>	<u>30252</u>
13	<u>7</u>	<u>26536</u>	<u>27428</u>	<u>28320</u>	<u>29212</u>	<u>30104</u>	<u>30996</u>	<u>31888</u>
14	<u>8</u>	<u>28031</u>	<u>28958</u>	<u>29885</u>	<u>30812</u>	<u>31739</u>	<u>32666</u>	<u>33593</u>
15	<u>9</u>	<u>29595</u>	<u>30564</u>	<u>31533</u>	<u>32502</u>	<u>33471</u>	<u>34440</u>	<u>35409</u>
16	<u>10</u>	<u>31287</u>	<u>32304</u>	<u>33321</u>	<u>34338</u>	<u>35355</u>	<u>36372</u>	<u>37389</u>
17	<u>11</u>	<u>33102</u>	<u>34169</u>	<u>35236</u>	<u>36303</u>	<u>37370</u>	<u>38437</u>	<u>39504</u>
18	<u>12</u>	<u>34996</u>	<u>36100</u>	<u>37204</u>	<u>38308</u>	<u>39412</u>	<u>40516</u>	<u>41620</u>
19	<u>13</u>	<u>37072</u>	<u>38226</u>	<u>39380</u>	<u>40534</u>	<u>41688</u>	<u>42842</u>	<u>43996</u>
20	<u>14</u>	<u>39217</u>	<u>40419</u>	<u>41621</u>	<u>42823</u>	<u>44025</u>	<u>45227</u>	<u>46429</u>
21	<u>15</u>	<u>41493</u>	<u>42745</u>	<u>43997</u>	<u>45249</u>	<u>46501</u>	<u>47753</u>	<u>49005</u>
22	<u>16</u>	<u>43818</u>	<u>45129</u>	<u>46440</u>	<u>47751</u>	<u>49062</u>	<u>50373</u>	<u>51684</u>
23	<u>17</u>	<u>46284</u>	<u>47669</u>	<u>49054</u>	<u>50439</u>	<u>51824</u>	<u>53209</u>	<u>54594</u>
24								

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

LBD12061-02-8

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

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

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

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

	<u>SG</u>	<u>JR</u>	<u>Merit Rate</u>	<u>Incr</u>	<u>LS1</u>	<u>LS1plus Merit</u>	<u>LS2</u>	<u>LS2plus Merit</u>	<u>Long Incr</u>	<u>Merit Advance Amount</u>
34										
35										
36	<u>1</u>	<u>25434</u>		<u>694</u>	<u>26484</u>		<u>27534</u>		<u>1050</u>	
37	<u>2</u>	<u>26458</u>		<u>728</u>	<u>27508</u>		<u>28558</u>		<u>1050</u>	
38	<u>3</u>	<u>27755</u>		<u>761</u>	<u>28805</u>		<u>29855</u>		<u>1050</u>	
39	<u>4</u>	<u>29050</u>		<u>806</u>	<u>30100</u>		<u>31150</u>		<u>1050</u>	
40	<u>5</u>	<u>30435</u>		<u>844</u>	<u>31485</u>		<u>32535</u>		<u>1050</u>	
41	<u>6</u>	<u>32039</u>		<u>877</u>	<u>33089</u>		<u>34139</u>		<u>1050</u>	
42	<u>7</u>	<u>33765</u>		<u>919</u>	<u>34815</u>		<u>35865</u>		<u>1050</u>	
43	<u>8</u>	<u>35557</u>		<u>955</u>	<u>36607</u>		<u>37657</u>		<u>1050</u>	
44	<u>9</u>	<u>37469</u>		<u>998</u>	<u>38519</u>		<u>39569</u>		<u>1050</u>	
45	<u>10</u>	<u>39555</u>		<u>1047</u>	<u>40605</u>		<u>41655</u>		<u>1050</u>	
46	<u>11</u>	<u>41788</u>		<u>1099</u>	<u>42838</u>		<u>43888</u>		<u>1050</u>	
47	<u>12</u>	<u>44005</u>		<u>1137</u>	<u>45055</u>		<u>46105</u>		<u>1050</u>	
48	<u>13</u>	<u>46507</u>		<u>1189</u>	<u>47557</u>		<u>48607</u>		<u>1050</u>	
49	<u>14</u>	<u>49060</u>		<u>1238</u>	<u>50110</u>		<u>51160</u>		<u>1050</u>	
50	<u>15</u>	<u>51768</u>		<u>1290</u>	<u>52818</u>		<u>53868</u>		<u>1050</u>	
51	<u>16</u>	<u>54583</u>		<u>1350</u>	<u>55633</u>		<u>56683</u>		<u>1050</u>	
52	<u>17</u>	<u>57655</u>		<u>1426</u>	<u>58705</u>		<u>59755</u>		<u>1050</u>	
53	<u>18</u>	<u>59354</u>	<u>60857</u>	<u>1642</u>	<u>60404</u>	<u>61907</u>	<u>61454</u>	<u>62957</u>	<u>1050</u>	<u>1503</u>
54	<u>19</u>	<u>62431</u>		<u>1711</u>	<u>63481</u>		<u>64531</u>		<u>1050</u>	

1	<u>20</u>	<u>65539</u>	<u>1786</u>	<u>66589</u>	<u>67639</u>	<u>1050</u>
2	<u>21</u>	<u>68876</u>	<u>1861</u>	<u>69926</u>	<u>70976</u>	<u>1050</u>
3	<u>22</u>	<u>72430</u>	<u>1940</u>	<u>73480</u>	<u>74530</u>	<u>1050</u>
4	<u>23</u>	<u>76090</u>	<u>2018</u>	<u>77140</u>	<u>78190</u>	<u>1050</u>
5	<u>24</u>	<u>79957</u>	<u>2099</u>	<u>81007</u>	<u>82057</u>	<u>1050</u>
6	<u>25</u>	<u>84174</u>	<u>2187</u>	<u>85224</u>	<u>86274</u>	<u>1050</u>
7	<u>26</u>	<u>88417</u>	<u>2275</u>	<u>89467</u>	<u>90517</u>	<u>1050</u>
8	<u>27</u>	<u>93189</u>	<u>2396</u>	<u>94239</u>	<u>95289</u>	<u>1050</u>
9	<u>28</u>	<u>97863</u>	<u>2489</u>	<u>98913</u>	<u>99963</u>	<u>1050</u>
10	<u>29</u>	<u>102745</u>	<u>2584</u>	<u>103795</u>	<u>104845</u>	<u>1050</u>
11	<u>30</u>	<u>107841</u>	<u>2680</u>	<u>108891</u>	<u>109941</u>	<u>1050</u>
12	<u>31</u>	<u>113296</u>	<u>2781</u>	<u>114346</u>	<u>115396</u>	<u>1050</u>
13	<u>32</u>	<u>118929</u>	<u>2873</u>	<u>119979</u>	<u>121029</u>	<u>1050</u>

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

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

50									<u>Merit</u>	
51			<u>Merit</u>		<u>LS1plus</u>		<u>LS2plus</u>	<u>Long</u>	<u>Advance</u>	
52	<u>SG</u>	<u>JR</u>	<u>Rate</u>	<u>Incr</u>	<u>LS1</u>	<u>Merit</u>	<u>LS2</u>	<u>Merit</u>	<u>Incr</u>	<u>Amount</u>
53	<u>1</u>	<u>26198</u>		<u>715</u>	<u>27348</u>		<u>28498</u>		<u>1150</u>	

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

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

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

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

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

47 § 2. Paragraphs (c) and (d) of subdivision 10 of section 130 of the
 48 civil service law, paragraph (c) as added and paragraph (d) as amended
 49 by chapter 111 of the laws of 2006, are amended to read as follows:
 50 (c) ~~Notwithstanding~~ **(i) Prior to April first two thousand ten, and**
 51 **notwithstanding** any inconsistent provision of law, officers and employ-
 52 ees to whom paragraph e of subdivision one of this section applies who,
 53 on or after April first, two thousand four, on their anniversary date
 54 have five or more years of continuous service as defined by paragraph

1 (c) of subdivision three of this section at a basic annual salary rate
2 equal to or in excess of the job rate or maximum salary of their salary
3 grade, but below the first longevity step and whose performance for the
4 most recent rating period was rated at least "satisfactory" or its
5 equivalent, shall have their basic annual salary increased to the first
6 longevity step or shall have their basic annual salary as otherwise
7 effective increased by eight hundred fifty dollars; or by nine hundred
8 fifty dollars on or after April first, two thousand seven; or by one
9 thousand fifty dollars on or after April first, two thousand eight; or
10 by one thousand one hundred fifty dollars on or after April first, two
11 thousand nine; or as much of that amount as will not result in the new
12 basic annual salary exceeding the step two longevity step. Notwithstand-
13 ing any inconsistent provision of law, officers and employees to whom
14 paragraph e of subdivision one of this section apply who, on or after
15 April first, two thousand four, on their anniversary date have ten or
16 more years of continuous service as defined by paragraph (c) of subdivi-
17 sion three of this section at a basic annual salary rate equal to or in
18 excess of the job rate or maximum salary of their salary grade, but
19 below the second longevity step and whose performance for the most
20 recent rating period was rated at least "satisfactory" or its equiv-
21 alent, shall have their basic annual salary increased to the second
22 longevity step as found in paragraph e of subdivision one of this
23 section. Such increases to longevity steps by eligible officers or
24 employees shall become effective on the first day of the payroll period
25 which next begins following the anniversary date which satisfies the
26 prescribed service requirements.

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

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

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

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

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

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

20 (d) Where, and to the extent an agreement negotiated pursuant to arti-
21 cle fourteen of this chapter so provides and notwithstanding the
22 provisions of paragraph (a) of this subdivision, effective April first,
23 two thousand seven an employee holding a position allocated to Grade 18
24 or below in the salary schedule prescribed in subparagraph five of para-
25 graph c of subdivision one of section one hundred thirty of this title,
26 or allocated to Grade 18 in the salary schedule then applicable as
27 prescribed in [~~subparagraph five of~~] paragraph e of subdivision one of
28 section one hundred thirty of this title, may advance to a merit step
29 above the job rate established in such salary schedule.

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

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

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

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

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

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

3 5-a. Effective April 1, 2007, an employee, who has been at the job
4 rate of the salary grade 18 for no less than one year and satisfies all
5 other eligibility criteria established pursuant to an agreement negoti-
6 ated pursuant to article 14 of the civil service law, shall continue to
7 move to the merit step applicable in paragraph e of subdivision 1 of
8 section 130 of the civil service law. Such merit step or movement there-
9 to shall only occur if the director of the office of employee relations
10 certifies to the state comptroller that a merit evaluation program has
11 been negotiated.

12 6. Notwithstanding the provisions of subdivisions two, three, four and
13 five of this section, if the basic annual salary of an officer or
14 employee to whom the provisions of this section apply is identical with
15 the hiring rate, job rate, merit rate or step one, two, three, four,
16 five, or six of the salary grade of his or her position on the effective
17 dates of the increases provided in these subdivisions, such basic annual
18 salary shall be increased to the hiring rate, step one, two, three,
19 four, five, six, job rate or merit rate, respectively, of such salary
20 grade as contained in the appropriate salary schedules in subparagraphs
21 1, 2, 3, and 4 of paragraph e of subdivision 1 of section 130 of the
22 civil service law, as added by section one of this act, to take effect
23 on the dates provided in subparagraphs 1, 2, 3, and 4 of such paragraph,
24 respectively. The increases in basic annual salary provided by this
25 subdivision shall be in lieu of any increase in basic annual salary
26 provided for in subdivisions two, three, four and five of this section.

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

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

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

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

1 to salary grades, the director of the budget is authorized to add appro-
2 priate adjustments and/or payments to the compensation which such offi-
3 cers and employees are otherwise entitled to receive. The director of
4 the budget shall issue certificates which shall contain schedules of
5 positions and the salaries and/or payments thereof for which adjustments
6 and/or payments are made pursuant to the provisions of this subdivision,
7 and a copy of each such certificate shall be filed with the state comp-
8 troller, the state department of civil service, the chairman of the
9 senate 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 the provisions of this section shall not apply to officers or employees
13 paid on a fee schedule basis.

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

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

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

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

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

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

12 § 8. The salary increases and benefit modification provided for by
13 this act for state employees in the collective negotiating unit desig-
14 nated as the rent regulation services negotiating unit shall not be
15 implemented until the director of employee relations shall have deliv-
16 ered to the director of the budget and the comptroller a letter certify-
17 ing that there is in effect with respect to such negotiating unit a
18 collectively negotiated agreement, ratified by the membership, which
19 provides for such increases and modifications and which are fully
20 executed in writing with the state pursuant to article 14 of the civil
21 service law.

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

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

40 § 11. Deferred payment of salary increase. Notwithstanding the
41 provisions of any other section of this act, or any other law, pending
42 payment pursuant to this act of the basic annual salaries of incumbents
43 of positions subject to this act, such incumbents shall receive, as
44 partial compensation for services rendered, the rate of compensation
45 otherwise payable in their respective positions. An incumbent holding a
46 position subject to this act at any time during the period from April 1,
47 2007, until the time when basic annual salaries are first paid pursuant
48 to this act for such services in excess of the compensation actually
49 received therefor, shall be entitled to a lump sum payment for the
50 difference between the salary to which such incumbent is entitled for
51 such services and the compensation actually received therefor. Such lump
52 sum payment shall be made as soon as practicable.

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

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

8 ALL STATE DEPARTMENTS AND AGENCIES
 9 SPECIAL PAY BILLS

10 General Fund - State Purposes Account

11 Personal Service

12 Personal Service 103,000

13 Non-Personal Service

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

24 Special Revenue Funds - Other
 25 Miscellaneous Special Revenue Fund - 339

26 Personal Service

27 Personal Service 2,120,000

28 Non-Personal Service

29 Non-Personal Service 1,047,000

30 Special Revenue Funds - Federal
 31 Federal Operating Grants Fund - 290

32 Personal Service

33 Personal Service 28,000

34 Non-Personal Service

35 Non-Personal Service 14,000

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

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

STATE OF NEW YORK

S. 6733 - A. 9666

IN SENATE

January 15, 2008

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

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

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

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

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

11	calendar year of death		
12	of the deceased member	per centum	
13	1977 or prior	[142.7%]	<u>150.0%</u>
14	1978	[135.7%]	<u>142.7%</u>
15	1979	[128.8%]	<u>135.7%</u>
16	1980	[122.1%]	<u>128.8%</u>
17	1981	[115.7%]	<u>122.1%</u>
18	1982	[109.4%]	<u>115.7%</u>
19	1983	[103.3%]	<u>109.4%</u>
20	1984	[97.4%]	<u>103.3%</u>
21	1985	[91.6%]	<u>97.4%</u>
22	1986	[86.0%]	<u>91.6%</u>
23	1987	[80.6%]	<u>86.0%</u>
24	1988	[75.4%]	<u>80.6%</u>
25	1989	[70.2%]	<u>75.4%</u>
26	1990	[65.3%]	<u>70.2%</u>

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

LBD14680-02-8

1	1991	[60.5%]	<u>65.3%</u>
2	1992	[55.8%]	<u>60.5%</u>
3	1993	[51.3%]	<u>55.8%</u>
4	1994	[46.9%]	<u>51.3%</u>
5	1995	[42.6%]	<u>46.9%</u>
6	1996	[38.4%]	<u>42.6%</u>
7	1997	[34.4%]	<u>38.4%</u>
8	1998	[30.5%]	<u>34.4%</u>
9	1999	[26.7%]	<u>30.5%</u>
10	2000	[23.0%]	<u>26.7%</u>
11	2001	[19.4%]	<u>23.0%</u>
12	2002	[15.9%]	<u>19.4%</u>
13	2003	[12.6%]	<u>15.9%</u>
14	2004	[9.3%]	<u>12.6%</u>
15	2005	[6.1%]	<u>9.3%</u>
16	2006	[3.0%]	<u>6.1%</u>
17	2007	[0.0%]	<u>3.0%</u>
18	2008		<u>0.0%</u>

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

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

29	calendar year of death		
30	of the deceased member	per centum	
31	1977 or prior	[142.7%]	<u>150.0%</u>
32	1978	[135.7%]	<u>142.7%</u>
33	1979	[128.8%]	<u>135.7%</u>
34	1980	[122.1%]	<u>128.8%</u>
35	1981	[115.7%]	<u>122.1%</u>
36	1982	[109.4%]	<u>115.7%</u>
37	1983	[103.3%]	<u>109.4%</u>
38	1984	[97.4%]	<u>103.3%</u>
39	1985	[91.6%]	<u>97.4%</u>
40	1986	[86.0%]	<u>91.6%</u>
41	1987	[80.6%]	<u>86.0%</u>
42	1988	[75.4%]	<u>80.6%</u>
43	1989	[70.2%]	<u>75.4%</u>
44	1990	[65.3%]	<u>70.2%</u>
45	1991	[60.5%]	<u>65.3%</u>
46	1992	[55.8%]	<u>60.5%</u>
47	1993	[51.3%]	<u>55.8%</u>
48	1994	[46.9%]	<u>51.3%</u>
49	1995	[42.6%]	<u>46.9%</u>
50	1996	[38.4%]	<u>42.6%</u>
51	1997	[34.4%]	<u>38.4%</u>
52	1998	[30.5%]	<u>34.4%</u>
53	1999	[26.7%]	<u>30.5%</u>
54	2000	[23.0%]	<u>26.7%</u>
55	2001	[19.4%]	<u>23.0%</u>
56	2002	[15.9%]	<u>19.4%</u>

1	2003	[12.6%]	<u>15.9%</u>
2	2004	[9.3%]	<u>12.6%</u>
3	2005	[6.1%]	<u>9.3%</u>
4	2006	[3.0%]	<u>6.1%</u>
5	2007	[0.0%]	<u>3.0%</u>
6	<u>2008</u>	<u>0.0%</u>	

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

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

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

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

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

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

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

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

STATE OF NEW YORK

A. 9444-A - S. 6491-A

2007-2008 Regular Sessions

IN ASSEMBLY

October 9, 2007

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

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

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

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

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

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

16 § 2. This act shall take effect immediately.

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

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

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

LBD14115-05-8

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

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

STATE OF NEW YORK

S. 8360 - A. 11414

IN SENATE

May 30, 2008

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

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

**The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:**

1 Section 1. Definitions.

2 1. For purposes of this act, "professional services unit" means the
3 collective negotiating unit designated as the professional services
4 negotiating unit in the state university of New York established pursu-
5 ant to article 14 of the civil service law.

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

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

13 § 2. Adjustment to salaries and other compensation of certain incum-
14 bents in positions in the professional service in the state university.

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

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

LBD12078-02-8

1 tofore specifically identified by the department of audit and control,
2 for the purpose of establishing the effective date of eligibility for
3 salary increase shall be granted said salary increase commencing the
4 first day of the payroll period closest to July 2, 2007. Notwithstand-
5 ing the above, for employees having an academic year professional obli-
6 gation and who are in a 21 pay period status, for the purpose of estab-
7 lishing the effective date of eligibility for salary increase, shall be
8 granted said salary increase effective August 23, 2007.

9 2. The basic annual salaries as of July 1, 2008, of incumbents of
10 positions in the professional service in the state university in the
11 professional services unit, other than positions described in subdivi-
12 sion twelve of this section, shall be increased by 3 percent, adjusted
13 to the nearest whole dollar amount, (a) commencing the first day of the
14 payroll period closest to July 2, 2008, for employees having a calendar
15 year or college year professional obligation, or (b) commencing the
16 first day of the payroll period closest to September 1, 2008, for
17 employees having an academic year professional obligation, except that
18 certain incumbents at the state university of New York at Binghamton,
19 the colleges of technology and the agriculture and technology colleges
20 heretofore specifically identified by the department of audit and
21 control for the purpose of establishing the effective date of eligibil-
22 ity for salary increases, shall be granted said salary increase commenc-
23 ing the first day of the payroll period closest to July 2, 2008.
24 Notwithstanding the above provisions of this subdivision, employees
25 having an academic year professional obligation and who are in a 21 pay
26 period status, for the purpose of establishing the effective date of
27 eligibility for salary increases, shall be granted said salary increase
28 effective August 21, 2008.

29 3. The basic annual salaries as of July 1, 2009, of incumbents of
30 positions in the professional service in the state university in the
31 professional services unit, other than positions described in subdivi-
32 sion twelve of this section, shall be increased by 3 percent, adjusted
33 to the nearest whole dollar amount, (a) commencing the first day of the
34 payroll period closest to July 2, 2009 for employees having a calendar
35 year or college year professional obligation, or (b) commencing the
36 first day of the payroll period closest to September 1, 2009, for
37 employees having an academic year professional obligation, except that
38 certain incumbents at the state university of New York at Binghamton,
39 the colleges of technology and the agriculture and technology colleges
40 heretofore specifically identified by the department of audit and
41 control for the purpose of establishing the effective date of eligibil-
42 ity for salary increases, shall be granted said salary increase commenc-
43 ing the first day of the payroll period closest to July 2, 2009.
44 Notwithstanding the above provisions of this subdivision, employees
45 having an academic year professional obligation and who are in a 21 pay
46 period status, for the purpose of establishing the effective date of
47 eligibility for salary increases, shall be granted said salary increase
48 effective August 20, 2009.

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

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

13 5. Notwithstanding the provisions of subdivisions one, two, three and
14 four of this section, an employee in service on April 30 of 2007, 2008,
15 2009 or 2010, whose employment expired prior to July 2 of any such year
16 and who would have been eligible for the salary increase provided for in
17 subdivision one, two, three or four of this section if the employee's
18 employment had continued through July 2 of that year, shall be eligible
19 for the salary increase provided for in subdivision one, two, three or
20 four of this section if the employee is reemployed in an equivalent
21 position for at least one semester or the equivalent of the twelve-month
22 period commencing on July 2 of such year.

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

32 7. The provisions of this subdivision shall apply to incumbents of
33 positions in the professional services unit, other than positions
34 described in subdivision twelve of this section. For each of the years
35 2008, 2009, 2010 and 2011, there shall be available an amount equal to 1
36 percent of the total of the basic annual salaries on June 30 of such
37 year of incumbents to whom the provisions of this subdivision apply, for
38 distribution to such incumbents by the state university trustees in
39 their discretion. Such distribution shall occur not later than December
40 31 of each year, and shall be retroactive to July 1 of such year for
41 employees having a calendar year or college year professional obli-
42 gation, or September 1 of such year for employees having an academic
43 year professional obligation. The total of the basic annual salaries on
44 June 30 shall include the total salaries of part-time faculty employees
45 in service on April 30 of that year, but whose employment expires prior
46 to July 1 of such year. If the part-time faculty employee is reemployed
47 prior to the distribution of the pool, the employee will be eligible for
48 a discretionary increase at the discretion of the state university trus-
49 tees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (f) A part-time employee who is paid on the basis of a prorated basic
33 annual salary and who, if employed on a full-time basis, would be eligi-
34 ble to be paid a minimum basic annual salary, shall be paid a minimum
35 basic annual salary which shall be the appropriately prorated amount of
36 the minimum basic annual salary that would have been paid to the employ-
37 ee had the employee been employed on a full-time basis.

38 (g) Notwithstanding the provisions of subdivision one of this section,
39 incumbents to whom the provisions of subdivisions one, two, three and
40 four of this section apply and who are in employment status on July 2,
41 2007, shall receive not less than the minimum basic annual salary in
42 force on July 2, 2007, as provided for in the agreement, for the rank or
43 grade in which such incumbent serves.

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

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

1 11. The increases in salary payable pursuant to subdivisions one, two,
2 three and four of this section shall apply on a prorated basis to incum-
3 bents otherwise eligible to receive an increase in salary pursuant to
4 this section, who are paid on an hourly or per diem basis, or who serve
5 on a part-time basis or who are paid on any basis other than at an annu-
6 al salary rate.

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

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

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

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

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

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

15 § 4. On-call compensation for certain state officers and employees in
16 the professional services negotiating unit of the state university.
17 Notwithstanding any provision of law to the contrary, any professional
18 employee eligible to receive compensation pursuant to section three of
19 this act, who is required to be available for immediate recall and who
20 must be prepared to return to duty within a limited period of time, may
21 be granted additional compensation for each day such employee is actual-
22 ly scheduled to remain and remains available for recall. Such additional
23 compensation shall be paid at a rate established pursuant to the agree-
24 ment. Such compensation shall be in addition to and not part of such
25 employee's basic annual salary, provided however, that any amount paya-
26 ble pursuant to this section shall be included as compensation for
27 retirement purposes.

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

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

38 1. During the period July 2, 2007 through July 1, 2011, there shall be
39 a statewide joint labor-management committee continued and administered
40 pursuant to the terms of the agreement, which shall have the responsi-
41 bility for studying and making recommendations concerning the major
42 issues of professional development and implementing such agreements
43 which may be entered into between the state and the employee organiza-
44 tion concerning such matters.

45 2. During the period July 2, 2007 through July 1, 2011, there shall be
46 a statewide joint labor-management committee continued and administered
47 pursuant to the terms of the agreement, which shall have the responsi-
48 bility for studying and making recommendations concerning employment
49 related issues as required by provisions of the agreement and adminis-
50 tering the continuity of employment fund subject to the approval of the
51 state and the employee organization.

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

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

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

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

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

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

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

37 § 7. Notwithstanding any provision of law to the contrary, the appro-
38 priations contained in this act shall be available to the state for the
39 payment of grievance and arbitration settlements and awards pursuant to
40 article 7 of the agreement.

41 § 8. The salary increases and benefit modifications provided for by
42 this act for state employees in the professional services unit, shall
43 not be implemented until the director of employee relations has deliv-
44 ered, to the director of the budget and the comptroller, a certificate
45 that there is in effect with respect to such negotiating unit a collec-
46 tively negotiated agreement which provides for such increases and
47 modifications and which is fully executed in writing with the state
48 pursuant to article 14 of the civil service law, and ratified pursuant
49 to the ratification procedure of the employee organization.

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

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

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

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

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

54 § 14. Payment from special or administrative funds. If the compen-
55 sation to which officers and employees of the state are otherwise enti-
56 tled is payable from a special or administrative fund or funds of the

1 state, other than the general fund or the capital projects fund of the
 2 state, the increase in compensation to which such officers or employees
 3 are entitled under this act shall be payable from such other fund or
 4 funds in the same manner as such other compensation. If the amounts
 5 appropriated or allocable from such other fund or funds are insufficient
 6 to accomplish the purposes of this act, the director of the budget is
 7 hereby authorized to allocate such additional sums from such other fund
 8 or funds as may be necessary therefor.

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

17 § 16. The several amounts as hereinafter set forth, or so much thereof
 18 as may be necessary, are hereby appropriated from the fund so designated
 19 for use by any state department or agency, including the contract
 20 colleges at Alfred and Cornell, for the fiscal years beginning April 1,
 21 2007 and April 1, 2008, to supplement appropriations available for
 22 fringe benefits, and to carry out the provisions of this act. The monies
 23 hereby appropriated are available for payment of any liabilities or
 24 obligations incurred prior to April 1, 2007 in addition to current
 25 liabilities. No money shall be available for expenditure from this
 26 appropriation until a certificate of approval of availability has been
 27 issued by the director of the budget and a copy of such certificate or
 28 any amendment thereto has been filed with the state comptroller, the
 29 chair of the senate finance committee and the chair of the assembly ways
 30 and means committee.

31 ALL STATE DEPARTMENTS AND AGENCIES

32 General Fund - State Purposes Account

33 Personal Service 102,109,000

34 NONPERSONAL SERVICE

35 Fringe Benefits 14,132,000

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

1 For the joint committee on health benefits 700,000

2 Miscellaneous Special Revenue Fund - 339

3 Personal Service 2,550,000

4 NONPERSONAL SERVICE

5 Fringe Benefits 1,260,000

6 State University Income Fund - 345

7 Personal Service 57,271,000

8 NONPERSONAL SERVICE

9 Fringe Benefits 19,528,000

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

STATE OF NEW YORK

S. 8373 - A. 11439

IN SENATE

June 2, 2008

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

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

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

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

5 (1) Effective April fifth, two thousand seven, for officers and
6 employees on the administrative payroll and effective March twenty-
7 ninth, two thousand seven for officers and employees on the institu-
8 tional payroll:

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

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

LBD12081-02-8

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

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

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

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

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

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

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

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

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

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

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

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

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

44 7. Notwithstanding the provisions of subdivisions two, three, four and
45 five of this section, (a) if the basic annual salary of an officer or
46 employee to whom the provisions of this section apply is identical with
47 the hiring rate or the job rate of the salary grade of his or her posi-
48 tion on April 1, 2007, such basic annual salary shall be increased to
49 the hiring rate or job rate, respectively, of such salary grade as
50 contained in subparagraph 1 of paragraph c of subdivision 1 of section
51 130 of the civil service law, as added by section one of this act, (b)
52 if the basic annual salary of an officer or employee to whom the
53 provisions of this section apply is identical with the hiring rate or
54 the job rate of the salary grade of his or her position on April 1,
55 2008, such basic annual salary shall be increased to the hiring rate or
56 job rate, respectively, of such salary grade as contained in subpara-

1 graph 2 of paragraph c of subdivision 1 of section 130 of the civil
2 service law, as added by section one of this act, (c) if the basic annu-
3 al salary of an officer or employee to whom the provisions of this
4 section apply is identical with the hiring rate or the job rate of the
5 salary grade of his or her position on April 1, 2009, such basic annual
6 salary shall be increased to the hiring rate or job rate, respectively,
7 of such salary grade as contained in subparagraph 3 of paragraph c of
8 subdivision 1 of section 130 of the civil service law, as added by
9 section one of this act, (d) if the basic annual salary of an officer or
10 employee to whom the provisions of this section apply is identical with
11 the hiring rate or the job rate of the salary grade of his or her posi-
12 tion on April 1, 2010, such basic annual salary shall be increased to
13 the hiring rate or job rate, respectively, of such salary grade as
14 contained in subparagraph 4 of paragraph c of subdivision 1 of section
15 130 of the civil service law, as added by section one of this act, and
16 (e) if the basic annual salary of an officer or employee to whom the
17 provisions of this section apply is higher than the job rate of the
18 salary grade of his or her position on April 1, 2010, such basic annual
19 salary shall be increased to the greater of: (i) the job rate of such
20 salary grade as contained in subparagraph 4 of paragraph c of subdivi-
21 sion 1 of section 130 of the civil service law, as added by section one
22 of this act, or (ii) the basic annual salary increase provided in subdivi-
23 sion 5 of this section. Such increases shall take effect on the dates
24 provided in subdivisions two, three, four and five of this section
25 respectively. Except as herein provided to the contrary, the increases
26 in basic annual salary provided by this subdivision shall be in lieu of
27 any increase in basic annual salary provided for in subdivisions two,
28 three, four and five of this section.

29 8. Payments pursuant to the provisions of subdivision 6 of section 131
30 of the civil service law for officers and employees entitled to such
31 payments to whom the provisions of this section apply shall be payable
32 in accordance with the terms of an agreement reached pursuant to article
33 14 of the civil service law between the state and an employee organiza-
34 tion representing employees subject to the provisions of this section.

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

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

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

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

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

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

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

31 15. Notwithstanding any law, rule or regulation to the contrary, offi-
32 cers and employees to whom the provisions of this section apply shall
33 receive performance awards in accordance with the terms of a collective-
34 ly negotiated agreement between the state and the employee organization
35 representing such employees entered into pursuant to article 14 of the
36 civil service law, effective for the period commencing April 2, 2007,
37 and ending April 1, 2011, in accordance with the rules and regulations
38 issued by the director of the budget to implement payment of such nego-
39 tiated performance awards.

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

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

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

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

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

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

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

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

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

27 § 9. Notwithstanding any provision of law to the contrary, the appro-
28 priations contained in this act shall be available to the state for the
29 payment and publication of grievance and arbitration settlements and
30 awards pursuant to articles 33 and 34 of the collective negotiating
31 agreement between the state and the employee organization representing
32 the collective negotiating unit designated as the professional, scien-
33 tific and technical services unit established pursuant to article 14 of
34 the civil service law.

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

44 § 11. Inconvenience pay program. Pursuant to chapter 333 of the laws
45 of 1969, as amended, and an agreement negotiated between the state and
46 an employee organization representing employees in the professional,
47 scientific and technical services unit established pursuant to article
48 14 of the civil service law, an eligible employee shall be paid five
49 hundred seventy-five dollars per year for working four or more hours
50 between the hours of 6:00 p.m. and 6:00 a.m. effective April 2, 2007.

51 § 12. The salary increases and benefit modifications provided for by
52 this act for state employees in the collective negotiating unit desig-
53 nated as the professional, scientific and technical services unit estab-
54 lished pursuant to article 14 of the civil service law shall not be
55 implemented until the director of employee relations shall have deliv-
56 ered to the director of the budget and the comptroller a letter certify-

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

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

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

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

30 § 16. Deferred payment of salary increase. Notwithstanding the
31 provisions of any other section of this act, or any other law, pending
32 payment pursuant to this act of the basic annual salaries of incumbents
33 of positions subject to this act, such incumbents shall receive, as
34 partial compensation for services rendered, the rate of compensation
35 otherwise payable in their respective positions. An incumbent holding a
36 position subject to this act at any time during the period from April 1,
37 2007, until the time when basic annual salaries are first paid pursuant
38 to this act for such services in excess of the compensation actually
39 received therefor, shall be entitled to a lump sum payment for the
40 difference between the salary to which such incumbent is entitled for
41 such services and the compensation actually received therefor. Such lump
42 sum payment shall be made as soon as practicable.

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

1	ALL STATE DEPARTMENT AND AGENCIES	
2	SPECIAL PAY BILLS	
3	General Fund / State Operations	
4	State Purposes Account - 003	
5	Personal Service	
6	Personal service-regular	83,720,000
7	Temporary service	1,041,000
8	Other compensation, including but not limit-	
9	ed to, overtime and holiday pay	9,622,000
10	Nonpersonal Service	
11	Fringe benefits	22,283,000
12	Professional development and quality of	
13	working life committee	860,000
14	Health and Safety	826,000
15	PSPT Program	9,353,000
16	Joint Funded Programs	1,697,000
17	Multi-Funded Programs	1,594,000
18	Professional Development for Nurses	1,000,000
19	Property Damage	37,000
20	Family Benefits	3,338,000
21	Employee Assistance Program	754,000
22	Joint Committee on Health Benefits	1,000,000
23	Dental and Vision Study	600,000
24	NYSCOPBA Legal Defense Fund	100,000
25	NYSCOPBA Quality of Work Life Committee	400,000
26	Contract administration	150,000
27	Special Revenue Funds - Federal	
28	Federal USDA - Food and Nutritional Services Fund - 261	
29	Personal Service	
30	Personal Service	1,521,000
31	Nonpersonal Service	
32	Fringe Benefits	751,000
33	Federal Health and Human Services Fund - 265	
34	Personal Service	
35	Personal Service	10,359,000
36	Nonpersonal Service	
37	Fringe Benefits	5,117,000
38	Federal Education Fund - 267	

1	Personal Service	
2	Personal Service	6,326,000
3	Nonpersonal Service	
4	Fringe Benefits	3,125,000
5	Federal Health and Human Services Block Grant Fund - 269	
6	Personal Service	
7	Personal Service	2,509,000
8	Nonpersonal Service	
9	Fringe Benefits	1,239,000
10	Federal Operating Grants Fund - 290	
11	Personal Service	
12	Personal Service	4,790,000
13	Nonpersonal Service	
14	Fringe Benefits	2,366,000
15	Unemployment Insurance Administration Fund - 480	
16	Personal Service	
17	Personal Service	11,258,000
18	Nonpersonal Service	
19	Fringe Benefits	5,561,000
20	Special Revenue Funds - Other	
21	Combined Expendable Trust Fund - 20	
22	Personal Service	
23	Personal Service	47,000
24	Nonpersonal Service	
25	Fringe Benefits	23,000
26	NYS Archives Partnership Trust - 024	
27	Personal Service	
28	Personal Service	21,000

1	Nonpersonal Service	
2	Fringe Benefits	10,000
3	Tuition Reimbursement Fund - 050	
4	Personal Service	
5	Personal Service	90,000
6	Nonpersonal Service	
7	Fringe Benefits	44,000
8	Records Management Improvement Fund - 052	
9	Personal Service	
10	Personal Service	151,000
11	Nonpersonal Service	
12	Fringe Benefits	75,000
13	Health Care Reform - 061	
14	Personal Service	
15	Personal Service	1,311,000
16	Nonpersonal Service	
17	Fringe Benefits	648,000
18	State Lottery Fund - 160	
19	Personal Service	
20	Personal Service	666,000
21	Nonpersonal Service	
22	Fringe Benefits	329,000
23	Sewage Treatment Management and Administration Fund -	
24	300	
25	Personal Service	
26	Personal Service	206,000
27	Nonpersonal Service	
28	Fringe Benefits	102,000
29	Environmental Conservation Special Revenue Fund - 301	

1	Personal Service	
2	Personal Service	2,267,000
3	Nonpersonal Service	
4	Fringe Benefits	1,120,000
5	Conservation Fund - 302	
6	Personal Service	
7	Personal Service	890,000
8	Nonpersonal Service	
9	Fringe Benefits	440,000
10	Environmental Protection and Oil Spill Compensation Fund	
11	- 303	
12	Personal Service	
13	Personal Service	850,000
14	Nonpersonal Service	
15	Fringe Benefits	420,000
16	OSHA - Training and Education Occupational Safety Fund -	
17	305	
18	Personal Service	
19	Personal Service	1,372,000
20	Nonpersonal Service	
21	Fringe Benefits	678,000
22	Mass Transportation Operating Assistance Fund - 313	
23	Personal Service	
24	Personal Service	290,000
25	Nonpersonal Service	
26	Fringe Benefits	143,000
27	Clean Air Fund - 314	

1	Personal Service	
2	Personal Service	1,778,000
3	Nonpersonal Service	
4	Fringe Benefits	878,000
5	Miscellaneous Special Revenue Fund - 339	
6	Personal Service	
7	Personal Service	118,846,000
8	Nonpersonal Service	
9	Fringe Benefits	58,710,000
10	Employee Training - 341	
11	Personal Service	
12	Personal Service	11,000
13	Nonpersonal Service	
14	Fringe Benefits	5,000
15	State University Income Fund - 345	
16	Personal Service	
17	Personal Service	22,596,000
18	Nonpersonal Service	
19	Fringe Benefits	11,162,000
20	Lake George Park Trust Fund - 349	
21	Personal Service	
22	Personal Service	15,000
23	Nonpersonal Service	
24	Fringe Benefits	7,000
25	Motor Vehicle Law Enforcement - 354	
26	Personal Service	
27	Personal Service	20,000

1	Nonpersonal Service	
2	Fringe Benefits	10,000
3	Drinking Water Program Management and Administration -	
4	366	
5	Personal Service	
6	Personal Service	359,000
7	Nonpersonal Service	
8	Fringe Benefits	177,000
9	Internal Service Funds	
10	Centralized Services Fund - 323	
11	Personal Service	
12	Personal Service	2,596,000
13	Nonpersonal Service	
14	Fringe Benefits	1,282,000
15	Miscellaneous Internal Services Fund - 334	
16	Personal Service	
17	Personal Service	3,170,000
18	Nonpersonal Service	
19	Fringe Benefits	1,566,000
20	Mental Hygiene Community Stores Fund - 343	
21	Personal Service	
22	Personal Service	29,000
23	Nonpersonal Service	
24	Fringe Benefits	14,000
25	Audit and Control Internal Service Fund - 395	
26	Personal Service	
27	Personal Service	29,000
28	Nonpersonal Service	
29	Fringe Benefits	14,000

1	Health Insurance Internal Service Fund - 396	
2	Personal Service	
3	Personal Service	108,000
4	Nonpersonal Service	
5	Fringe Benefits	53,000
6	Correctional Industries Internal Services Fund - 397	
7	Personal Service	
8	Personal Service	262,000
9	Nonpersonal Service	
10	Fringe Benefits	129,000
11	Private Purpose Trust Fund	
12	Agriculture Product Security Fund - 021	
13	Personal Service	
14	Personal Service	1,000
15	Nonpersonal Service	
16	Fringe Benefits	0
17	Milk Product Security Fund - 022	
18	Personal Service	
19	Personal Service	17,000
20	Nonpersonal Service	
21	Fringe Benefits	8,000
22	Pension Trust Fund	
23	Common Retirement Fund - 400	
24	Personal Service	
25	Personal Service	1,794,000
26	Nonpersonal Service	
27	Fringe Benefits	886,000
28	Agency Trust Funds	
29	Correction - Family Benefit Fund - 329	

1	Personal Service	
2	Personal Service	307,000
3	Nonpersonal Service	
4	Fringe Benefits	152,000
5	Agencies Enterprise Funds - 331	
6	Personal Service	
7	Personal Service	26,000
8	Nonpersonal Service	
9	Fringe Benefits	13,000
10	Mental Health and Mental Retardation	
11	Community Stores Fund - 353	
12	Personal Service	
13	Personal Service	9,000
14	Nonpersonal Service	
15	Fringe Benefits	4,000
16	Capital Projects Funds - Other	
17	Dedicated Highway and Bridge Trust Fund - 072	
18	Personal Service	
19	Personal Service	27,789,000
20	Nonpersonal Service	
21	Fringe Benefits	13,728,000

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

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

STATE OF NEW YORK

S. 8473 - A. 11201-A

IN SENATE

June 11, 2008

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

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

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

1 Section 1. The opening paragraph of section 43 of chapter 106 of the
2 laws of 2003, constituting the Patriot Plan, as amended by section 1 of
3 part H of chapter 56 of the laws of 2006, is amended to read as follows:

4 This act shall take effect immediately; provided, however, that
5 section forty-two of this act shall be deemed repealed [~~five~~] seven
6 years after it shall have become a law; provided further that:

7 § 2. This act shall take effect immediately, except that if this act
8 shall become a law on or after July 1, 2008 this act shall be deemed to
9 have been in full force and effect on and after July 1, 2008.

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

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

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

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

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

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

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

LBD16672-03-8

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

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

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

STATE OF NEW YORK

A. 8858-A - S. 5966-A

Cal. No. 615

2007-2008 Regular Sessions

IN ASSEMBLY

June 1, 2007

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

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

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

1 Section 1. Section 5-1.4 of the estates, powers and trusts law is
2 REPEALED and a new section 5-1.4 is added to read as follows:
3 **§ 5-1.4 Revocatory effect of divorce, annulment or declaration of nullity, or dissolution of marriage on disposition, appointment, provision, or nomination regarding a former spouse**
4 **(a) Except as provided by the express terms of a governing instrument, a divorce (including a judicial separation as defined in subparagraph (f)(2)) or annulment of a marriage revokes any revocable (1) disposition or appointment of property made by a divorced individual to, or for the benefit of, the former spouse, including, but not limited to, a disposition or appointment by will, by security registration in beneficiary form (TOD), by beneficiary designation in a life insurance policy or (to the extent permitted by law) in a pension or retirement benefits plan, or by revocable trust, including a bank account in trust form, (2) provision conferring a power of appointment or power of disposition on the former spouse, and (3) nomination of the former spouse to serve in any fiduciary or representative capacity, including as a personal representative, executor, trustee, conservator, guardian, agent, or attorney-in-fact.**
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EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13274-05-8

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

4 (2) A disposition, appointment, provision, or nomination revoked sole-
5 ly by this section shall be revived by the divorced individual's remar-
6 riage to the former spouse.

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

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

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

39 (e) A person who purchases property from a former spouse or any other
40 person for value and without notice, or who receives from a former
41 spouse or any other person, a payment or other item of property in
42 partial or full satisfaction of a legally enforceable obligation, is
43 neither obligated under this section to return the payment, item of
44 property or benefit, nor is liable under this section for the amount of
45 the payment or the value of the item of property or benefit. But a
46 former spouse or other person who, not for value, received a payment,
47 item of property or any other benefit to which that person is not enti-
48 tled under this section is obligated to return the payment, item of
49 property or benefit, with interest thereon, to the person who is enti-
50 tled to it under this section.

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

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

1 (2) "Divorce or annulment" means a final decree or judgment of divorce
2 or annulment, or a final decree, judgment or order declaring the nullity
3 of a marriage or dissolving such marriage on the ground of absence,
4 recognized as valid under the law of this state, or a "judicial separa-
5 ration," which means a final decree or judgment of separation, recog-
6 nized as valid under the law of this state, which was rendered against
7 the spouse.

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

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

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

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

32 § 2. This act shall take effect immediately and shall apply only where
33 the marriage of a person executing a disposition, appointment, provision
34 or nomination in a governing instrument, as defined in EPTL 5-1.4(f) (5),
35 such section as added by section one of this act, to or for the benefit
36 of a former spouse ends in a divorce or annulment, as defined in EPTL
37 5-1.4(f) (2), on or after such effective date or, where such a marriage
38 ends prior to such effective date, only where such a disposition,
39 appointment, provision or nomination takes effect only at the death of
40 the person who executes it and such person dies on or after the effec-
41 tive date of this act.

STATE OF NEW YORK

A. 11491-A - S.8058-B

IN ASSEMBLY

June 6, 2008

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

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

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the town of Haverstraw, 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 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 town, is hereby authorized to make participation
7 in such plan available to John Lawless, Anthony Akers, Manfredo Figuer-
8 oa, Richard Spatta, David Kryger, Michael Freeman and Concepcion Crespo,
9 police officers employed by the town of Haverstraw, who, for reasons not
10 ascribable to their own negligence failed to make timely application to
11 participate in such optional twenty year retirement plan. The town of
12 Haverstraw may so elect by filing with the state comptroller, on or
13 before December 31, 2008, a resolution of the Haverstraw town board
14 together with certification that such police officers did not bar them-
15 selves from participation in such retirement plan as a result of their
16 own negligence. Thereafter, such police officers may elect to be covered
17 by the provisions of section 384-d of the retirement and social security
18 law, and shall be entitled to the full rights and benefits associated
19 with coverage under such section, by filing a request to that effect
20 with the state comptroller on or before June 30, 2009.

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

23 § 3. This act shall take effect immediately.

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

LBD16208-08-8

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

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

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

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

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

STATE OF NEW YORK

S. 8066 - A. 11112

IN SENATE

April 28, 2008

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

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

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

1 Section 1. Paragraph 1 of subdivision j of section 41 of the retire-
2 ment and social security law, as amended by chapter 115 of the laws of
3 2007, is amended to read as follows:

4 1. In addition to any other service credit to which he or she is enti-
5 tled, a member who meets the requirements set forth in paragraphs two
6 and three of this subdivision shall be granted one day of additional
7 service credit for each day of accumulated unused sick leave which he or
8 she has at time of retirement for service, but such credit shall not (a)
9 exceed one hundred sixty-five days, (b) be considered in meeting any
10 service or age requirements prescribed in this chapter, and (c) be
11 considered in computing final average salary. However, for an executive
12 branch member designated managerial or confidential pursuant to article
13 fourteen of the civil service law or in the collective negotiating units
14 established by article fourteen of the civil service law designated the
15 professional, scientific and technical services unit, the rent regu-
16 lation services negotiating unit, the security services negotiating
17 unit, the security supervisors negotiating unit, the state university
18 professional services negotiating unit, the administrative services
19 negotiating unit, the institutional services negotiating unit, the oper-
20 ational services negotiating unit and the division of military and naval
21 affairs negotiating unit such service credit limitation provided in
22 subparagraph (a) of this paragraph shall not exceed two hundred days.
23 For a nonjudicial officer or employee of the unified court system not in
24 a collective negotiating unit or in a collective negotiating unit speci-
25 fied in section one of chapter two hundred three of the laws of two
26 thousand four, for employees of the New York state dormitory authority
27 [~~and~~], for employees of the New York state thruway authority and the New
28 York state canal corporation **and for employees of the New York liqui-**

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

LBD14863-02-8

1 liquidation bureau such service credit limitation provided in subparagraph
2 (a) of this paragraph shall not exceed two hundred days.

3 § 2. Notwithstanding any other provision of law, the past service cost
4 associated with section one of this act shall be paid by the New York
5 state liquidation bureau over a period not to exceed five years.

6 § 3. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after March 19, 2007.

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

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

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

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

STATE OF NEW YORK

S. 8376-A - A. 11752

IN SENATE

June 3, 2008

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

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

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

- 1 Section 1. Paragraphs d and e of subdivision 2 of section 553 of the
- 2 executive law, paragraph d as added and paragraph e as relettered by
- 3 chapter 472 of the laws of 2007, paragraph e as added by chapter 691 of
- 4 the laws of 2003, are amended and a new paragraph f is added to read as
- 5 follows:
- 6 d. on behalf of the board and in conjunction with the office of the
- 7 airline consumer advocate, initiate, investigate, attempt to resolve
- 8 and, if necessary, refer to the attorney general any matters or
- 9 complaints received pursuant to article fourteen-A of the general busi-
- 10 ness law as provided in such article; **and**
- 11 e. on behalf of the board, initiate, investigate, attempt to resolve,
- 12 and if necessary refer to the attorney general any matters or complaints
- 13 received pursuant to article twenty-four-B of the general business law
- 14 as provided in such article[-]; **and**
- 15 **f. on behalf of the board, establish a process by which victims of**
- 16 **identity theft will receive assistance and information to resolve**
- 17 **complaints. To implement the process the board shall have the authority**
- 18 **to:**
- 19 **(i) promulgate rules and regulations to administer the identity theft**
- 20 **prevention and mitigation program; and**

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

LBD12077-08-8

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

12 § 1-a. Section 380-k of the general business law, as added by chapter
 13 867 of the laws of 1977, is amended to read as follows:

14 § 380-k. Compliance procedures. Every consumer or reporting agency
 15 shall maintain reasonable procedures designed to avoid violations of
 16 sections three hundred eighty-b [~~and~~], three hundred eighty-j **and three**
 17 **hundred eighty-t** of this article and to limit the furnishing of consumer
 18 reports to the purposes listed under said section three hundred eight-
 19 y-b. These procedures shall require all prospective users of the infor-
 20 mation to identify themselves, certify the purposes for which the infor-
 21 mation is sought, and certify that the information will be used for no
 22 other purpose. Every consumer reporting agency shall make a reasonable
 23 effort to verify the identity of a new prospective user and the uses
 24 certified by such prospective user prior to furnishing such user a
 25 consumer report. No consumer reporting agency may furnish a consumer
 26 report to any person if it has reasonable grounds for believing that the
 27 consumer report will not be used for a purpose listed in section three
 28 hundred eighty-b of this article.

29 § 1-b. Section 380-m of the general business law, as added by chapter
 30 867 of the laws of 1977, is amended to read as follows:

31 § 380-m. Civil liability for negligent noncompliance. Any consumer
 32 reporting agency or user of information who or which is negligent in
 33 failing to comply with any requirement imposed under this article, **other**
 34 **than a violation of section three hundred eighty-t of this article,** with
 35 respect to any consumer is liable to that consumer in an amount equal to
 36 the sum of:

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

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

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

44 § 380-t. Security freeze. (a) A consumer may request that a security
 45 freeze be placed on his or her consumer credit report by sending a
 46 request in writing [~~by certified mail or by overnight mail~~] **with confir-**
 47 **mation of delivery requested or via telephone, secure electronic means,**
 48 **or other methods developed by the consumer credit reporting agency** to a
 49 consumer credit reporting agency at an address, **telephone number or**
 50 **secure website** designated by [~~the consumer credit reporting~~] **such** agency
 51 to receive such requests. **Consumer credit reporting agencies shall have**
 52 **a secure website and a separately dedicated toll-free number to offer**
 53 **information, to process requests and deliver the services provided for**
 54 **under this section.**

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

1 shall, provided such [~~written~~] request is accompanied by proper iden-
 2 tification and payment of any applicable fee, [~~place a security freeze~~
 3 ~~on the consumer credit report of or relating to such consumer no later~~
 4 ~~than five business days after receiving such written request, provided,~~
 5 ~~however, that for written requests received on or after January first,~~
 6 ~~two thousand eight, such consumer credit reporting agency shall]~~ place a
 7 security freeze on the consumer credit report of or relating to such
 8 consumer no later than four business days after receiving such [~~written~~]
 9 request, provided further, however, that for [~~written~~] requests received
 10 on or after January first, two thousand nine, such consumer credit
 11 reporting agency shall place a security freeze on the consumer credit
 12 report of or relating to such consumer no later than three business days
 13 after receiving such [~~written~~] request and for requests received on or
 14 after January first, two thousand ten, such consumer credit reporting
 15 agency shall place a security freeze on the consumer credit report of or
 16 relating to such consumer no later than one business day after receiving
 17 such request. Nothing in this subdivision shall be construed to prevent
 18 a consumer credit reporting agency from advising a third party that a
 19 security freeze is in effect with respect to the consumer credit report
 20 of or relating to such consumer.

21 (c) The consumer credit reporting agency shall send a written confir-
 22 mation of the placement of a security freeze to the consumer within
 23 [~~ten~~] five business days of placing such freeze. Upon placing the secu-
 24 rity freeze on the consumer credit report of or relating to such consum-
 25 er, the consumer credit reporting agency shall provide the consumer with
 26 a unique personal identification number or password, or other device
 27 [~~to~~] which shall only be used by the consumer when providing authori-
 28 zation for the release of his or her consumer credit report for a
 29 specific party or specific period of time. The unique personal identifi-
 30 cation number or password, or other device to be used by the consumer
 31 shall not be a social security number or a sequential portion thereof.
 32 Any use of the unique personal identification number or password or
 33 other device other than provided for in this section is prohibited.

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

- 43 (1) proper identification;
- 44 (2) the unique personal identification number or password provided by
 45 the consumer credit reporting agency pursuant to subdivision (c) of this
 46 section;
- 47 (3) the proper information regarding the party to which the consumer
 48 credit report should be available or the time period for which the
 49 consumer credit report shall be available to users of such report; and
- 50 (4) payment of any applicable fee.

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

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

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

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

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

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

14 (B) unauthorized or illegal acts by a third party, including terror-
15 ism, sabotage, riot, vandalism, labor strikes or disputes disrupting
16 operations, or similar occurrence;

17 (C) operational interruption, including electrical failure, unantic-
18 ipated delay in equipment or replacement part delivery, computer hard-
19 ware or software failures inhibiting response time, or similar
20 disruption;

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

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

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

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

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

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

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

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

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

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

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

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

8 (i) proper identification;

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

12 (iii) a fee, if applicable.

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

16 (1) A consumer credit reporting agency shall require proper identifi-
17 cation of the person making a request to place or remove a security
18 freeze.

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

21 (1) a person or entity, or a subsidiary, affiliate, or agent of that
22 person or entity, or an assignee of a financial obligation owing by the
23 consumer to that person or entity, or a prospective assignee of a finan-
24 cial obligation owing by the consumer to that person or entity in
25 conjunction with the proposed purchase of the financial obligation, with
26 which the consumer has or had prior to assignment an account or
27 contract, including a demand deposit account, or to whom the consumer
28 issued a negotiable instrument, for the purposes of reviewing the
29 account or collecting the financial obligation owing for the account,
30 contract, or negotiable instrument. For purposes of this paragraph,
31 "reviewing the account" includes activities related to account mainte-
32 nance, monitoring, credit line increases, and account upgrades and
33 enhancements;

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

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

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

42 (5) the state or its political subdivisions or its agents or assigns
43 acting to investigate fraud or acting to investigate or collect delin-
44 quent taxes or unpaid court orders or to fulfill any of its other statu-
45 tory responsibilities provided such responsibilities are consistent with
46 a permissible purpose under 15 U.S.C. section 1681b;

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

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

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

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

1 ~~police~~] report of ID theft from a law enforcement agency to such consum-
 2 er credit reporting agency.

3 (2) No consumer credit reporting agency shall charge a fee to a
 4 consumer requesting the placement of a security freeze when such consum-
 5 er has not previously requested the placement of a security freeze from
 6 such consumer credit reporting agency. Except as provided for in para-
 7 graph one of this subdivision, a consumer credit reporting agency may
 8 charge a consumer a fee not to exceed five dollars for the placement of
 9 a second or subsequent freeze or for the removal of a freeze or the
 10 temporary lift of a freeze for a specific party or period of time or for
 11 the issuance of a replacement personal identification number or password
 12 when the consumer fails to retain the personal identification number or
 13 password provided to such consumer by such consumer credit reporting
 14 agency pursuant to subdivision (c) of this section.

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

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

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

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

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

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

50 "NEW YORK CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE.
 51 YOU HAVE A RIGHT TO PLACE A "SECURITY FREEZE" ON YOUR CREDIT REPORT,
 52 WHICH WILL PROHIBIT A CONSUMER CREDIT REPORTING AGENCY FROM RELEASING
 53 INFORMATION IN YOUR CREDIT REPORT WITHOUT YOUR EXPRESS AUTHORIZATION. A
 54 SECURITY FREEZE MUST BE REQUESTED IN WRITING [~~BY CERTIFIED OR OVERNIGHT~~
 55 MAIL] DELIVERY CONFIRMATION REQUESTED OR VIA TELEPHONE, SECURE ELECTRON-
 56 IC MEANS, OR OTHER METHODS DEVELOPED BY THE CONSUMER CREDIT REPORTING

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

- 17 (1) THE PERSONAL IDENTIFICATION NUMBER OR PASSWORD;
- 18 (2) PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY;
- 19 (3) THE PROPER INFORMATION REGARDING THE PARTY OR PARTIES WHO ARE TO
 20 RECEIVE THE CREDIT REPORT OR THE PERIOD OF TIME FOR WHICH THE REPORT
 21 SHALL BE AVAILABLE TO USERS OF THE CREDIT REPORT; AND
- 22 (4) PAYMENT OF ANY APPLICABLE FEE.

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

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

33 IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD UNDERSTAND THAT THE
 34 PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR APPLICA-
 35 TION FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A FREEZE, EITHER
 36 COMPLETELY IF YOU ARE SHOPPING AROUND, OR SPECIFICALLY FOR A CERTAIN
 37 CREDITOR, BEFORE APPLYING FOR NEW CREDIT. **WHEN SEEKING CREDIT OR PURSU-**
 38 **ING ANOTHER TRANSACTION REQUIRING ACCESS TO YOUR CREDIT REPORT, IT IS**
 39 **NOT NECESSARY TO RELINQUISH YOUR PIN OR PASSWORD TO THE CREDITOR OR**
 40 **BUSINESS; YOU CAN CONTACT THE CONSUMER CREDIT REPORTING AGENCY DIRECTLY.**
 41 **IF YOU CHOOSE TO GIVE OUT YOUR PIN OR PASSWORD TO THE CREDITOR OR BUSI-**
 42 **NESS, IT IS RECOMMENDED THAT YOU OBTAIN A NEW PIN OR PASSWORD FROM THE**
 43 **CONSUMER CREDIT REPORTING AGENCY."**

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

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

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

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

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

24 § 96-a. Prohibited conduct. 1. Beginning on January first, two thou-
25 sand ten the state and its political subdivisions shall not do any of
26 the following, unless required by law:

27 (a) Intentionally communicate to the general public or otherwise make
28 available to the general public in any manner an individual's social
29 security account number. This paragraph shall not apply to any individ-
30 ual intentionally communicating to the general public or otherwise
31 making available to the general public his or her social security
32 account number.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 § 203-d. Employee personal identifying information. 1. An employer
39 shall not unless otherwise required by law:

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

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

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

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

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

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

1 safeguard against such violation, including procedures to notify rele-
2 vant employees of these provisions.

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

5 1. In addition to any of the dispositions authorized by this article,
6 the court shall consider restitution or reparation to the victim of the
7 crime and may require restitution or reparation as part of the sentence
8 imposed upon a person convicted of an offense, and after providing the
9 district attorney with an opportunity to be heard in accordance with the
10 provisions of this subdivision, require the defendant to make restitu-
11 tion of the fruits of his or her offense or reparation for the actual
12 out-of-pocket loss caused thereby and, in the case of a violation of
13 section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, any
14 costs or losses incurred due to any adverse action taken against the
15 victim. The district attorney shall where appropriate, advise the court
16 at or before the time of sentencing that the victim seeks restitution or
17 reparation, the extent of injury or economic loss or damage of the
18 victim, and the amount of restitution or reparation sought by the victim
19 in accordance with his or her responsibilities under subdivision two of
20 section 390.50 of the criminal procedure law and article twenty-three of
21 the executive law. The court shall hear and consider the information
22 presented by the district attorney in this regard. In that event, or
23 when the victim impact statement reports that the victim seeks restitu-
24 tion or reparation, the court shall require, unless the interests of
25 justice dictate otherwise, in addition to any of the dispositions
26 authorized by this article that the defendant make restitution of the
27 fruits of the offense and reparation for the actual out-of-pocket loss
28 and, in the case of a violation of section 190.78, 190.79, 190.80,
29 190.82 or 190.83 of this chapter, any costs or losses incurred due to
30 any adverse action, caused thereby to the victim. In the event that
31 restitution or reparation are not ordered, the court shall clearly state
32 its reasons on the record. Adverse action as used in this subdivision
33 shall mean and include actual loss incurred by the victim, including an
34 amount equal to the value of the time reasonably spent by the victim
35 attempting to remediate the harm incurred by the victim from the
36 offense, and the consequential financial losses from such action.

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

39 1. For the purposes of sections 190.78, 190.79 [~~and~~], 190.80 and
40 190.85 of this article "personal identifying information" means a
41 person's name, address, telephone number, date of birth, driver's
42 license number, social security number, place of employment, mother's
43 maiden name, financial services account number or code, savings account
44 number or code, checking account number or code, brokerage account
45 number or code, credit card account number or code, debit card number or
46 code, automated teller machine number or code, taxpayer identification
47 number, computer system password, signature or copy of a signature,
48 electronic signature, unique biometric data that is a fingerprint, voice
49 print, retinal image or iris image of another person, telephone calling
50 card number, mobile identification number or code, electronic serial
51 number or personal identification number, or any other name, number,
52 code or information that may be used alone or in conjunction with other
53 such information to assume the identity of another person.

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

56 § 190.85 Unlawful possession of a skimmer device in the second degree.

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

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

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

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

14 § 190.86 Unlawful possession of a skimmer device in the first degree.

15 A person is guilty of unlawful possession of a skimmer device in the
 16 first degree when he or she commits the crime of unlawful possession of
 17 a skimmer device in the second degree and he or she has been previously
 18 convicted within the last five years of identity theft in the third
 19 degree as defined in section 190.78, identity theft in the second degree
 20 as defined in section 190.79, identity theft in the first degree as
 21 defined in section 190.80, unlawful possession of personal identifica-
 22 tion information in the third degree as defined in section 190.81,
 23 unlawful possession of personal identification information in the second
 24 degree as defined in section 190.82, unlawful possession of personal
 25 identification information in the first degree as defined in section
 26 190.83, unlawful possession of a skimmer device in the second degree as
 27 defined in section 190.85, unlawful possession of a skimmer device in
 28 the first degree as defined in this section, grand larceny in the fourth
 29 degree as defined in section 155.30, grand larceny in the third degree
 30 as defined in section 155.35, grand larceny in the second degree as
 31 defined in section 155.40 or grand larceny in the first degree as
 32 defined in section 155.42 of this chapter.

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

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

37 4. commits the crime of identity theft in the third degree as defined
 38 in section 190.78 of this article and has been previously convicted
 39 within the last five years of identity theft in the third degree as
 40 defined in section 190.78, identity theft in the second degree as
 41 defined in this section, identity theft in the first degree as defined
 42 in section 190.80, unlawful possession of personal identification infor-
 43 mation in the third degree as defined in section 190.81, unlawful
 44 possession of personal identification information in the second degree
 45 as defined in section 190.82, unlawful possession of personal identifi-
 46 cation information in the first degree as defined in section 190.83,
 47 unlawful possession of a skimmer device in the second degree as defined
 48 in section 190.85, unlawful possession of a skimmer device in the first
 49 degree as defined in section 190.86, grand larceny in the fourth degree
 50 as defined in section 155.30, grand larceny in the third degree as
 51 defined in section 155.35, grand larceny in the second degree as defined
 52 in section 155.40 or grand larceny in the first degree as defined in
 53 section 155.42 of this chapter.

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

1 4. commits the crime of identity theft in the second degree as defined
2 in section 190.79 of this article and has been previously convicted
3 within the last five years of identity theft in the third degree as
4 defined in section 190.78, identity theft in the second degree as
5 defined in section 190.79, identity theft in the first degree as defined
6 in this section, unlawful possession of personal identification informa-
7 tion in the third degree as defined in section 190.81, unlawful
8 possession of personal identification information in the second degree
9 as defined in section 190.82, unlawful possession of personal identifi-
10 cation information in the first degree as defined in section 190.83,
11 unlawful possession of a skimmer device in the second degree as defined
12 in section 190.85, unlawful possession of a skimmer device in the first
13 degree as defined in section 190.86, grand larceny in the fourth degree
14 as defined in section 155.30, grand larceny in the third degree as
15 defined in section 155.35, grand larceny in the second degree as defined
16 in section 155.40 or grand larceny in the first degree as defined in
17 section 155.42 of this chapter.

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

20 2. he or she has been previously convicted within the last five years
21 of identity theft in the third degree as defined in section 190.78,
22 identity theft in the second degree as defined in section 190.79, iden-
23 tity theft in the first degree as defined in section 190.80, unlawful
24 possession of personal identification information in the third degree as
25 defined in section 190.81, unlawful possession of personal identifica-
26 tion information in the second degree as defined in section 190.82,
27 unlawful possession of personal identification information in the first
28 degree as defined in this section, unlawful possession of a skimmer
29 device in the second degree as defined in section 190.85, unlawful
30 possession of a skimmer device in the first degree as defined in section
31 190.86, grand larceny in the fourth degree as defined in section 155.30,
32 grand larceny in the third degree as defined in section 155.35, grand
33 larceny in the second degree as defined in section 155.40 or grand
34 larceny in the first degree as defined in section 155.42 of this chap-
35 ter.

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

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

41 (i) a person's use of, subscription to and charges and payments for
42 communication equipment and services including but not limited to equip-
43 ment or services provided by telephone companies and internet service
44 providers, but not including recorded conversations or images communi-
45 cated thereby; and

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

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

1 the regular course of business and that it was the regular course of
2 such business to make such records at the time of the recorded act,
3 transaction, occurrence or event, or within a reasonable time thereaft-
4 er. Such written statement may also include a statement identifying the
5 name and job description of the person making the statement, specifying
6 the matters set forth in subparagraph (ii) of this paragraph and attest-
7 ing that the business has made a diligent search and does not possess a
8 particular record or records addressing a matter set forth in paragraph
9 (a) of this subdivision, and such statement may be received at grand
10 jury proceedings as evidence of the fact that the business does not
11 possess such record or records. When records of a business are accompa-
12 nied by more than one sworn written statement of its employees or
13 agents, such statements may be considered together in determining the
14 admissibility of the records under this subdivision. For the purpose of
15 this subdivision, the term "business records" does not include any
16 records prepared by law enforcement agencies or prepared by any entity
17 in anticipation of litigation.

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

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

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

32 § 14-a. Subdivision 3 of section 210.30 of the criminal procedure law,
33 as amended by chapter 209 of the laws of 1990, is amended to read as
34 follows:

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

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

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

STATE OF NEW YORK

S. 3850 - A. 582

2007-2008 Regular Sessions

IN SENATE

March 16, 2007

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

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

**The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:**

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

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

9 § 2. This act shall take effect immediately.

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

LBD03087-01-7

STATE OF NEW YORK

S. 8306 - A. 11342

IN SENATE

May 27, 2008

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

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

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the city of Schenectady, in the county of Schenectady, 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 city, is
7 hereby authorized to make participation in such plan available to Michael
8 Kelly, a police officer employed by the city of Schenectady, who, for
9 reasons not ascribable to his own negligence failed to make a timely
10 application to participate in such optional twenty year retirement plan.
11 The city of Schenectady may so elect by filing with the state comp-
12 troller, on or before December 31, 2008, a resolution of its governing
13 body together with certification that such police officer did not bar
14 himself from participation in such retirement plan as a result of his
15 own negligence. Thereafter, such police officer may elect to be covered
16 by the provisions of section 384-d of the retirement and social security
17 law, and shall be entitled to the full rights and benefits associated
18 with coverage under such section, by filing a request to that effect
19 with the state comptroller on or before June 30, 2009.

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

22 § 3. This act shall take effect immediately.

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

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

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

LBD16842-02-8

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

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

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

STATE OF NEW YORK

S. 8676 - A. 11730

IN SENATE

June 20, 2008

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

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

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

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

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

20 (b) "Qualifying condition or impairment of health" shall mean a quali-
21 ifying physical condition, or a qualifying psychological condition, or
22 both, except that for any member identified in paragraph (vi) of para-
23 graph (e) of this subdivision, it shall only mean a qualifying psycho-
24 logical condition.

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

LBD12080-07-8

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

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

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

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

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

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

17 § 2. Subdivisions a, g, h and i of section 63 of the retirement and
 18 social security law, subdivision a as amended by chapter 690 of the laws
 19 of 1987, subdivision g as amended by chapter 93 of the laws of 2005,
 20 subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of
 21 paragraph 2 of subdivision g as amended by chapter 495 of the laws of
 22 2007 and subdivision h as amended and subdivision i as added by chapter
 23 5 of the laws of 2007, are amended to read as follows:

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

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

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

31 However, in a case where a member is discontinued from service subse-
 32 quent to the accident, either voluntarily or involuntarily, **and provided**
 33 **that the member meets the requirements of paragraph one of this subdivi-**
 34 **sion, application may be made either (a) by a vested member incapac-**
 35 **itated as the result of a qualifying World Trade Center condition as**
 36 **defined in section two of this article at any time, or (b) not later**
 37 **than two years after the member is first discontinued from service [and**
 38 **provided that the member meets the requirements of paragraph one of this**
 39 **subdivision].**

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

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

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

17 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
18 ~~ment of health" shall include:~~

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

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

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

30 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
31 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
32 ~~tions;~~

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

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

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

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

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

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

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

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

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

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

11 2. (a) Notwithstanding the provisions of this chapter or of any gener-
12 al, special or local law, charter, administrative code or rule or regu-
13 lation to the contrary, if a member who participated in World Trade
14 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
15 ~~hours], as defined in section two of this article,~~ and subsequently
16 retired on a service retirement, an ordinary disability retirement or a
17 performance of duty disability retirement and subsequent to such retire-
18 ment [~~incurred a disability caused by any qualifying condition or~~
19 ~~impairment of the health which] is determined by the comptroller [~~deter-~~
20 ~~mines to have been caused by such member's having participated in World~~
21 ~~Trade Center rescue, recovery or cleanup operations for a minimum of~~
22 ~~forty hours] to have a qualifying World Trade Center condition, as
23 defined in section two of this article, upon such determination by the
24 comptroller it shall be presumed that such disability was incurred in
25 the performance and discharge of duty as the natural and proximate
26 result of an accident not caused by such member's own willful negli-
27 gence, and that the member would have been physically or mentally inca-
28 pacitated for the performance and discharge of duty of the position from
29 which he or she retired had the condition been known and fully developed
30 at the time of the member's retirement, unless the contrary is proven by
31 competent evidence. [~~A member shall be eligible for the presumption~~
32 ~~provided for under this paragraph notwithstanding the fact that the~~
33 ~~member did not participate in World Trade Center rescue, recovery or~~
34 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
35 ~~member participated in the rescue, recovery, or cleanup operations at~~
36 ~~the World Trade Center site between September eleventh, two thousand one~~
37 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
38 ~~documented physical injury at the World Trade Center site between~~
39 ~~September eleventh, two thousand one and September twelfth, two thousand~~
40 ~~one that is a qualifying condition or impairment of health resulting in~~
41 ~~disability to the member that prevented the member from continuing to~~
42 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
43 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
44 ~~that resulted in a disability to the member that prevented the member~~
45 ~~from continuing to participate in World Trade Center rescue, recovery or~~
46 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
47 ~~tion or impairment of health which the member seeks to be eligible for~~
48 ~~the presumption provided for under this paragraph.~~~~~~

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

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

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

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

3 ~~(e)]~~ (b) The comptroller shall consider a reclassification of the
4 member's retirement as an accidental disability retirement effective as
5 of the date of such reclassification.

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

8 ~~[(e)]~~ (d) The member's former employer at the time of the member's
9 retirement shall have an opportunity to be heard on the member's appli-
10 cation for reclassification by the comptroller according to procedures
11 developed by the comptroller.

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

14 h. Notwithstanding any other provision of this chapter or of any
15 general, special or local law, charter, administrative code or rule or
16 regulation to the contrary, if a retiree who: (1) has met the criteria
17 of subdivision g of this section and retired on a service or disability
18 retirement, or would have met the criteria if not already retired on an
19 accidental disability; and (2) has not been retired for more than twenty-
20 five years; and (3) dies from a qualifying World Trade Center condi-
21 tion [~~or impairment of health~~], as defined in [~~subparagraph (e) of para-~~
22 ~~graph one of subdivision g of this~~] section two of this article, [~~that~~
23 ~~is~~] as determined by the applicable head of the retirement system or
24 applicable medical board [~~to have been caused by such retiree's partici-~~
25 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
26 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision g~~
27 ~~of this section~~], then unless the contrary be proven by competent
28 evidence, such retiree shall be deemed to have died as a natural and
29 proximate result of an accident sustained in the performance of duty and
30 not as a result of willful negligence on his or her part. Such retiree's
31 eligible beneficiary, as set forth in section sixty-one of this title,
32 shall be entitled to an accidental death benefit as provided by section
33 sixty-one of this title, however, for the purposes of determining the
34 salary base upon which the accidental death benefit is calculated, the
35 retiree shall be deemed to have died on the date of his or her retire-
36 ment. Upon the retiree's death, the eligible beneficiary shall make a
37 written application to the head of the retirement system within the time
38 for filing an application for an accidental death benefit as set forth
39 in section sixty-one of this title requesting conversion of such
40 retiree's service or disability retirement benefit to an accidental
41 death benefit. At the time of such conversion, the eligible beneficiary
42 shall relinquish all rights to the prospective benefits payable under
43 the service or disability retirement benefit, including any post-retire-
44 ment death benefits, since the retiree's death. If the eligible benefi-
45 ciary is not the only beneficiary receiving or entitled to receive a
46 benefit under the service or disability retirement benefit (including,
47 but not limited to, post-retirement death benefits or benefits paid or
48 payable pursuant to the retiree's option selection), the accidental
49 death benefit payments to the eligible beneficiary will be reduced by
50 any amounts paid or payable to any other beneficiary.

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

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

15 § 3. Subdivisions a, g, h and i of section 363 of the retirement and
 16 social security law, subdivision a as amended by chapter 690 of the laws
 17 of 1987, subdivision g as amended by chapter 93 of the laws of 2005,
 18 subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of
 19 paragraph 2 of subdivision g as amended by chapter 495 of the laws of
 20 2007 and subdivision h as amended and subdivision i as added by chapter
 21 5 of the laws of 2007, are amended to read as follows:

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

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

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

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

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

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

14 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
15 ~~ment of health" shall include:~~

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

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

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

27 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
28 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
29 ~~tions;~~

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

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

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

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

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

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

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

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

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

9 2. (a) Notwithstanding the provisions of this chapter or of any gener-
10 al, special or local law, charter, administrative code or rule or regu-
11 lation to the contrary, if a member who participated in World Trade
12 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
13 ~~hours~~], as defined in section two of this chapter, and subsequently
14 retired on a service retirement, an ordinary disability retirement or a
15 performance of duty disability retirement and subsequent to such retire-
16 ment [~~incurred a disability caused by any qualifying condition or~~
17 ~~impairment of the health which~~] is determined by the comptroller [~~deter-~~
18 ~~mines to have been caused by such member's having participated in World~~
19 ~~Trade Center rescue, recovery or cleanup operations for a minimum of~~
20 ~~forty hours~~] to have a qualifying World Trade Center condition, as
21 defined in section two of this chapter, upon such determination by the
22 comptroller it shall be presumed that such disability was incurred in
23 the performance and discharge of duty as the natural and proximate
24 result of an accident not caused by such member's own willful negli-
25 gence, and that the member would have been physically or mentally inca-
26 pacitated for the performance and discharge of duty of the position from
27 which he or she retired had the condition been known and fully developed
28 at the time of the member's retirement, unless the contrary is proven by
29 competent evidence. [~~A member shall be eligible for the presumption~~
30 ~~provided for under this paragraph notwithstanding the fact that the~~
31 ~~member did not participate in World Trade Center rescue, recovery or~~
32 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
33 ~~member participated in the rescue, recovery, or cleanup operations at~~
34 ~~the World Trade Center site between September eleventh, two thousand one~~
35 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
36 ~~documented physical injury at the World Trade Center site between~~
37 ~~September eleventh, two thousand one and September twelfth, two thousand~~
38 ~~one that is a qualifying condition or impairment of health resulting in~~
39 ~~disability to the member that prevented the member from continuing to~~
40 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
41 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
42 ~~that resulted in a disability to the member that prevented the member~~
43 ~~from continuing to participate in World Trade Center rescue, recovery or~~
44 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
45 ~~tion or impairment of health which the member seeks to be eligible for~~
46 ~~the presumption provided for under this paragraph.~~

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

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

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

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

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

6 ~~(e)~~ (d) The member's former employer at the time of the member's
 7 retirement shall have an opportunity to be heard on the member's appli-
 8 cation for reclassification by the comptroller according to procedures
 9 developed by the comptroller.

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

12 h. Notwithstanding any other provision of this chapter or of any
 13 general, special or local law, charter, administrative code or rule or
 14 regulation to the contrary, if a retiree who: (1) has met the criteria
 15 of subdivision g of this section and retired on a service or disability
 16 retirement, or would have met the criteria if not already retired on an
 17 accidental disability; and (2) has not been retired for more than twenty-
 18 five years; and (3) dies from a qualifying **World Trade Center** condi-
 19 tion ~~[or impairment of health]~~, as defined in ~~[subparagraph (c) of para-~~
 20 ~~graph one of subdivision g of this]~~ section two of this chapter, ~~[that~~
 21 ~~is]~~ as determined by the applicable head of the retirement system or
 22 applicable medical board ~~[to have been caused by such retiree's partic-~~
 23 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
 24 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision g~~
 25 ~~of this section]~~, then unless the contrary be proven by competent
 26 evidence, such retiree shall be deemed to have died as a natural and
 27 proximate result of an accident sustained in the performance of duty and
 28 not as a result of willful negligence on his or her part. Such retiree's
 29 eligible beneficiary, as set forth in section three hundred sixty-one of
 30 this title, shall be entitled to an accidental death benefit as provided
 31 by section three hundred sixty-one of this title, however, for the
 32 purposes of determining the salary base upon which the accidental death
 33 benefit is calculated, the retiree shall be deemed to have died on the
 34 date of his or her retirement. Upon the retiree's death, the eligible
 35 beneficiary shall make a written application to the head of the retire-
 36 ment system within the time for filing an application for an accidental
 37 death benefit as set forth in section three hundred sixty-one of this
 38 title requesting conversion of such retiree's service or disability
 39 retirement benefit to an accidental death benefit. At the time of such
 40 conversion, the eligible beneficiary shall relinquish all rights to the
 41 prospective benefits payable under the service or disability retirement
 42 benefit, including any post-retirement death benefits, since the
 43 retiree's death. If the eligible beneficiary is not the only beneficiary
 44 receiving or entitled to receive a benefit under the service or disabili-
 45 ty retirement benefit (including, but not limited to, post-retirement
 46 death benefits or benefits paid or payable pursuant to the retiree's
 47 option selection), the accidental death benefit payments to the eligible
 48 beneficiary will be reduced by any amounts paid or payable to any other
 49 beneficiary.

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

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

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

23 a. A member in active service, **or a vested member incapacitated as the**
 24 **result of a qualifying World Trade Center condition as defined in**
 25 **section two of this chapter**, who is not eligible for a normal service
 26 retirement benefit shall be eligible for the accidental disability bene-
 27 fit described in subdivision c of this section if such member has been
 28 determined to be eligible for primary social security disability bene-
 29 fits and was disabled as the natural and proximate result of an accident
 30 sustained in such active service and not caused by such member's own
 31 willful negligence; provided, however, that no member of the New York
 32 state teachers' retirement system, the New York city employees' retire-
 33 ment system, the New York city board of education retirement system or
 34 the New York city teachers' retirement system who is otherwise eligible
 35 for accidental disability benefits pursuant to this section shall be
 36 deemed to be ineligible for such benefits because such member is eligi-
 37 ble for a normal service retirement benefit.

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

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

~~1 presumption provided for under this paragraph notwithstanding the fact
2 that the member did not participate in World Trade Center recovery and
3 cleanup operations for a minimum of forty hours, provided that: (i) the
4 member participated in the rescue, recovery, or cleanup operations at
5 the World Trade Center site between September eleventh, two thousand one
6 and September twelfth, two thousand one; (ii) the member sustained a
7 documented physical injury at the World Trade Center site between
8 September eleventh, two thousand one and September twelfth, two thousand
9 one that is a qualifying condition or impairment of health resulting in
10 disability to the member that prevented the member from continuing to
11 participate in World Trade Center rescue, recovery or cleanup operations
12 for a minimum of forty hours; and (iii) the documented physical injury
13 that resulted in a disability to the member that prevented the member
14 from continuing to participate in World Trade Center rescue, recovery or
15 cleanup operations for a minimum of forty hours is the qualifying condi-
16 tion or impairment of health which the member seeks to be eligible for
17 the presumption provided for under this paragraph.~~

~~18 (b) In order to be eligible for the presumption provided for under
19 subparagraph (a) of this paragraph, a member must have successfully
20 passed a physical examination for entry into public service which failed
21 to disclose evidence of the qualifying condition or impairment of health
22 that formed the basis for the disability.~~

~~23 (c) For purposes of this subdivision, "qualifying condition or impair-
24 ment of health" shall include:~~

~~25 (i) Diseases of the upper respiratory tract and mucosae, including
26 conditions such as conjunctivitis, rhinitis, sinusitis, pharyngitis,
27 laryngitis, vocal cord disease, upper airway hyper reactivity and
28 tracheo-bronchitis, or a combination of such conditions;~~

~~29 (ii) Diseases of the lower respiratory tract, including but not limit-
30 ed to bronchitis, asthma, reactive airway dysfunction syndrome, and
31 different types of pneumonitis, such as hypersensitivity, granulomatous,
32 or eosinophilic;~~

~~33 (iii) Diseases of the gastroesophageal tract, including esophagitis
34 and reflux disease, either acute or chronic, caused by exposure or
35 aggravated by exposure;~~

~~36 (iv) Diseases of the psychological axis, including post-traumatic
37 stress disorder, anxiety, depression, or any combination of such condi-
38 tions;~~

~~39 (v) Diseases of the skin such as contact dermatitis or burns, either
40 acute or chronic in nature, infectious, irritant, allergic, idiopathic
41 or non-specific reactive in nature, caused by exposure or aggravated by
42 exposure; or~~

~~43 (vi) New onset diseases resulting from exposure as such diseases occur
44 in the future including cancer, chronic obstructive pulmonary disease,
45 asbestos-related disease, heavy metal poisoning, musculoskeletal disease
46 and chronic psychological disease;~~

~~47 (d) For purposes of this subdivision, "participated in World Trade
48 Center rescue, recovery or cleanup operations" shall mean any member
49 who:~~

~~50 (i) participated in the rescue, recovery, or clean up operations at
51 the World Trade Center site between September eleventh, two thousand one
52 and September twelfth, two thousand two, or~~

~~53 (ii) worked at the Fresh Kills Land Fill in New York between September
54 eleventh, two thousand one and September twelfth, two thousand two, or~~

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

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

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

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

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

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

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

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

12 ~~(3) A member shall be eligible for the presumption provided for under~~
13 ~~this paragraph notwithstanding the fact that the member did not partic-~~
14 ~~ipate in World Trade Center rescue, recovery or cleanup operations for a~~
15 ~~minimum of forty hours, provided that: (i) the member participated in~~
16 ~~the rescue, recovery, or cleanup operations at the World Trade Center~~
17 ~~site between September eleventh, two thousand one and September twelfth,~~
18 ~~two thousand one; (ii) the member sustained a documented physical injury~~
19 ~~at the World Trade Center site between September eleventh, two thousand~~
20 ~~one and September twelfth, two thousand one that is a qualifying condi-~~
21 ~~tion or impairment of health resulting in disability to the member that~~
22 ~~prevented the member from continuing to participate in World Trade~~
23 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
24 ~~hours; and (iii) the documented physical injury that resulted in a disa-~~
25 ~~bility to the member that prevented the member from continuing to~~
26 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
27 ~~for a minimum of forty hours is the qualifying condition or impairment~~
28 ~~of health which the member seeks to be eligible for the presumption~~
29 ~~provided for under this paragraph.~~

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

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

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

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

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

46 ~~[-(e)-] (d)~~ The member's former employer at the time of the member's
47 retirement shall have an opportunity to be heard on the member's appli-
48 cation for reclassification by the comptroller or applicable retirement
49 system board of trustees according to procedures developed by the comp-
50 troller or applicable retirement system board of trustees.

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

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

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

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

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

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

11 (b) The comptroller is hereby authorized to promulgate rules and regu-
 12 lations to implement the provisions of this paragraph.

13 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 14 al, special or local law, charter, administrative code or rule or regu-
 15 lation to the contrary, if a member who participated in World Trade
 16 Center rescue, recovery or cleanup operations, as defined in section two
 17 of this chapter, and subsequently retired on a service retirement, an
 18 ordinary disability retirement or a performance of duty disability
 19 retirement and subsequent to such retirement is determined by the comp-
 20 troller to have a qualifying World Trade Center condition, as defined in
 21 section two of this chapter, upon such determination by the comptroller
 22 it shall be presumed that such disability was incurred in the perform-
 23 ance and discharge of duty as the natural and proximate result of an
 24 accident not caused by such member's own willful negligence, and that
 25 the member would have been physically or mentally incapacitated for the
 26 performance and discharge of duty of the position from which he or she
 27 retired had the condition been known and fully developed at the time of
 28 the member's retirement, unless the contrary is proven by competent
 29 evidence.

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

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

35 (d) The member's former employer at the time of the member's retire-
 36 ment shall have an opportunity to be heard on the member's application
 37 for reclassification by the comptroller according to procedures devel-
 38 oped by the comptroller.

39 (e) The comptroller is hereby authorized to promulgate rules and regu-
 40 lations to implement the provisions of this paragraph.

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

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

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

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

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

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

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

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

1 ~~September twelfth, two thousand one; (ii) the member sustained a docu-~~
2 ~~mented physical injury at the World Trade Center site between September~~
3 ~~eleventh, two thousand one and September twelfth, two thousand one that~~
4 ~~is a qualifying condition or impairment of health resulting in disabili-~~
5 ~~ty to the member that prevented the member from continuing to partici-~~
6 ~~ipate in World Trade Center recovery or cleanup operations for a minimum~~
7 ~~of forty hours; and (iii) the documented physical injury that resulted~~
8 ~~in a disability to the member that prevented the member from continuing~~
9 ~~to participate in World Trade Center rescue, recovery or cleanup oper-~~
10 ~~ations for a minimum of forty hours is the qualifying condition or~~
11 ~~impairment of health which the member seeks to be eligible for the~~
12 ~~presumption provided for under this paragraph.~~

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

18 ~~(c) For purposes of this subdivision "qualifying condition or impair-~~
19 ~~ment of health" shall include:~~

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

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

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

31 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
32 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
33 ~~tions;~~

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

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

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

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

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

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

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

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

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

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

14 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 15 al, special or local law, charter, administrative code or rule or regu-
 16 lation to the contrary, if a member who participated in World Trade
 17 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
 18 ~~hours], as defined in section two of this chapter, and subsequently
 19 retired on a service retirement, an ordinary disability retirement or a
 20 performance of duty disability retirement and subsequent to such retire-
 21 ment [~~incurred a disability caused by any qualifying condition or~~
 22 ~~impairment of health] which is determined by the [~~NYCERS board of trus-~~
 23 ~~tees determines, after a determination of disability by the applicable~~
 24 ~~medical board, to have been caused by such member's having participated~~
 25 ~~in World Trade Center rescue, recovery or cleanup operations for a mini-~~
 26 ~~imum of forty hours] head of the retirement system to have been a quali-
 27 fying World Trade Center condition, as defined in section two of this
 28 chapter, upon such determination by the [~~NYCERS board of trustees] head~~
 29 ~~of the retirement system,~~ it shall be presumed that such disability was
 30 incurred in the performance and discharge of duty as the natural and
 31 proximate result of an accident not caused by such member's own willful
 32 negligence, and that the member would have been physically or mentally
 33 incapacitated for the performance and discharge of duty of the position
 34 from which he or she retired had the condition been known and fully
 35 developed at the time of the member's retirement, unless the contrary is
 36 proved by competent evidence. [~~A member shall be eligible for the~~
 37 ~~presumption provided under this paragraph notwithstanding the fact that~~
 38 ~~the member did not participate in World Trade Center rescue, recovery or~~
 39 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
 40 ~~member participated in the rescue, recovery, or cleanup operations at~~
 41 ~~the World Trade Center site between September eleventh, two thousand one~~
 42 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
 43 ~~documented injury at the World Trade Center site between September elev-~~
 44 ~~enth, two thousand one and September twelfth, two thousand one that is a~~
 45 ~~qualifying condition or impairment of health resulting in disability to~~
 46 ~~the member that prevented the member from continuing to participate in~~
 47 ~~World Trade Center rescue, recovery or cleanup operations for a minimum~~
 48 ~~of forty hours; and (iii) the documented physical injury that resulted~~
 49 ~~in a disability to the member that prevented the member from continuing~~
 50 ~~to participate in World Trade Center rescue, recovery or cleanup oper-~~
 51 ~~ations for a minimum of forty hours is the qualifying condition or~~
 52 ~~impairment of health which the member seeks to be eligible for the~~
 53 ~~presumption provided for under this paragraph.~~~~~~~~

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

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

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

9 ~~(c)]~~ (b) The ~~[NYCERS board of trustees]~~ head of the retirement system
 10 shall consider a reclassification of the member's retirement as an acci-
 11 dental disability retirement effective as of the date of such reclassi-
 12 fication.

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

15 ~~[(e)]~~ (d) The member's former employer at the time of the member's
 16 retirement shall have an opportunity to be heard on the member's appli-
 17 cation for reclassification by the ~~[NYCERS board of trustees]~~ head of
 18 the retirement system according to procedures developed by the ~~[NYCERS~~
 19 ~~board of trustees]~~ head of the retirement system.

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

23 d. Notwithstanding any other provision of this chapter or of any
 24 general, special or local law, charter, administrative code or rule or
 25 regulation to the contrary, if a retiree who: (1) has met the criteria
 26 of subdivision c of this section and retired on a service or disability
 27 retirement, or would have met the criteria if not already retired on an
 28 accidental disability; and (2) has not been retired for more than twenty-
 29 five years; and (3) dies from a qualifying World Trade center condi-
 30 tion ~~[or impairment of health]~~, as defined in ~~[subparagraph (e) of para-~~
 31 ~~graph one of subdivision c of this]~~ section two of this chapter, that is
 32 determined by the applicable head of the retirement system or applicable
 33 medical board ~~[to have been caused by such retiree's participation in~~
 34 ~~the World Trade Center rescue, recovery or cleanup operations, as~~
 35 ~~defined in subparagraph (d) of paragraph one of subdivision c of this~~
 36 ~~section]~~, then unless the contrary be proven by competent evidence, such
 37 retiree shall be deemed to have died as a natural and proximate result
 38 of an accident sustained in the performance of duty and not as a result
 39 of willful negligence on his or her part. Such retiree's eligible bene-
 40 ficiary, as set forth in section five hundred one of this article, shall
 41 be entitled to an accidental death benefit as provided by section five
 42 hundred nine of this article, however, for the purposes of determining
 43 the salary base upon which the accidental death benefit is calculated,
 44 the retiree shall be deemed to have died on the date of his or her
 45 retirement. Upon the retiree's death, the eligible beneficiary shall
 46 make a written application to the head of the retirement system within
 47 the time for filing an application for an accidental death benefit as
 48 set forth in section five hundred nine of this article requesting
 49 conversion of such retiree's service or disability retirement benefit to
 50 an accidental death benefit. At the time of such conversion, the eligi-
 51 ble beneficiary shall relinquish all rights to the prospective benefits
 52 payable under the service or disability retirement benefit, including
 53 any post-retirement death benefits, since the retiree's death. If the
 54 eligible beneficiary is not the only beneficiary receiving or entitled
 55 to receive a benefit under the service or disability retirement benefit
 56 (including, but not limited to, post-retirement death benefits or bene-

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

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

24 § 7. Subdivisions a, h, i and j of section 556 of the retirement and
 25 social security law, subdivision a as added by chapter 165 of the laws
 26 of 1995, subdivision h as amended by chapter 93 of the laws of 2005,
 27 subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of
 28 paragraph 2 of subdivision h as amended by chapter 495 of the laws of
 29 2007, subdivision i as amended and subdivision j as added by chapter 5
 30 of the laws of 2007, are amended to read as follows:

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

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

37 2. Actually in service upon which his or her membership is based.
 38 However, in a case where a member is discontinued from service subse-
 39 quent to the accident, either voluntarily or involuntarily, and provided
 40 that the member meets the requirements of paragraph one of this subdivi-
 41 sion, application may be made either (a) by a vested member incapac-
 42 itated as the result of a qualifying World Trade Center condition as
 43 defined in section two of this chapter at any time, or (b) not later
 44 than two years after the member is first discontinued from service and
 45 provided that the member meets the requirements of paragraph one of this
 46 subdivision.

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

1 be proved by competent evidence. [~~A member shall be eligible for the~~
2 ~~presumption provided for under this paragraph notwithstanding the fact~~
3 ~~that the member did not participate in World Trade Center recovery and~~
4 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
5 ~~member participated in the rescue, recovery, or cleanup operations at~~
6 ~~the World Trade Center site between September eleventh, two thousand one~~
7 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
8 ~~documented physical injury at the World Trade Center site between~~
9 ~~September eleventh, two thousand one and September twelfth, two thousand~~
10 ~~one that is a qualifying condition or impairment of health resulting in~~
11 ~~disability to the member that prevented the member from continuing to~~
12 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
13 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
14 ~~that resulted in a disability to the member that prevented the member~~
15 ~~from continuing to participate in World Trade Center rescue, recovery or~~
16 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
17 ~~tion or impairment of health which the member seeks to be eligible for~~
18 ~~the presumption provided for under this paragraph.~~

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

24 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
25 ~~ment of health" shall include:~~

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

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

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

37 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
38 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
39 ~~tions;~~

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

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

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

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

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

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

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

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

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

19 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 20 al, special or local law, charter, administrative code or rule or regu-
 21 lation to the contrary, if a member who participated in World Trade
 22 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
 23 ~~hours], as defined in section two of this chapter, and subsequently~~
 24 ~~retired on a service retirement, an ordinary disability retirement or a~~
 25 ~~performance of duty disability retirement and subsequent to such retire-~~
 26 ~~ment [incurred a disability caused by any qualifying condition or~~
 27 ~~impairment of the health which] is determined by the comptroller [deter-~~
 28 ~~mines to have been caused by such member's having participated in World~~
 29 ~~Trade Center rescue, recovery or cleanup operations for a minimum of~~
 30 ~~forty hours] to have a qualifying World Trade Center condition, as~~
 31 ~~defined in section two of this chapter, upon such determination by the~~
 32 ~~comptroller it shall be presumed that such disability was incurred in~~
 33 ~~the performance and discharge of duty as the natural and proximate~~
 34 ~~result of an accident not caused by such member's own willful negli-~~
 35 ~~gence, and that the member would have been physically or mentally inca-~~
 36 ~~pacitated for the performance and discharge of duty of the position from~~
 37 ~~which he or she retired had the condition been known and fully developed~~
 38 ~~at the time of the member's retirement, unless the contrary is proven by~~
 39 ~~competent evidence.~~

40 ~~[A member shall be eligible for the presumption provided for under~~
 41 ~~this paragraph notwithstanding the fact that the member did not partic-~~
 42 ~~ipate in World Trade Center rescue, recovery or cleanup operations for a~~
 43 ~~minimum of forty hours, provided that: (i) the member participated in~~
 44 ~~the rescue, recovery, or cleanup operations at the World Trade Center~~
 45 ~~site between September eleventh, two thousand one and September twelfth,~~
 46 ~~two thousand one; (ii) the member sustained a documented physical injury~~
 47 ~~at the World Trade Center site between September eleventh, two thousand~~
 48 ~~one and September twelfth, two thousand one that is a qualifying condi-~~
 49 ~~tion or impairment of health resulting in disability to the member that~~
 50 ~~prevented the member from continuing to participate in World Trade~~
 51 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
 52 ~~hours; and (iii) the documented physical injury that resulted in a disa-~~
 53 ~~bility to the member that prevented the member from continuing to~~
 54 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 55 ~~for a minimum of forty hours is the qualifying condition or impairment~~

1 ~~of health which the member seeks to be eligible for the presumption~~
2 ~~provided for under this paragraph.~~
3 ~~(b) The reclassification provided for in subparagraph (a) of this~~
4 ~~paragraph shall not be granted, unless:~~
5 ~~(i) the member files a written and sworn statement with the member's~~
6 ~~retirement system on a form provided by such system indicating the dates~~
7 ~~and locations of employment within four years following the effective~~
8 ~~date of chapter one hundred four of the laws of two thousand five; and~~
9 ~~(ii) the member must have successfully passed a physical examination~~
10 ~~for entry into public service which failed to disclose evidence of the~~
11 ~~qualifying condition or impairment of health that formed the basis for~~
12 ~~the disability.~~
13 ~~(e)] (b)~~ The comptroller shall consider a reclassification of the
14 member's retirement as an accidental disability retirement effective as
15 of the date of such reclassification.
16 ~~[(d)] (c)~~ Such member's retirement option shall not be changed as a
17 result of such reclassification.
18 ~~[(e)] (d)~~ The member's former employer at the time of the member's
19 retirement shall have an opportunity to be heard on the member's appli-
20 cation for reclassification by the comptroller according to procedures
21 developed by the comptroller.
22 ~~[(f)] (e)~~ The comptroller is hereby authorized to promulgate rules and
23 regulations to implement the provisions of this paragraph.
24 i. Notwithstanding any other provision of this chapter or of any
25 general, special or local law, charter, administrative code or rule or
26 regulation to the contrary, if a retiree who: (1) has met the criteria
27 of subdivision h of this section and retired on a service or disability
28 retirement, or would have met the criteria if not already retired on an
29 accidental disability; and (2) has not been retired for more than twenty-
30 five years; and (3) dies from a qualifying World Trade Center condi-
31 tion [~~or impairment of health~~], as defined in [~~subparagraph (e) of para-~~
32 ~~graph one of subdivision h of this~~] section two of this chapter, [~~that~~
33 ~~is~~] as determined by the applicable head of the retirement system or
34 applicable medical board [~~to have been caused by such retiree's partic-~~
35 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
36 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision h~~
37 ~~of this section~~], then unless the contrary be proven by competent
38 evidence, such retiree shall be deemed to have died as a natural and
39 proximate result of an accident sustained in the performance of duty and
40 not as a result of willful negligence on his or her part. Such retiree's
41 eligible beneficiary, as set forth in section five hundred one of this
42 article, shall be entitled to an accidental death benefit as provided by
43 section five hundred nine of this article, however, for the purposes of
44 determining the salary base upon which the accidental death benefit is
45 calculated, the retiree shall be deemed to have died on the date of his
46 or her retirement. Upon the retiree's death, the eligible beneficiary
47 shall make a written application to the head of the retirement system
48 within the time for filing an application for an accidental death benef-
49 it as set forth in section five hundred nine of this article requesting
50 conversion of such retiree's service or disability retirement benefit to
51 an accidental death benefit. At the time of such conversion, the eligi-
52 ble beneficiary shall relinquish all rights to the prospective benefits
53 payable under the service or disability retirement benefit, including
54 any post-retirement death benefits, since the retiree's death. If the
55 eligible beneficiary is not the only beneficiary receiving or entitled
56 to receive a benefit under the service or disability retirement benefit

1 (including, but not limited to, post-retirement death benefits or bene-
 2 fits paid or payable pursuant to the retiree's option selection), the
 3 accidental death benefit payments to the eligible beneficiary will be
 4 reduced by any amounts paid or payable to any other beneficiary.

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

25 § 8. Paragraph 2 of subdivision b of section 558 of the retirement and
 26 social security law, as added by chapter 165 of the laws of 1995, is
 27 amended and three new subdivisions j, k and l are added to read as
 28 follows:

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

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

47 (b) The comptroller is hereby authorized to promulgate rules and regu-
 48 lations to implement the provisions of this paragraph.

49 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 50 al, special or local law, charter, administrative code or rule or regu-
 51 lation to the contrary, if a member who participated in World Trade
 52 Center rescue, recovery or cleanup operations, as defined in section two
 53 of this chapter, and subsequently retired on a service retirement, an
 54 ordinary disability retirement or a performance of duty disability
 55 retirement and subsequent to such retirement is determined by the comp-
 56 troller to have a qualifying World Trade Center condition, as defined in

1 section two of this chapter, upon such determination by the comptroller
2 it shall be presumed that such disability was incurred in the perform-
3 ance and discharge of duty as the natural and proximate result of an
4 accident not caused by such member's own willful negligence, and that
5 the member would have been physically or mentally incapacitated for the
6 performance and discharge of duty of the position from which he or she
7 retired had the condition been known and fully developed at the time of
8 the member's retirement, unless the contrary is proven by competent
9 evidence.

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

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

15 (d) The member's former employer at the time of the member's retire-
16 ment shall have an opportunity to be heard on the member's application
17 for reclassification by the comptroller according to procedures devel-
18 oped by the comptroller.

19 (e) The comptroller is hereby authorized to promulgate rules and regu-
20 lations to implement the provisions of this paragraph.

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

24 (1) has met the criteria of subdivision j of this section and retired
25 on a service or disability retirement, or would have met the criteria if
26 not already retired on an accidental disability; and

27 (2) has not been retired for more than twenty-five years; and

28 (3) dies from a qualifying World Trade Center condition, as defined in
29 section two of this chapter, as determined by the applicable head of the
30 retirement system or applicable medical board, then unless the contrary
31 be proven by competent evidence, such retiree shall be deemed to have
32 died as a natural and proximate result of an accident sustained in the
33 performance of duty and not as a result of willful negligence on his or
34 her part. Such retiree's eligible beneficiary, as set forth in section
35 five hundred one of this article, shall be entitled to an accidental
36 death benefit as provided by section five hundred nine of this article,
37 however, for the purposes of determining the salary base upon which the
38 accidental death benefit is calculated, the retiree shall be deemed to
39 have died on the date of his or her retirement. Upon the retiree's
40 death, the eligible beneficiary shall make a written application to the
41 head of the retirement system within the time for filing an application
42 for an accidental death benefit as set forth in section five hundred
43 nine of this article requesting conversion of such retiree's service or
44 disability retirement benefit to an accidental death benefit. At the
45 time of such conversion, the eligible beneficiary shall relinquish all
46 rights to the respective benefits payable under the service or disabili-
47 ty retirement benefit, including any post-retirement death benefits,
48 since the retiree's death. If the eligible beneficiary is not the only
49 beneficiary receiving or entitled to receive a benefit under this
50 service or disability retirement benefit (including, but not limited to,
51 post-retirement death benefits or benefits paid or payable pursuant to
52 the retiree's option selection), the accidental death benefit payments
53 to the eligible beneficiary will be reduced by any amounts paid or paya-
54 ble to any other beneficiary.

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

4 (1) has met the criteria of subdivision j of this section; and

5 (2) dies in active service from a qualifying World Trade Center condi-
 6 tion as defined in section two of this chapter, as determined by the
 7 applicable head of the retirement system or applicable medical board,
 8 then unless the contrary be proven by competent evidence, such member
 9 shall be deemed to have died as a natural and proximate result of an
 10 accident sustained in the performance of duty and not as a result of
 11 willful negligence on his or her part.

12 Such member's eligible beneficiary, as set forth in section five
 13 hundred one of this article, shall be entitled to an accidental death
 14 benefit provided he or she makes written application to the head of the
 15 retirement system within the time for filing an application for an acci-
 16 dental death benefit as set forth in section five hundred nine of this
 17 article.

18 § 9. Subdivisions b, h, i and j of section 605 of the retirement and
 19 social security law, subdivision b as added by chapter 414 of the laws
 20 of 1983, paragraph 2 of subdivision b as amended by chapter 330 of the
 21 laws of 1998, subdivision h as amended by chapter 93 of the laws of
 22 2005, subparagraph (d) of paragraph 1 of subdivision h as amended by
 23 chapter 214 of the laws of 2007, subparagraph (e) of paragraph 1 and
 24 clause (i) of subparagraph (b) of paragraph 2 of subdivision h as
 25 amended by chapter 495 of the laws of 2007 and subdivision i as amended
 26 and subdivision j as added by chapter 5 of the laws of 2007, are amended
 27 to read as follows:

28 b. At the time of the filing of an application pursuant to this
 29 section, the member must:

30 1. Have at least ten years of total service credit, and

31 2. The application must be filed either (a) by a vested member inca-
 32 pacitated as the result of a qualifying World Trade Center condition as
 33 defined in section two of this chapter, at any time, or (b) within three
 34 months from the last date the member was being paid on the payroll or,
 35 (c) in the case of a member who was placed on a leave of absence for
 36 medical reasons without pay, either voluntarily or involuntarily, at the
 37 time he ceased being paid, application may be made not later than twelve
 38 months after the date the employee receives notice that his employment
 39 status has been terminated. In the case of a member of the New York
 40 state teachers' retirement system, the application must be filed not
 41 later than twelve months after the last date the member was being paid
 42 on the payroll or, where the member was placed on leave of absence for
 43 medical reasons without pay, either voluntarily or involuntarily at the
 44 time the member ceased being paid, not later than twelve months after
 45 the date the member receives notice that the member's employment status
 46 has been terminated.

47 3. Provided, however, if the retirement system determines that such
 48 member was physically or mentally incapacitated for performance of gain-
 49 ful employment as the natural and proximate result of an accident not
 50 caused by his own willful negligence sustained in the performance of his
 51 duties in active service while actually a member of the retirement
 52 system the requirement that the member should have ten years of credited
 53 service shall be inapplicable.

54 h. 1. (a) Notwithstanding any provisions of this chapter or of any
 55 general, special or local law, charter, administrative code or rule or
 56 regulation to the contrary, if any condition or impairment of health is

1 caused by a qualifying [~~condition or impairment of health resulting in~~
 2 ~~disability to a member who participated in World Trade Center rescue,~~
 3 ~~recovery or cleanup operations for a minimum of forty hours]~~ World Trade
 4 Center condition as defined in section two of this chapter, it shall be
 5 presumptive evidence that it was incurred in the performance and
 6 discharge of duty and the natural and proximate result of an accident
 7 not caused by such member's own willful negligence, unless the contrary
 8 be proved by competent evidence. [~~A member shall be eligible for the~~
 9 ~~presumption provided for under this paragraph notwithstanding the fact~~
 10 ~~that the member did not participate in World Trade Center recovery and~~
 11 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
 12 ~~member participated in the rescue, recovery, or cleanup operations at~~
 13 ~~the World Trade Center site between September eleventh, two thousand one~~
 14 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
 15 ~~documented physical injury at the World Trade Center site between~~
 16 ~~September eleventh, two thousand one and September twelfth, two thousand~~
 17 ~~one that is a qualifying condition or impairment of health resulting in~~
 18 ~~disability to the member that prevented the member from continuing to~~
 19 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 20 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
 21 ~~that resulted in a disability to the member that prevented the member~~
 22 ~~from continuing to participate in World Trade Center rescue, recovery or~~
 23 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
 24 ~~tion or impairment of health which the member seeks to be eligible for~~
 25 ~~the presumption provided for under this paragraph.~~

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

31 (c) ~~For purposes of this subdivision, "qualifying condition or impair-~~
 32 ~~ment of health" shall include:~~

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

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

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

44 (iv) ~~Diseases of the psychological axis, including post-traumatic~~
 45 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
 46 ~~tions;~~

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

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

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

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

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

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

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

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

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

32 ~~(f)]~~ **(b)** The ~~[comptroller or applicable retirement system board of~~
 33 ~~trustees]~~ **head of each retirement system** is hereby authorized to promul-
 34 gate rules and regulations to implement the provisions of this para-
 35 graph.

36 2. (a)(1) Notwithstanding the provisions of this chapter or of any
 37 general, special or local law, charter, administrative code or rule or
 38 regulation to the contrary, if a member who participated in World Trade
 39 Center rescue, recovery or cleanup operations ~~[for a minimum of forty~~
 40 ~~hours],~~ **as defined in section two of this chapter,** and subsequently
 41 retired on a service retirement, an ordinary disability retirement or a
 42 performance of duty disability retirement or a state police disability
 43 retirement pursuant to section three hundred sixty-three-b of this title
 44 and subsequent to such retirement ~~[incurred a disability caused by any~~
 45 ~~qualifying condition or impairment of the health which the medical board~~
 46 ~~determines to have been caused by such member's having participated in~~
 47 ~~World Trade Center rescue, recovery or cleanup operations for a minimum~~
 48 ~~of forty hours]~~ **is determined by the head of the retirement system to**
 49 **have a qualifying World Trade Center condition, as defined in section**
 50 **two of this chapter,** upon such determination by the ~~[medical board]~~ **head**
 51 **of the retirement system** it shall be presumed that such disability was
 52 incurred in the performance and discharge of duty as the natural and
 53 proximate result of an accident not caused by such member's own willful
 54 negligence, and that the member would have been physically or mentally
 55 incapacitated for the performance and discharge of duty of the position
 56 from which he or she retired had the condition been known and fully

1 developed at the time of the member's retirement, unless the contrary is
2 proven by competent evidence.

3 (2) Notwithstanding the provisions of this chapter or of any general,
4 special or local law, charter, administrative code or rule or regulation
5 to the contrary, if a member who participated in World Trade Center
6 rescue, recovery or cleanup operations for a minimum of forty hours, and
7 subsequently retired on a service retirement, an ordinary disability
8 retirement or a performance of duty disability retirement and subsequent
9 to such retirement incurred a disability caused by any qualifying condi-
10 tion or impairment of the health which the applicable board of trustees
11 determines, after a determination of disability by the applicable
12 medical board, to have been caused by such member's having participated
13 in World Trade Center rescue, recovery or cleanup operations for a mini-
14 mum of forty hours, upon such determination by the applicable board of
15 trustees, it shall be presumed that such disability was incurred in the
16 performance and discharge of duty as the natural and proximate result of
17 an accident not caused by such member's own willful negligence, and that
18 the member would have been physically or mentally incapacitated for the
19 performance and discharge of duty of the position from which he or she
20 retired had the condition been known and fully developed at the time of
21 the member's retirement, unless the contrary is proven by competent
22 evidence.

23 (3) A member shall be eligible for the presumption provided for under
24 this paragraph notwithstanding the fact that the member did not partic-
25 ipate in World Trade Center rescue, recovery or cleanup operations for a
26 minimum of forty hours, provided that: (i) the member participated in
27 the rescue, recovery, or cleanup operations at the World Trade Center
28 site between September eleventh, two thousand one and September twelfth,
29 two thousand one; (ii) the member sustained a documented physical injury
30 at the World Trade Center site between September eleventh, two thousand
31 one and September twelfth, two thousand one that is a qualifying condi-
32 tion or impairment of health resulting in disability to the member that
33 prevented the member from continuing to participate in World Trade
34 Center rescue, recovery or cleanup operations for a minimum of forty
35 hours; and (iii) the documented physical injury that resulted in a disa-
36 bility to the member that prevented the member from continuing to
37 participate in World Trade Center rescue, recovery or cleanup operations
38 for a minimum of forty hours is the qualifying condition or impairment
39 of health which the member seeks to be eligible for the presumption
40 provided for under this paragraph.

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

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

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

51 (c) The ~~comptroller or applicable retirement system board of trus-~~
52 ~~tees~~ **head of the retirement system** shall consider a reclassification of
53 the member's retirement as an accidental disability retirement effective
54 as of the date of such reclassification.

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

1 (e) The member's former employer at the time of the member's retire-
 2 ment shall have an opportunity to be heard on the member's application
 3 for reclassification by the [~~comptroller or applicable retirement system~~
 4 ~~board of trustees~~] head of the retirement system according to procedures
 5 developed by the [~~comptroller or applicable retirement system board of~~
 6 ~~trustees~~] head of the retirement system.

7 (f) The [~~comptroller or applicable retirement system board of trus-~~
 8 ~~tees~~] head of the retirement system is hereby authorized to promulgate
 9 rules and regulations for their respective retirement systems to imple-
 10 ment the provisions of this paragraph.

11 i. Notwithstanding any other provision of this chapter or of any
 12 general, special or local law, charter, administrative code or rule or
 13 regulation to the contrary, if a retiree who: (1) has met the criteria
 14 of subdivision h of this section and retired on a service or disability
 15 retirement, or would have met the criteria if not already retired on an
 16 accidental disability; and (2) has not been retired for more than twen-
 17 ty-five years; and (3) dies from a qualifying World Trade Center condi-
 18 tion [~~or impairment of health~~], as defined in [~~subparagraph (c) of para-~~
 19 ~~graph one of subdivision h of this~~] section two of this chapter, [~~that~~
 20 ~~is~~] as determined by the applicable head of the retirement system or
 21 applicable medical board [~~to have been caused by such retiree's partic-~~
 22 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
 23 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision h~~
 24 ~~of this section~~], then unless the contrary be proven by competent
 25 evidence, such retiree shall be deemed to have died as a natural and
 26 proximate result of an accident sustained in the performance of duty and
 27 not as a result of willful negligence on his or her part. Such retiree's
 28 eligible beneficiary, as set forth in section six hundred one of this
 29 article, shall be entitled to an accidental death benefit as provided by
 30 section six hundred seven of this article, however, for the purposes of
 31 determining the salary base upon which the accidental death benefit is
 32 calculated, the retiree shall be deemed to have died on the date of his
 33 or her retirement. Upon the retiree's death, the eligible beneficiary
 34 shall make a written application to the head of the retirement system
 35 within the time for filing an application for an accidental death bene-
 36 fit as set forth in section six hundred seven of this article requesting
 37 conversion of such retiree's service or disability retirement benefit to
 38 an accidental death benefit. At the time of such conversion, the eligi-
 39 ble beneficiary shall relinquish all rights to the prospective benefits
 40 payable under the service or disability retirement benefit, including
 41 any post-retirement death benefits, since the retiree's death. If the
 42 eligible beneficiary is not the only beneficiary receiving or entitled
 43 to receive a benefit under the service or disability retirement benefit
 44 (including, but not limited to, post-retirement death benefits or bene-
 45 fits paid or payable pursuant to the retiree's option selection), the
 46 accidental death benefit payments to the eligible beneficiary will be
 47 reduced by any amounts paid or payable to any other beneficiary.

48 j. Notwithstanding any other provision of this chapter or of any
 49 general, special or local law, charter, administrative code or rule or
 50 regulation to the contrary, if a member who: (1) has met the criteria of
 51 subdivision h of this section; and (2) dies in active service from a
 52 qualifying World Trade Center condition [~~or impairment of health, as~~
 53 ~~defined in subparagraph (c) of paragraph one of subdivision h of this~~
 54 ~~section~~], as defined in section two of this chapter, [~~that is~~] as deter-
 55 mined by the applicable head of the retirement system or applicable
 56 medical board to have been caused by such member's participation in the

1 World Trade Center rescue, recovery or cleanup operations, as defined in
 2 [~~subparagraph (d) of paragraph one of subdivision h of this~~] section two
 3 of this chapter, then unless the contrary be proven by competent
 4 evidence, such member shall be deemed to have died as a natural and
 5 proximate result of an accident sustained in the performance of duty and
 6 not as a result of willful negligence on his or her part. Such member's
 7 eligible beneficiary, as set forth in section six hundred one of this
 8 article, shall be entitled to an accidental death benefit provided he or
 9 she makes written application to the head of the retirement system with-
 10 in the time for filing an application for an accidental death benefit as
 11 set forth in section six hundred seven of this article.

12 § 10. Subdivisions a, h, i and j of section 605-a of the retirement
 13 and social security law, subdivision a as added by chapter 422 of the
 14 laws of 1995, the opening paragraph of subdivision a as amended by chap-
 15 ter 602 of the laws of 2000, subdivision h as amended by chapter 93 of
 16 the laws of 2005, subparagraph (e) of paragraph 1 and clause (i) of
 17 subparagraph (b) of paragraph 2 of subdivision h as amended by chapter
 18 495 of the laws of 2007, subdivision i as amended and subdivision j as
 19 added by chapter 5 of the laws of 2007, are amended to read as follows:

20 a. A member employed as a uniformed court officer or peace officer in
 21 the unified court system shall be entitled to an accidental disability
 22 retirement allowance if, at the time application therefor is filed, such
 23 member is:

24 1. Physically or mentally incapacitated for performance of duty as the
 25 natural and proximate result of an accident, not caused by his own will-
 26 ful negligence, sustained in such service and while actually a member of
 27 the retirement system; and

28 2. Actually in service upon which his or her membership is based.
 29 However, in a case where a member is discontinued from service subse-
 30 quent to the accident, either voluntarily or involuntarily, and provided
 31 that the member meets the requirements of paragraph one of this subdivi-
 32 sion, application may be made either (a) by a vested member incapac-
 33 itated as the result of a qualifying World Trade Center condition as
 34 defined in section two of this chapter at any time, or (b) not later
 35 than two years after the member is first discontinued from service [and
 36 provided that the member meet the requirements of paragraph one of this
 37 subdivision].

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

1 ~~one that is a qualifying condition or impairment of health resulting in~~
2 ~~disability to the member that prevented the member from continuing to~~
3 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
4 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
5 ~~that resulted in a disability to the member that prevented the member~~
6 ~~from continuing to participate in World Trade Center rescue, recovery or~~
7 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
8 ~~tion or impairment of health which the member seeks to be eligible for~~
9 ~~the presumption provided for under this paragraph.~~

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

15 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
16 ~~ment of health" shall include:~~

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

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

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

28 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
29 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
30 ~~tions;~~

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

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

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

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

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

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

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

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

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

9 2. (a) Notwithstanding the provisions of this chapter or of any gener-
10 al, special or local law, charter, administrative code or rule or regu-
11 lation to the contrary, if a member who participated in World Trade
12 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
13 ~~hours], as defined in section two of this chapter,~~ and subsequently
14 retired on a service retirement, an ordinary disability retirement or a
15 performance of duty disability retirement and subsequent to such retire-
16 ment [~~incurred a disability caused by any qualifying condition or~~
17 ~~impairment of the health which] is determined by the comptroller [~~deter-~~
18 ~~mines to have been caused by such member's having participated in World~~
19 ~~Trade Center rescue, recovery or cleanup operations for a minimum of~~
20 ~~forty hours] to have a qualifying World Trade Center condition, as
21 defined in section two of this chapter, upon such determination by the
22 comptroller it shall be presumed that such disability was incurred in
23 the performance and discharge of duty as the natural and proximate
24 result of an accident not caused by such member's own willful negli-
25 gence, and that the member would have been physically or mentally inca-
26 pacitated for the performance and discharge of duty of the position from
27 which he or she retired had the condition been known and fully developed
28 at the time of the member's retirement, unless the contrary is proven by
29 competent evidence. [~~A member shall be eligible for the presumption~~
30 ~~provided for under this paragraph notwithstanding the fact that the~~
31 ~~member did not participate in World Trade Center rescue, recovery or~~
32 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
33 ~~member participated in the rescue, recovery, or cleanup operations at~~
34 ~~the World Trade Center site between September eleventh, two thousand one~~
35 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
36 ~~documented physical injury at the World Trade Center site between~~
37 ~~September eleventh, two thousand one and September twelfth, two thousand~~
38 ~~one that is a qualifying condition or impairment of health resulting in~~
39 ~~disability to the member that prevented the member from continuing to~~
40 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
41 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
42 ~~that resulted in a disability to the member that prevented the member~~
43 ~~from continuing to participate in World Trade Center rescue, recovery or~~
44 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
45 ~~tion or impairment of health which the member seeks to be eligible for~~
46 ~~the presumption provided for under this paragraph.~~~~~~

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

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

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

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

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

6 ~~(e)~~ (d) The member's former employer at the time of the member's
 7 retirement shall have an opportunity to be heard on the member's appli-
 8 cation for reclassification by the comptroller according to procedures
 9 developed by the comptroller.

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

12 i. Notwithstanding any other provision of this chapter or of any
 13 general, special or local law, charter, administrative code or rule or
 14 regulation to the contrary, if a retiree who: (1) has met the criteria
 15 of subdivision h of this section and retired on a service or disability
 16 retirement, or would have met the criteria if not already retired on an
 17 accidental disability; and (2) has not been retired for more than twenty-
 18 five years; and (3) dies from a qualifying World Trade Center condi-
 19 tion ~~[or impairment of health]~~, as defined in ~~[subparagraph (c) of para-~~
 20 ~~graph one of subdivision h of this]~~ section two of this chapter, ~~[that~~
 21 ~~is]~~ as determined by the applicable head of the retirement system or
 22 applicable medical board ~~[to have been caused by such retiree's partic-~~
 23 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
 24 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision h~~
 25 ~~of this section]~~, then unless the contrary be proven by competent
 26 evidence, such retiree shall be deemed to have died as a natural and
 27 proximate result of an accident sustained in the performance of duty and
 28 not as a result of willful negligence on his or her part. Such retiree's
 29 eligible beneficiary, as set forth in section six hundred one of this
 30 article, shall be entitled to an accidental death benefit as provided by
 31 section six hundred seven of this article, however, for the purposes of
 32 determining the salary base upon which the accidental death benefit is
 33 calculated, the retiree shall be deemed to have died on the date of his
 34 or her retirement. Upon the retiree's death, the eligible beneficiary
 35 shall make a written application to the head of the retirement system
 36 within the time for filing an application for an accidental death bene-
 37 fit as set forth in section six hundred seven of this article requesting
 38 conversion of such retiree's service or disability retirement benefit to
 39 an accidental death benefit. At the time of such conversion, the eligi-
 40 ble beneficiary shall relinquish all rights to the prospective benefits
 41 payable under the service or disability retirement benefit, including
 42 any post-retirement death benefits, since the retiree's death. If the
 43 eligible beneficiary is not the only beneficiary receiving or entitled
 44 to receive a benefit under the service or disability retirement benefit
 45 (including, but not limited to, post-retirement death benefits or bene-
 46 fits paid or payable pursuant to the retiree's option selection), the
 47 accidental death benefit payments to the eligible beneficiary will be
 48 reduced by any amounts paid or payable to any other beneficiary.

49 j. Notwithstanding any other provision of this chapter or of any
 50 general, special or local law, charter, administrative code or rule or
 51 regulation to the contrary, if a member who: (1) has met the criteria of
 52 subdivision h of this section; and (2) dies in active service from a
 53 qualifying World Trade Center condition ~~[or impairment of health, as~~
 54 ~~defined in subparagraph (c) of paragraph one of subdivision h of this~~
 55 ~~section]~~, as defined in section two of this chapter, ~~[that is]~~ as deter-
 56 mined by the applicable head of the retirement system or applicable

1 medical board to have been caused by such member's participation in the
2 World Trade Center rescue, recovery or cleanup operations, as defined in
3 ~~[subparagraph (d) of paragraph one of subdivision h of this]~~ section **two**
4 **of this chapter**, then unless the contrary be proven by competent
5 evidence, such member shall be deemed to have died as a natural and
6 proximate result of an accident sustained in the performance of duty and
7 not as a result of willful negligence on his or her part. Such member's
8 eligible beneficiary, as set forth in section six hundred one of this
9 article, shall be entitled to an accidental death benefit provided he or
10 she makes written application to the head of the retirement system with-
11 in the time for filing an application for an accidental death benefit as
12 set forth in section six hundred seven of this article.

13 § 11. Subdivisions c, d, e and f of section 605-b of the retirement
14 and social security law, subdivision c as added by chapter 504 of the
15 laws of 2002, subdivision d as amended by chapter 93 of the laws of
16 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b)
17 of paragraph 2 of subdivision d as amended by chapter 495 of the laws of
18 2007, subdivision e as amended and subdivision f as added by chapter 5
19 of the laws of 2007, are amended to read as follows:

20 c. 1. Notwithstanding the provisions of paragraphs one and two of
21 subdivision b of this section or any other provision of law to the
22 contrary, any eligible prior uniformed sanitation disability retiree (as
23 defined in paragraph three of subdivision a of this section) shall be
24 eligible to apply for accidental disability retirement pursuant to
25 subdivision b of this section **either (a) if the member is vested and is**
26 **incapacitated as the result of a qualifying World Trade Center condition**
27 **as defined in section two of this chapter, or (b)** by filing an applica-
28 tion with NYCERS within one year of the effective date of this section.

29 2. Any eligible prior uniformed sanitation disability retiree who
30 files a timely application for accidental disability retirement pursuant
31 to paragraph one of this subdivision, and who retired either for disa-
32 bility pursuant to section six hundred five of this article with less
33 than ten years of credited service, or for accidental disability pursu-
34 ant to section five hundred seven of this chapter, shall be granted
35 accidental disability retirement benefits pursuant to subdivision b of
36 this section, with payability of those benefits to begin on the earlier
37 of (a) January first, two thousand five, or (b) a date certified as the
38 payability date for all persons entitled to accidental disability
39 retirement benefits pursuant to this subdivision by the commissioner of
40 labor relations for the city of New York in a letter to the executive
41 director of NYCERS.

42 3. Any eligible prior uniformed sanitation disability retiree who
43 files a timely application for accidental disability retirement pursuant
44 to paragraph one of this subdivision, and who retired for disability
45 pursuant to section six hundred five of this article with ten or more
46 years of credited service, shall have that application processed in
47 accordance with the applicable provisions which govern the processing of
48 accidental disability retirement applications filed pursuant to subdivi-
49 sion b of this section by or on behalf of active New York city uniformed
50 sanitation members of NYCERS. NYCERS shall use its best efforts to make
51 its determinations on such applications as soon as practicable. Where
52 NYCERS determines that any such prior uniformed sanitation disability
53 retiree is entitled to accidental disability retirement benefits pursu-
54 ant to subdivision b of this section, payability of those benefits shall
55 begin on the earlier of (a) January first, two thousand five, or (b) a
56 date certified as the payability date for all persons entitled to acci-

1 dental disability retirement benefits pursuant to this subdivision by
 2 the commissioner of labor relations for the city of New York in a letter
 3 to the executive director of NYCERS.

4 4. The accidental disability retirement allowance payable pursuant to
 5 this section to any eligible prior uniformed sanitation disability reti-
 6 ree determined by NYCERS to be entitled to such benefit shall be in lieu
 7 of any other disability retirement benefit which such member may have
 8 been receiving or entitled to receive from NYCERS. Any such person who
 9 was receiving disability retirement benefits from NYCERS pursuant to any
 10 statutory provision other than this section shall continue to receive
 11 payment of such benefits until accidental disability retirement benefits
 12 become payable pursuant to this section on the applicable date specified
 13 in paragraphs two and three of this subdivision. On and after such date
 14 he or she shall no longer be entitled to receive disability benefits
 15 from NYCERS pursuant to such other statutory provisions.

16 5. Any eligible prior uniformed sanitation disability retiree who
 17 becomes entitled to accidental disability retirement benefits pursuant
 18 to this section shall have the same method of payment applied to such
 19 benefits as was applicable to the disability retirement benefits he or
 20 she was receiving from NYCERS pursuant to a statutory provision other
 21 than this section, and such person shall not be permitted to change such
 22 method of payment from the maximum retirement allowance to an option or
 23 from the option selected previously to another option or to the maximum
 24 retirement allowance.

25 6. Notwithstanding any other provision of law to the contrary, for the
 26 purposes of calculating the cost-of-living adjustment which may other-
 27 wise become payable pursuant to section 13-696 of the administrative
 28 code of the city of New York to an eligible prior uniformed sanitation
 29 disability retiree for any period of time after such person has begun
 30 receiving accidental disability retirement benefits pursuant to this
 31 section, the year of retirement of such person shall be deemed to be the
 32 year in which he or she retired for disability pursuant to section five
 33 hundred seven or six hundred five of this chapter, as the case may be.

34 d. 1. (a) Notwithstanding any provisions of this chapter or of any
 35 general, special or local law, charter, administrative code or rule or
 36 regulation to the contrary, if any condition or impairment of health is
 37 caused by a qualifying [~~condition or impairment of health resulting in~~
 38 ~~disability to a member who participated in World Trade Center rescue,~~
 39 ~~recovery or cleanup operations for a minimum of forty hours]~~ World Trade
 40 Center condition as defined in section two of this chapter, it shall be
 41 presumptive evidence that it was incurred in the performance and
 42 discharge of duty and the natural and proximate result of an accident
 43 not caused by such member's own willful negligence, unless the contrary
 44 be proved by competent evidence. [~~A member shall be eligible for the~~
 45 ~~presumption provided for under this paragraph notwithstanding the fact~~
 46 ~~that the member did not participate in World Trade Center recovery and~~
 47 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
 48 ~~member participated in the rescue, recovery, or cleanup operations at~~
 49 ~~the World Trade Center site between September eleventh, two thousand one~~
 50 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
 51 ~~documented physical injury at the World Trade Center site between~~
 52 ~~September eleventh, two thousand one and September twelfth, two thousand~~
 53 ~~one that is a qualifying condition or impairment of health resulting in~~
 54 ~~disability to the member that prevented the member from continuing to~~
 55 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 56 ~~for a minimum of forty hours; and (iii) the documented physical injury~~

1 ~~that resulted in a disability to the member that prevented the member~~
 2 ~~from continuing to participate in World Trade Center rescue, recovery or~~
 3 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
 4 ~~tion or impairment of health which the member seeks to be eligible for~~
 5 ~~the presumption provided for under this paragraph.~~

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

11 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
 12 ~~ment of health" shall include:~~

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

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

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

24 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
 25 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
 26 ~~tions;~~

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

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

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

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

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

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

46 ~~(iv) manned the barges between the west side of Manhattan and the~~
 47 ~~Fresh Kills Land Fill in New York between September eleventh, two thou-~~
 48 ~~sand one and September twelfth, two thousand two.~~

49 ~~For the purposes of this subdivision, "World Trade Center site" shall~~
 50 ~~mean anywhere below a line starting from the Hudson River and Canal~~
 51 ~~Street; east on Canal Street to Pike Street; south on Pike Street to the~~
 52 ~~East River; and extending to the lower tip of Manhattan.~~

53 ~~(e) In order to be eligible for consideration for such presumption,~~
 54 ~~such member must file a written and sworn statement with NYCERS on a~~
 55 ~~form provided by such system indicating the dates and locations of~~
 56 ~~employment. Such statement must be filed not later than four years~~

1 ~~following the effective date of chapter one hundred four of the laws of~~
 2 ~~two thousand five.~~

3 ~~(f)]~~ (b) The ~~[NYCERS board of trustees]~~ head of the retirement system
 4 is hereby authorized to promulgate rules and regulations to implement
 5 the provisions of this paragraph.

6 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 7 al, special or local law, charter, administrative code or rule or regu-
 8 lation to the contrary, if a member who participated in World Trade
 9 Center rescue, recovery or cleanup operations ~~[for a minimum of forty~~
 10 ~~hours], as defined in section two of this chapter,~~ and subsequently
 11 retired on a service retirement, an ordinary disability retirement or a
 12 performance of duty disability retirement and subsequent to such retire-
 13 ment ~~[incurred a disability caused by any qualifying condition or~~
 14 ~~impairment of the health]~~ which ~~[the NYCERS board of trustees deter-~~
 15 ~~mines, after a determination of disability by the applicable medical~~
 16 ~~board, to have been caused by such member's having participated in World~~
 17 ~~Trade Center rescue, recovery or cleanup operations for a minimum of~~
 18 ~~forty hours, upon such determination by NYCERS board of trustees, it~~
 19 ~~shall be presumed that such disability]~~ is determined by the head of the
 20 retirement system to have a qualifying World Trade Center condition, as
 21 defined in section two of this chapter, upon such determination by the
 22 head of the retirement system it shall be presumed that such disability

23 was incurred in the performance and discharge of duty as the natural and
 24 proximate result of an accident not caused by such member's own willful
 25 negligence, and that the member would have been physically or mentally
 26 incapacitated for the performance and discharge of duty of the position
 27 from which he or she retired had the condition been known and fully
 28 developed at the time of the member's retirement, unless the contrary is
 29 proven by competent evidence. ~~[A member shall be eligible for the~~
 30 ~~presumption provided for under this paragraph notwithstanding the fact~~
 31 ~~that the member did not participate in World Trade Center rescue, recov-~~
 32 ~~ery or cleanup operations for a minimum of forty hours, provided that:~~
 33 ~~(i) the member participated in the rescue, recovery, or clean up oper-~~
 34 ~~ations at the World Trade Center site between September eleventh, two~~
 35 ~~thousand one and September twelfth, two thousand one; (ii) the member~~
 36 ~~sustained a documented physical injury at the World Trade Center site~~
 37 ~~between September eleventh, two thousand one and September twelfth, two~~
 38 ~~thousand one that is a qualifying condition or impairment of health~~
 39 ~~resulting in disability to the member that prevented the member from~~
 40 ~~continuing to participate in World Trade Center rescue, recovery or~~
 41 ~~cleanup operations for a minimum of forty hours; and (iii) the docu-~~
 42 ~~mented physical injury that resulted in a disability to the member that~~
 43 ~~prevented the member from continuing to participate in World Trade~~
 44 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
 45 ~~hours is the qualifying condition or impairment of health which the~~
 46 ~~member seeks to be eligible for the presumption provided for under this~~
 47 ~~paragraph.~~

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

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

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

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

3 ~~(e)]~~ (b) The ~~[NYCERS board of trustees]~~ head of the retirement system
4 shall consider a reclassification of the member's retirement as an acci-
5 dental disability retirement effective as of the date of such reclas-
6 sification.

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

9 ~~(e)]~~ (d) The member's former employer at the time of the member's
10 retirement shall have an opportunity to be heard on the member's appli-
11 cation for reclassification by the ~~[NYCERS board of trustees]~~ head of
12 the retirement system according to procedures developed by the ~~[NYCERS~~
13 ~~board of trustees]~~ head of the retirement system.

14 ~~(f)]~~ (e) The ~~[NYCERS board of trustees]~~ head of the retirement system
15 is hereby authorized to promulgate rules and regulations to implement
16 the provisions of this paragraph.

17 e. Notwithstanding any other provision of this chapter or of any
18 general, special or local law, charter, administrative code or rule or
19 regulation to the contrary, if a retiree who: (1) has met the criteria
20 of subdivision d of this section and retired on a service or disability
21 retirement, or would have met the criteria if not already retired on an
22 accidental disability; and (2) has not been retired for more than twen-
23 ty-five years; and (3) dies from a qualifying World Trade Center condi-
24 tion ~~[or impairment of health]~~, as defined in ~~[subparagraph (e) of para-~~
25 ~~graph one of subdivision d of this]~~ section two of this chapter, ~~[that~~
26 ~~is]~~ as determined by the applicable head of the retirement system or
27 applicable medical board ~~[to have been caused by such retiree's partic-~~
28 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
29 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision d~~
30 ~~of this section]~~, then unless the contrary be proven by competent
31 evidence, such retiree shall be deemed to have died as a natural and
32 proximate result of an accident sustained in the performance of duty and
33 not as a result of willful negligence on his or her part. Such retiree's
34 eligible beneficiary, as set forth in section six hundred one of this
35 article, shall be entitled to an accidental death benefit as provided by
36 section six hundred seven of this article, however, for the purposes of
37 determining the salary base upon which the accidental death benefit is
38 calculated, the retiree shall be deemed to have died on the date of his
39 or her retirement. Upon the retiree's death, the eligible beneficiary
40 shall make a written application to the head of the retirement system
41 within the time for filing an application for an accidental death bene-
42 fit as set forth in section six hundred seven of this article requesting
43 conversion of such retiree's service or disability retirement benefit to
44 an accidental death benefit. At the time of such conversion, the eligi-
45 ble beneficiary shall relinquish all rights to the prospective benefits
46 payable under the service or disability retirement benefit, including
47 any post-retirement death benefits, since the retiree's death. If the
48 eligible beneficiary is not the only beneficiary receiving or entitled
49 to receive a benefit under the service or disability retirement benefit
50 (including, but not limited to, post-retirement death benefits or bene-
51 fits paid or payable pursuant to the retiree's option selection), the
52 accidental death benefit payments to the eligible beneficiary will be
53 reduced by any amounts paid or payable to any other beneficiary.

54 f. Notwithstanding any other provision of this chapter or of any
55 general, special or local law, charter, administrative code or rule or
56 regulation to the contrary, if a member who: (1) has met the criteria of

1 subdivision d of this section; and (2) dies in active service from a
2 qualifying World Trade Center condition [~~or impairment of health~~], as
3 defined in [~~subparagraph (e) of paragraph one of subdivision d of this~~]
4 section[~~, that is~~] two of this chapter, as determined by the applicable
5 head of the retirement system or applicable medical board to have been
6 caused by such member's participation in the World Trade Center rescue,
7 recovery or cleanup operations, as defined in [~~subparagraph (d) of para-~~
8 ~~graph one of subdivision d of this~~] section two of this chapter, then
9 unless the contrary be proven by competent evidence, such member shall
10 be deemed to have died as a natural and proximate result of an accident
11 sustained in the performance of duty and not as a result of willful
12 negligence on his or her part. Such member's eligible beneficiary, as
13 set forth in section six hundred one of this article, shall be entitled
14 to an accidental death benefit provided he or she makes written applica-
15 tion to the head of the retirement system within the time for filing an
16 application for an accidental death benefit as set forth in section six
17 hundred seven of this article.

18 § 12. Subdivisions b, c and d of section 605-c of the retirement and
19 social security law, subdivision b as amended by chapter 93 of the laws
20 of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph
21 (b) of paragraph 2 of subdivision b as amended by chapter 495 of the
22 laws of 2007, subdivision c as amended and subdivision d as added by
23 chapter 5 of the laws of 2007, are amended to read as follows:

24 b. 1. (a) Notwithstanding any provisions of this chapter or of any
25 general, special or local law, charter, administrative code or rule or
26 regulation to the contrary, if any condition or impairment of health is
27 caused by a qualifying [~~condition or impairment of health resulting in~~
28 ~~disability to a member who participated in World Trade Center rescue,~~
29 ~~recovery or cleanup operations for a minimum of forty hours~~] World Trade
30 Center condition, as defined in section two of this chapter, it shall be
31 presumptive evidence that it was incurred in the performance and
32 discharge of duty and the natural and proximate result of an accident
33 not caused by such member's own willful negligence, unless the contrary
34 be proved by competent evidence. [~~A member shall be eligible for the~~
35 ~~presumption provided for under this paragraph notwithstanding the fact~~
36 ~~that the member did not participate in World Trade Center recovery and~~
37 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
38 ~~member participated in the rescue, recovery, or cleanup operations at~~
39 ~~the World Trade Center site between September eleventh, two thousand one~~
40 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
41 ~~documented physical injury at the World Trade Center site between~~
42 ~~September eleventh, two thousand one and September twelfth, two thousand~~
43 ~~one that is a qualifying condition or impairment of health resulting in~~
44 ~~disability to the member that prevented the member from continuing to~~
45 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
46 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
47 ~~that resulted in a disability to the member that prevented the member~~
48 ~~from continuing to participate in World Trade Center rescue, recovery or~~
49 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
50 ~~tion or impairment of health which the member seeks to be eligible for~~
51 ~~the presumption provided for under this paragraph.~~

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

1 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
 2 ~~ment of health" shall include:~~

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

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

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

14 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
 15 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
 16 ~~tions;~~

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

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

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

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

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

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

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

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

49 ~~(f)] (b) The [NYCERS board of trustees] head of the retirement system~~
 50 ~~is hereby authorized to promulgate rules and regulations to implement~~
 51 ~~the provisions of this paragraph.~~

52 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 53 al, special or local law, charter, administrative code or rule or regu-
 54 lation to the contrary, if a member who participated in World Trade
 55 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
 56 ~~hours]~~ as defined in section two of this chapter, and subsequently

1 retired on a service retirement, an ordinary disability retirement or a
2 performance of duty disability retirement and subsequent to such retire-
3 ment [~~incurred a disability caused by any qualifying condition or~~
4 ~~impairment of the health which the NYCERS board of trustees determines,~~
5 ~~after a determination of disability by the applicable medical board, to~~
6 ~~have been caused by such member's having participated in World Trade~~
7 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
8 ~~hours] is determined by the head of the retirement system to have a
9 qualifying World Trade Center condition as defined in section two of
10 this chapter, upon such determination by the [~~NYCERS board of trustees]~~
11 head of the retirement system, it shall be presumed that such disability
12 was incurred in the performance and discharge of duty as the natural and
13 proximate result of an accident not caused by such member's own willful
14 negligence, and that the member would have been physically or mentally
15 incapacitated for the performance and discharge of duty of the position
16 from which he or she retired had the condition been known and fully
17 developed at the time of the member's retirement, unless the contrary is
18 proven by competent evidence. [~~A member shall be eligible for the~~
19 ~~presumption provided for under this paragraph notwithstanding the fact~~
20 ~~that the member did not participate in World Trade Center rescue, recov-~~
21 ~~ery or cleanup operations for a minimum of forty hours, provided that:~~
22 ~~(i) the member participated in the rescue, recovery, or cleanup oper-~~
23 ~~ations at the World Trade Center site between September eleventh, two~~
24 ~~thousand one and September twelfth, two thousand one; (ii) the member~~
25 ~~sustained a documented physical injury at the World Trade Center site~~
26 ~~between September eleventh, two thousand one and September twelfth, two~~
27 ~~thousand one that is a qualifying condition or impairment of health~~
28 ~~resulting in disability to the member that prevented the member from~~
29 ~~continuing to participate in World Trade Center rescue, recovery or~~
30 ~~cleanup operations for a minimum of forty hours; and (iii) the docu-~~
31 ~~mented physical injury that resulted in a disability to the member that~~
32 ~~prevented the member from continuing to participate in World Trade~~
33 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
34 ~~hours is the qualifying condition or impairment of health which the~~
35 ~~member seeks to be eligible for the presumption provided for under this~~
36 ~~paragraph.~~
37 ~~(b) The reclassification provided for in subparagraph (a) of this~~
38 ~~paragraph shall not be granted, unless:~~
39 ~~(i) the member files a written and sworn statement with the NYCERS on~~
40 ~~a form provided by such system indicating the dates and locations of~~
41 ~~employment within four years following the effective date of chapter one~~
42 ~~hundred four of the laws of two thousand five; and~~
43 ~~(ii) the member must have successfully passed a physical examination~~
44 ~~for entry into public service which failed to disclose evidence of the~~
45 ~~qualifying condition or impairment of health that formed the basis for~~
46 ~~the disability.~~
47 ~~(e)] (b) The [NYCERS board of trustees] head of the retirement system~~
48 ~~shall consider a reclassification of the member's retirement as an acci-~~
49 ~~dental disability retirement effective as of the date of such reclassi-~~
50 ~~fication.~~
51 ~~(d)] (c) Such member's retirement option shall not be changed as a~~
52 ~~result of such reclassification.~~
53 ~~(e)] (d) The member's former employer at the time of the member's~~
54 ~~retirement shall have an opportunity to be heard on the member's appli-~~
55 ~~cation for reclassification by the [NYCERS board of trustees] head of~~~~

1 the retirement system according to procedures developed by the [~~NYCERS~~
2 ~~board of trustees~~] comptroller.

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

6 c. Notwithstanding any other provision of this chapter or of any
7 general, special or local law, charter, administrative code or rule or
8 regulation to the contrary, if a retiree who: (1) has met the criteria
9 of subdivision b of this section and retired on a service or disability
10 retirement, or would have met the criteria if not already retired on an
11 accidental disability; and (2) has not been retired for more than twenty-
12 five years; and (3) dies from a qualifying [~~condition or impairment~~
13 ~~of health, as defined in subparagraph (c) of paragraph one of subdivi-~~
14 ~~sion b of this section, that is]~~ World Trade Center condition as defined
15 in section two of this chapter, as determined by the applicable head of
16 the retirement system or applicable medical board [~~to have been caused~~
17 ~~by such retiree's participation in the World Trade Center rescue, recovery~~
18 ~~or cleanup operations, as defined in subparagraph (d) of paragraph~~
19 ~~one of subdivision b of this section]~~, then unless the contrary be proven
20 by competent evidence, such retiree shall be deemed to have died as a
21 natural and proximate result of an accident sustained in the performance
22 of duty and not as a result of willful negligence on his or her part.
23 Such retiree's eligible beneficiary, as set forth in section six hundred
24 one of this article, shall be entitled to an accidental death benefit as
25 provided by section six hundred seven of this article, however, for the
26 purposes of determining the salary base upon which the accidental death
27 benefit is calculated, the retiree shall be deemed to have died on the
28 date of his or her retirement. Upon the retiree's death, the eligible
29 beneficiary shall make a written application to the head of the retire-
30 ment system within the time for filing an application for an accidental
31 death benefit as set forth in section six hundred seven of this article
32 requesting conversion of such retiree's service or disability retirement
33 benefit to an accidental death benefit. At the time of such conversion,
34 the eligible beneficiary shall relinquish all rights to the prospective
35 benefits payable under the service or disability retirement benefit,
36 including any post-retirement death benefits, since the retiree's death.
37 If the eligible beneficiary is not the only beneficiary receiving or
38 entitled to receive a benefit under the service or disability retirement
39 benefit (including, but not limited to, post-retirement death benefits
40 or benefits paid or payable pursuant to the retiree's option selection),
41 the accidental death benefit payments to the eligible beneficiary will
42 be reduced by any amounts paid or payable to any other beneficiary.

43 d. Notwithstanding any other provision of this chapter or of any
44 general, special or local law, charter, administrative code or rule or
45 regulation to the contrary, if a member who: (1) has met the criteria of
46 subdivision b of this section; and (2) dies in active service from a
47 qualifying [~~condition or impairment of health, as defined in subpara-~~
48 ~~graph (e) of paragraph one of subdivision b of this section, that is]~~
49 World Trade Center condition, as defined in section two of this chapter,
50 as determined by the applicable head of the retirement system or appli-
51 cable medical board to have been caused by such member's participation
52 in the World Trade Center rescue, recovery or cleanup operations, as
53 defined in [~~subparagraph (d) of paragraph one of subdivision b of this~~
54 ~~section~~] two of this chapter, then unless the contrary be proven by
55 competent evidence, such member shall be deemed to have died as a
56 natural and proximate result of an accident sustained in the performance

1 of duty and not as a result of willful negligence on his or her part.
2 Such member's eligible beneficiary, as set forth in section six hundred
3 one of this article, shall be entitled to an accidental death benefit
4 provided he or she makes written application to the head of the retire-
5 ment system within the time for filing an application for an accidental
6 death benefit as set forth in section six hundred seven of this article.

7 § 13. Section 607-c of the retirement and social security law is
8 amended by adding three new subdivisions c, d and e to read as follows:

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

17 (b) The head of each retirement system is hereby authorized to promul-
18 gate rules and regulations to implement the provisions of this para-
19 graph.

20 2. (a) Notwithstanding the provisions of this chapter or of any gener-
21 al, special or local law, charter, administrative code or rule or regu-
22 lation to the contrary, if a member who participated in World Trade
23 Center rescue, recovery or cleanup operations, as defined in section two
24 of this chapter, and subsequently retired on a service retirement, an
25 ordinary disability retirement or a performance of duty disability
26 retirement and subsequent to such retirement is determined by the head
27 of the retirement system to have a qualifying World Trade Center condi-
28 tion, as defined in section two of this chapter, upon such determination
29 by the head of the retirement system it shall be presumed that such
30 disability was incurred in the performance and discharge of duty as the
31 natural and proximate result of an accident not caused by such member's
32 own willful negligence, and that the member would have been physically
33 or mentally incapacitated for the performance and discharge of duty of
34 the position from which he or she retired had the condition been known
35 and fully developed at the time of the member's retirement, unless the
36 contrary is proven by competent evidence.

37 (b) The head of the retirement system shall consider a reclassifica-
38 tion of the member's retirement as an accidental disability retirement
39 effective as of the date of such reclassification.

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

42 (d) The member's former employer at the time of the member's retire-
43 ment shall have an opportunity to be heard on the member's application
44 for reclassification by the head of the retirement system according to
45 procedures developed by the comptroller.

46 (e) The head of each retirement system is hereby authorized to promul-
47 gate rules and regulations to implement the provisions of this para-
48 graph.

49 d. Notwithstanding any other provision of this chapter or of any
50 general, special or local law, charter, administrative code or rule or
51 regulation to the contrary, if a retiree who: (1) has met the criteria
52 of subdivision c of this section and retired on a service or disability
53 retirement, or would have met the criteria if not already retired on an
54 accidental disability; and (2) has not been retired for more than twen-
55 ty-five years; and (3) dies from a qualifying World Trade Center condi-
56 tion, as defined in section two of this chapter, as determined by the

1 applicable head of the retirement system or applicable medical board,
 2 then unless the contrary be proven by competent evidence, such retiree
 3 shall be deemed to have died as a natural and proximate result of an
 4 accident sustained in the performance of duty and not as a result of
 5 willful negligence on his or her part. Such retiree's eligible benefi-
 6 ciary, as set forth in section six hundred one of this article, shall be
 7 entitled to an accidental death benefit as provided by section six
 8 hundred seven of this article, however, for the purposes of determining
 9 the salary base upon which the accidental death benefit is calculated,
 10 the retiree shall be deemed to have died on the date of his or her
 11 retirement. Upon the retiree's death, the eligible beneficiary shall
 12 make a written application to the head of the retirement system within
 13 the time for filing an application for an accidental death benefit as
 14 set forth in section six hundred seven of this article requesting
 15 conversion of such retiree's service or disability retirement benefit to
 16 an accidental death benefit. At the time of such conversion, the eligi-
 17 ble beneficiary shall relinquish all rights to the prospective benefits
 18 payable under the service or disability retirement benefit, including
 19 any post-retirement death benefits, since the retiree's death. If the
 20 eligible beneficiary is not the only beneficiary receiving or entitled
 21 to receive a benefit under the service or disability retirement benefit
 22 (including, but not limited to, post-retirement death benefits or bene-
 23 fits paid or payable pursuant to the retiree's option selection), the
 24 accidental death benefit payments to the eligible beneficiary will be
 25 reduced by any amounts paid or payable to any other beneficiary.

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

41 § 14. Subdivisions c, d and e of section 607-b of the retirement and
 42 social security law, subdivision c as amended by chapter 93 of the laws
 43 of 2005, subparagraph (e) of paragraph 1 and clause (i) of subparagraph
 44 (b) of paragraph 2 of subdivision c as amended by chapter 495 of the
 45 laws of 2007, subdivision d as amended and subdivision e as added by
 46 chapter 5 of the laws of 2007, are amended to read as follows:

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

1 be proved by competent evidence. [~~A member shall be eligible for the~~
2 ~~presumption provided for under this paragraph notwithstanding the fact~~
3 ~~that the member did not participate in World Trade Center recovery and~~
4 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
5 ~~member participated in the rescue, recovery, or cleanup operations at~~
6 ~~the World Trade Center site between September eleventh, two thousand one~~
7 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
8 ~~documented physical injury at the World Trade Center site between~~
9 ~~September eleventh, two thousand one and September twelfth, two thousand~~
10 ~~one that is a qualifying condition or impairment of health resulting in~~
11 ~~disability to the member that prevented the member from continuing to~~
12 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
13 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
14 ~~that resulted in a disability to the member that prevented the member~~
15 ~~from continuing to participate in World Trade Center rescue, recovery or~~
16 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
17 ~~tion or impairment of health which the member seeks to be eligible for~~
18 ~~the presumption provided for under this paragraph.~~

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

24 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
25 ~~ment of health" shall include:~~

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

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

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

37 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
38 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
39 ~~tions;~~

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

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

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

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

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

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

4 ~~(iv) manned the barges between the west side of Manhattan and the~~
 5 ~~Fresh Kills Land Fill in New York between September eleventh, two thou-~~
 6 ~~sand one and September twelfth, two thousand two.~~

7 ~~For the purposes of this subdivision, "World Trade Center site" shall~~
 8 ~~mean anywhere below a line starting from the Hudson River and Canal~~
 9 ~~Street; east on Canal Street to Pike Street; south on Pike Street to the~~
 10 ~~East River; and extending to the lower tip of Manhattan.~~

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

17 ~~(f) (b) the [NYCERS board of trustees] head of each retirement system~~
 18 ~~is hereby authorized to promulgate rules and [regualtions] regulations~~
 19 ~~to implement the provisions of this paragraph.~~

20 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 21 al, special or local law, charter, administrative code or rule or regu-
 22 lation to the contrary, if a member who participated in World Trade
 23 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
 24 ~~hours] as defined in section two of this chapter, and subsequently
 25 retired on a service retirement, an ordinary disability retirement or a
 26 performance of duty disability retirement and subsequent to such retire-
 27 ment [~~incurred a disability caused by any qualifying condition or~~
 28 ~~impairment of the health, which] is determined by the [NYCERS board of
 29 trustees determines, after a determination of disability by the applica-
 30 ble medical board, to have been caused by such member's having partic-
 31 ipated in World Trade Center rescue, recovery or cleanup operations, for
 32 a minimum of forty hours] comptroller to have a qualifying World Trade
 33 Center condition, as defined in section two of this chapter, upon such
 34 determination by the [NYCERS board of trustees] head of the retirement
 35 system, it shall be presumed that such disability was incurred in the
 36 performance and discharge of duty as the natural and proximate result of
 37 an accident not caused by such member's own willful negligence, and that
 38 the member would have been physically or mentally incapacitated for the
 39 performance and discharge of duty of the position from which he or she
 40 retired had the condition been known and fully developed at the time of
 41 the member's retirement, unless the contrary is proven by competent
 42 evidence. [~~A member shall be eligible for the presumption provided for~~
 43 ~~under this paragraph notwithstanding the fact that the member did not~~
 44 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 45 ~~for a minimum of forty hours, provided that: (i) the member participated~~
 46 ~~in the rescue, recovery, or clean up operations at the World Trade~~
 47 ~~Center site between September eleventh, two thousand one and September~~
 48 ~~twelfth, two thousand one; (ii) the member sustained a documented phys-~~
 49 ~~ical injury at the World Trade Center site between September eleventh,~~
 50 ~~two thousand one and September twelfth, two thousand one that is a qual-~~
 51 ~~ifying condition or impairment of health resulting in disability to the~~
 52 ~~member that prevented the member from continuing to participate in World~~
 53 ~~Trade Center rescue, recovery or cleanup operations for a minimum of~~
 54 ~~forty hours; and (iii) the documented physical injury that resulted in a~~
 55 ~~disability to the member that prevented the member from continuing to~~
 56 ~~participate in World Trade Center rescue, recovery or cleanup operations~~~~~~

1 ~~for a minimum of forty hours is the qualifying condition or impairment~~
 2 ~~of health which the member seeks to be eligible for the presumption~~
 3 ~~provided for under this paragraph.~~

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

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

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

14 ~~(e)] (b) The [NYCERS board of trustees] head of the retirement system~~
 15 shall consider a reclassification of the member's retirement as an acci-
 16 dental disability retirement effective as of the date of such reclassi-
 17 fication.

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

20 ~~(e)] (d) The member's former employer at the time of the member's~~
 21 retirement shall have an opportunity to be heard on the member's appli-
 22 cation for reclassification by the NYCERS board of trustees according to
 23 procedures developed by the NYCERS board of trustees.

24 ~~(f)] (e) The [NYCERS board of trustees] head of each retirement~~
 25 ~~system~~ is hereby authorized to promulgate rules and regulations to
 26 implement the provisions of this paragraph.

27 d. Notwithstanding any other provision of this chapter or of any
 28 general, special or local law, charter, administrative code or rule or
 29 regulation to the contrary, if a retiree who: (1) has met the criteria
 30 of subdivision c of this section and retired on a service or disability
 31 retirement, or would have met the criteria if not already retired on an
 32 accidental disability; and (2) has not been retired for more than twen-
 33 ty-five years; and (3) dies from a qualifying World Trade Center condi-
 34 tion ~~[or impairment of health]~~, as defined in ~~[subparagraph (e) of para-~~
 35 ~~graph one of subdivision c of this]~~ section two of this chapter, ~~[that~~
 36 ~~is] as~~ determined by the applicable head of the retirement system or
 37 applicable medical board ~~[to have been caused by such retiree's partic-~~
 38 ~~ipation in the World Trade Center rescue, recovery or cleanup oper-~~
 39 ~~ations, as defined in subparagraph (d) of paragraph one of subdivision c~~
 40 ~~of this section]~~, then unless the contrary be proven by competent
 41 evidence, such retiree shall be deemed to have died as a natural and
 42 proximate result of an accident sustained in the performance of duty and
 43 not as a result of willful negligence on his or her part. Such retiree's
 44 eligible beneficiary, as set forth in section six hundred one of this
 45 article, shall be entitled to an accidental death benefit as provided by
 46 section six hundred seven of this article, however, for the purposes of
 47 determining the salary base upon which the accidental death benefit is
 48 calculated, the retiree shall be deemed to have died on the date of his
 49 or her retirement. Upon the retiree's death, the eligible beneficiary
 50 shall make a written application to the head of the retirement system
 51 within the time for filing an application for an accidental death bene-
 52 fit as set forth in section six hundred seven of this article requesting
 53 conversion of such retiree's service or disability retirement benefit to
 54 an accidental death benefit. At the time of such conversion, the eligi-
 55 ble beneficiary shall relinquish all rights to the prospective benefits
 56 payable under the service or disability retirement benefit, including

1 any post-retirement death benefits, since the retiree's death. If the
 2 eligible beneficiary is not the only beneficiary receiving or entitled
 3 to receive a benefit under the service or disability retirement benefit
 4 (including, but not limited to, post-retirement death benefits or bene-
 5 fits paid or payable pursuant to the retiree's option selection), the
 6 accidental death benefit payments to the eligible beneficiary will be
 7 reduced by any amounts paid or payable to any other beneficiary.

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

28 § 15. Section 13-252.1 of the administrative code of the city of New
 29 York, as amended by chapter 93 of the laws of 2005, paragraph (e) of
 30 subdivision 1 and subparagraph (i) of paragraph (b) of subdivision 2 as
 31 amended by chapter 495 of the laws of 2007, subdivision 3 as amended and
 32 subdivision 4 as added by chapter 5 of the laws of 2007, is amended to
 33 read as follows:

34 § 13-252.1 Accidental disability retirement; World Trade Center
 35 presumption. 1. (a) Notwithstanding any provisions of this code or of
 36 any general, special or local law, charter or rule or regulation to the
 37 contrary, if any condition or impairment of health is caused by a quali-
 38 fying World Trade Center condition [~~or impairment of health resulting in~~
 39 ~~disability to a member who participated in World Trade Center rescue,~~
 40 ~~recovery or cleanup operations for a minimum of forty hours]~~ as defined
 41 in section two of the retirement and social security law, it shall be
 42 presumptive evidence that it was incurred in the performance and
 43 discharge of duty and the natural and proximate result of an accident
 44 not caused by such member's own willful negligence, unless the contrary
 45 be proved by competent evidence. [~~A member shall be eligible for the~~
 46 ~~presumption provided for under this paragraph notwithstanding the fact~~
 47 ~~that the member did not participate in World Trade Center recovery and~~
 48 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
 49 ~~member participated in the rescue, recovery, or cleanup operations at~~
 50 ~~the World Trade Center site between September eleventh, two thousand one~~
 51 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
 52 ~~documented physical injury at the World Trade Center site between~~
 53 ~~September eleventh, two thousand one and September twelfth, two thousand~~
 54 ~~one that is a qualifying condition or impairment of health resulting in~~
 55 ~~disability to the member that prevented the member from continuing to~~
 56 ~~participate in World Trade Center rescue, recovery or cleanup operations~~

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

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

12 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
13 ~~ment of health" shall include:~~

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

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

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

25 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
26 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
27 ~~tions;~~

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

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

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

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

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

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

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

54 ~~(e) In order to be eligible for consideration for such presumption,~~
55 ~~such member must file a written and sworn statement with the member's~~
56 ~~retirement system on a form provided by such system indicating the dates~~

1 ~~and locations of employment. Such statement must be filed not later than~~
 2 ~~four years following the effective date of chapter one hundred four of~~
 3 ~~the laws of two thousand five.~~

4 ~~(f)]~~ (b) The ~~[NYCFDPF]~~ New York City Police Pension Fund (NYCPPF)
 5 board of trustees is hereby authorized to promulgate rules and regu-
 6 lations to implement the provisions of this paragraph.

7 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 8 al, special or local law, charter, administrative code or rule or regu-
 9 lation to the contrary, if a member who participated in World Trade
 10 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
 11 ~~hours]~~ as defined in section two of the retirement and social security
 12 law, and subsequently retired on a service retirement, an ordinary disa-
 13 bility retirement, an accidental disability retirement, or a performance
 14 of duty disability retirement and subsequent to such retirement
 15 [~~incurred a disability caused by any qualifying condition or impairment~~
 16 ~~of the health which]~~ is determined by the NYCFDPF board of trustees
 17 [~~determines, after a determination of disability by the applicable~~
 18 ~~medical board, to have been caused by such member's having participated~~
 19 ~~in World Trade Center rescue, recovery or cleanup operations for a mini-~~
 20 ~~imum of forty hours]~~ to have a qualifying World Trade Center condition,
 21 as defined in section two of the retirement and social security law,
 22 upon such determination by the NYCFDPF board of trustees, it shall be
 23 presumed that such disability was incurred in the performance and
 24 discharge of duty as the natural and proximate result of an accident not
 25 caused by such member's own willful negligence, and that the member
 26 would have been physically or mentally incapacitated for the performance
 27 and discharge of duty of the position from which he or she retired had
 28 the condition been known and fully developed at the time of the member's
 29 retirement, unless the contrary is proven by competent evidence. [~~A~~
 30 ~~member shall be eligible for the presumption provided for under this~~
 31 ~~paragraph notwithstanding the fact that the member did not participate~~
 32 ~~in World Trade Center rescue, recovery or cleanup operations for a mini-~~
 33 ~~imum of forty hours, provided that: (i) the member participated in the~~
 34 ~~rescue, recovery, or cleanup operations at the World Trade Center site~~
 35 ~~between September eleventh, two thousand one and September twelfth, two~~
 36 ~~thousand one; (ii) the member sustained a documented physical injury at~~
 37 ~~the World Trade Center site between September eleventh, two thousand one~~
 38 ~~and September twelfth, two thousand one that is a qualifying condition~~
 39 ~~or impairment of health resulting in disability to the member that~~
 40 ~~prevented the member from continuing to participate in World Trade~~
 41 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
 42 ~~hours; and (iii) the documented physical injury that resulted in a disa-~~
 43 ~~bility to the member that prevented the member from continuing to~~
 44 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 45 ~~for a minimum of forty hours is the qualifying condition or impairment~~
 46 ~~of health which the member seeks to be eligible for the presumption~~
 47 ~~provided for under this paragraph.~~

48 ~~(b) The reclassification provided for in paragraph (a) of this subdivi-~~
 49 ~~sion shall not be granted, unless:~~

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

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

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

3 ~~(e)]~~ (b) The NYCPPF board of trustees shall consider a reclassifica-
 4 tion of the member's retirement as an accidental disability retirement
 5 effective as of the date of such reclassification.

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

8 ~~(e)]~~ (d) The member's former employer at the time of the member's
 9 retirement shall have an opportunity to be heard on the member's appli-
 10 cation for reclassification by the NYCPPF board of trustees according to
 11 procedures developed by the NYCPPF board of trustees.

12 ~~(f)]~~ (e) The NYCPPF board of trustees is hereby authorized to promul-
 13 gate rules and regulations to implement the provisions of this para-
 14 graph.

15 3. Notwithstanding any other provision of this chapter or of any
 16 general, special or local law, charter, administrative code or rule or
 17 regulation to the contrary, if a retiree who: (1) has met the criteria
 18 of subdivision one of this section and retired on a service or disabili-
 19 ty retirement, or would have met the criteria if not already retired on
 20 an accidental disability; and (2) has not been retired for more than
 21 twenty-five years; and (3) dies from a qualifying World Trade Center
 22 condition [~~or impairment of health~~], as defined in [~~paragraph (e) of~~
 23 ~~subdivision one of this~~] section two of the retirement and social secu-
 24 urity law, [~~that is~~] as determined by the applicable head of the retire-
 25 ment system or applicable medical board [~~to have been caused by such~~
 26 ~~retiree's participation in the World Trade Center rescue, recovery or~~
 27 ~~cleanup operations, as defined in paragraph (d) of subdivision one of~~
 28 ~~this section~~], then unless the contrary be proven by competent evidence,
 29 such retiree shall be deemed to have died as a natural and proximate
 30 result of an accident sustained in the performance of duty and not as a
 31 result of willful negligence on his or her part. Such retiree's eligible
 32 beneficiary, as set forth in section 13-244 of this subchapter, shall be
 33 entitled to an accidental death benefit as provided by section 13-244 of
 34 this subchapter, however, for the purposes of determining the salary
 35 base upon which the accidental death benefit is calculated, the retiree
 36 shall be deemed to have died on the date of his or her retirement. Upon
 37 the retiree's death, the eligible beneficiary shall make a written
 38 application to the head of the retirement system within the time for
 39 filing an application for an accidental death benefit as set forth in
 40 section 13-244 of this subchapter requesting conversion of such
 41 retiree's service or disability retirement benefit to an accidental
 42 death benefit. At the time of such conversion, the eligible beneficiary
 43 shall relinquish all rights to the prospective benefits payable under
 44 the service or disability retirement benefit, including any post-retire-
 45 ment death benefits, since the retiree's death. If the eligible benefi-
 46 ciary is not the only beneficiary receiving or entitled to receive a
 47 benefit under the service or disability retirement benefit (including,
 48 but not limited to, post-retirement death benefits or benefits paid or
 49 payable pursuant to the retiree's option selection), the accidental
 50 death benefit payments to the eligible beneficiary will be reduced by
 51 any amounts paid or payable to any other beneficiary.

52 4. Notwithstanding any other provision of this code or of any general,
 53 special or local law, charter, or rule or regulation to the contrary, if
 54 a member who: (1) has met the criteria of subdivision one of this
 55 section; and (2) dies in active service from a qualifying World Trade
 56 Center condition [~~or impairment of health~~], as defined in [~~paragraph (e)~~

1 ~~of subdivision one of this~~] section two of the retirement and social
 2 security law, [~~that is~~] as determined by the applicable head of the
 3 retirement system or applicable medical board to have been caused by
 4 such member's participation in the World Trade Center rescue, recovery
 5 or cleanup operations, as defined in [~~paragraph (d) of subdivision one~~
 6 ~~of this~~] section two of the retirement and social security law, then
 7 unless the contrary be proven by competent evidence, such member shall
 8 be deemed to have died as a natural and proximate result of an accident
 9 sustained in the performance of duty and not as a result of willful
 10 negligence on his or her part. Such member's eligible beneficiary, as
 11 set forth in section 13-244 of this subchapter, shall be entitled to an
 12 accidental death benefit provided he or she makes written application to
 13 the head of the retirement system within the time for filing an applica-
 14 tion for an accidental death benefit as set forth in section 13-244 of
 15 this subchapter.

16 § 16. Section 13-353.1 of the administrative code of the city of New
 17 York, as amended by chapter 93 of the laws of 2005, paragraph (e) of
 18 subdivision 1 and subparagraph (i) of paragraph (b) of subdivision 2 as
 19 amended by chapter 495 of the laws of 2007, subdivision 3 as amended and
 20 subdivision 4 as added by chapter 5 of the laws of 2007, is amended to
 21 read as follows:

22 § 13-353.1 Accidental disability retirement; World Trade Center
 23 presumption. 1. (a) Notwithstanding any provisions of this code or of
 24 any general, special or local law, charter or rule or regulation to the
 25 contrary, if any condition or impairment of health is caused by a quali-
 26 fying World Trade Center condition [~~or impairment of health resulting in~~
 27 ~~disability to a member who participated in World Trade Center rescue,~~
 28 ~~recovery or cleanup operations for a minimum of forty hours]~~ as defined
 29 in section two of the retirement and social security law, it shall be
 30 presumptive evidence that it was incurred in the performance and
 31 discharge of duty and the natural and proximate result of an accident
 32 not caused by such member's own willful negligence, unless the contrary
 33 be proved by competent evidence. [~~A member shall be eligible for the~~
 34 ~~presumption provided for under this paragraph notwithstanding the fact~~
 35 ~~that the member did not participate in World Trade Center recovery and~~
 36 ~~cleanup operations for a minimum of forty hours, provided that: (i) the~~
 37 ~~member participated in the rescue, recovery, or cleanup operations at~~
 38 ~~the World Trade Center site between September eleventh, two thousand one~~
 39 ~~and September twelfth, two thousand one; (ii) the member sustained a~~
 40 ~~documented physical injury at the World Trade Center site between~~
 41 ~~September eleventh, two thousand one and September twelfth, two thousand~~
 42 ~~one that is a qualifying condition or impairment of health resulting in~~
 43 ~~disability to the member that prevented the member from continuing to~~
 44 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 45 ~~for a minimum of forty hours; and (iii) the documented physical injury~~
 46 ~~that resulted in a disability to the member that prevented the member~~
 47 ~~from continuing to participate in World Trade Center rescue, recovery or~~
 48 ~~cleanup operations for a minimum of forty hours is the qualifying condi-~~
 49 ~~tion or impairment of health which the member seeks to be eligible for~~
 50 ~~the presumption provided for under this paragraph.~~

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

1 ~~(c) For purposes of this subdivision, "qualifying condition or impair-~~
 2 ~~ment of health" shall include:~~

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

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

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

14 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
 15 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
 16 ~~tions;~~

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

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

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

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

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

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

36 ~~(iv) manned the barges between the west side of Manhattan and the~~
 37 ~~Fresh Kills Land Fill in New York between September eleventh, two thou-~~
 38 ~~sand one and September twelfth, two thousand two.~~

39 ~~For the purposes of this section, "World Trade Center site" shall mean~~
 40 ~~anywhere below a line starting from the Hudson River and Canal Street,~~
 41 ~~east on Canal Street to Pike Street, south on Pike Street to the East~~
 42 ~~River, and extending to the lower tip of Manhattan.~~

43 ~~(e) In order to be eligible for consideration for such presumption,~~
 44 ~~such member must file a written and sworn statement with the New York~~
 45 ~~city fire department pension fund (NYCFDPF) on a form provided by such~~
 46 ~~system indicating the dates and locations of employment. Such statement~~
 47 ~~must be filed not later than four years following the effective date of~~
 48 ~~chapter one hundred four of the laws of two thousand five.~~

49 ~~(f)] (b) The [NYCFDPF] New York City Fire Department Pension Fund~~
 50 ~~(NYCFDPF) board of trustees is hereby authorized to promulgate rules and~~
 51 ~~regulations to implement the provisions of this paragraph.~~

52 2. (a) Notwithstanding the provisions of this chapter or of any gener-
 53 al, special or local law, charter, administrative code or rule or regu-
 54 lation to the contrary, if a member who participated in World Trade
 55 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
 56 ~~hours] as defined in section two of the retirement and social security~~

1 law, and subsequently retired on a service retirement, an ordinary disa-
 2 bility retirement, an accidental disability retirement, or a performance
 3 of duty disability retirement and subsequent to such retirement
 4 [~~incurred a disability caused by any qualifying condition or impairment~~
 5 ~~of health which the NYCFDPF board of trustees determines, after a deter-~~
 6 ~~mination of disability by the applicable medical board, to have been~~
 7 ~~caused by such member's having participated in World Trade Center~~
 8 ~~rescue, recovery or cleanup operations for a minimum of forty hours] is
 9 determined by the head of the retirement system to have a qualifying
 10 World Trade Center condition, as defined in section two of the retire-
 11 ment and social security law, upon such determination by the NYCFDPF
 12 board of trustees, it shall be presumed that such disability was
 13 incurred in the performance and discharge of duty as the natural and
 14 proximate result of an accident not caused by such member's own willful
 15 negligence, and that the member would have been physically or mentally
 16 incapacitated for the performance and discharge of duty of the position
 17 from which he or she retired had the condition been known and fully
 18 developed at the time of the member's retirement, unless the contrary is
 19 proven by competent evidence. [~~A member shall be eligible for the~~
 20 ~~presumption provided for under this paragraph notwithstanding the fact~~
 21 ~~that the member did not participate in World Trade Center rescue, recov-~~
 22 ~~ery or cleanup operations for a minimum of forty hours, provided that:~~
 23 ~~(i) the member participated in the rescue, recovery, or cleanup oper-~~
 24 ~~ations at the World Trade Center site between September eleventh, two~~
 25 ~~thousand one and September twelfth, two thousand one; (ii) the member~~
 26 ~~sustained a documented physical injury at the World Trade Center site~~
 27 ~~between September eleventh, two thousand one and September twelfth, two~~
 28 ~~thousand one that is a qualifying condition or impairment of health~~
 29 ~~resulting in disability to the member that prevented the member from~~
 30 ~~continuing to participate in World Trade Center rescue, recovery or~~
 31 ~~cleanup operations for a minimum of forty hours; and (iii) the docu-~~
 32 ~~mented physical injury that resulted in a disability to the member that~~
 33 ~~prevented the member from continuing to participate in World Trade~~
 34 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
 35 ~~hours is the qualifying condition or impairment of health which the~~
 36 ~~member seeks to be eligible for the presumption provided for under this~~
 37 ~~paragraph.~~
 38 ~~(b) The reclassification provided for in paragraph (a) of this subdivi-~~
 39 ~~sion shall not be granted, unless:~~
 40 ~~(i) the member files a written and sworn statement with the NYCFDPF on~~
 41 ~~a form provided by such system indicating the dates and locations of~~
 42 ~~employment within four years following the effective date of chapter one~~
 43 ~~hundred four of the laws of two thousand five; and~~
 44 ~~(ii) the member must have successfully passed a physical examination~~
 45 ~~for entry into public service which failed to disclose evidence of the~~
 46 ~~qualifying condition or impairment of health that formed the basis for~~
 47 ~~the disability.~~
 48 ~~(e)] (b)~~ The NYCFDPF shall consider a reclassification of the member's
 49 retirement as an accidental disability retirement effective as of the
 50 date of such reclassification.
 51 ~~(d)] (c)~~ Such member's retirement option shall not be changed as a
 52 result of such reclassification.
 53 ~~(e)] (d)~~ The member's former employer at the time of the member's
 54 retirement shall have an opportunity to be heard on the member's appli-
 55 cation for reclassification by the NYCFDPF board of trustees according
 56 to procedures developed by the NYCFDPF.~~

1 ~~[-(f)]~~ **(e)** The NYCFDPF board of trustees is hereby authorized to
2 promulgate rules and regulations to implement the provisions of this
3 paragraph.

4 3. Notwithstanding any other provision of this chapter or of any
5 general, special or local law, charter, administrative code or rule or
6 regulation to the contrary, if a retiree who: (1) has met the criteria
7 of subdivision one of this section and retired on a service or disabili-
8 ty retirement, or would have met the criteria if not already retired on
9 an accidental disability; and (2) has not been retired for more than
10 twenty-five years; and (3) dies from a qualifying World Trade Center
11 condition ~~[or impairment of health]~~, as defined in ~~[paragraph (c) of~~
12 ~~subdivision one of this]~~ section two of the retirement and social secu-
13 urity law, ~~[that is]~~ as determined by the applicable head of the retire-
14 ment system or applicable medical board ~~[to have been caused by such~~
15 ~~retiree's participation in the World Trade Center rescue, recovery or~~
16 ~~cleanup operations, as defined in paragraph (d) of subdivision one of~~
17 ~~this section]~~, then unless the contrary be proven by competent evidence,
18 such retiree shall be deemed to have died as a natural and proximate
19 result of an accident sustained in the performance of duty and not as a
20 result of willful negligence on his or her part. Such retiree's eligible
21 beneficiary, as set forth in section 13-347 of this subchapter, shall be
22 entitled to an accidental death benefit as provided by sections 13-347
23 and 13-348 of this subchapter, however, for the purposes of determining
24 the salary base upon which the accidental death benefit is calculated,
25 the retiree shall be deemed to have died on the date of his or her
26 retirement. Upon the retiree's death, the eligible beneficiary shall
27 make a written application to the head of the retirement system within
28 the time for filing an application for an accidental death benefit as
29 set forth in sections 13-347 and 13-348 of this subchapter requesting
30 conversion of such retiree's service or disability retirement benefit to
31 an accidental death benefit. At the time of such conversion, the eligi-
32 ble beneficiary shall relinquish all rights to the prospective benefits
33 payable under the service or disability retirement benefit, including
34 any post-retirement death benefits, since the retiree's death. If the
35 eligible beneficiary is not the only beneficiary receiving or entitled
36 to receive a benefit under the service or disability retirement benefit
37 (including, but not limited to, post-retirement death benefits or bene-
38 fits paid or payable pursuant to the retiree's option selection), the
39 accidental death benefit payments to the eligible beneficiary will be
40 reduced by any amounts paid or payable to any other beneficiary.

41 4. Notwithstanding any other provision of this code or of any general,
42 special or local law, charter, or rule or regulation to the contrary, if
43 a member who: (1) has met the criteria of subdivision one of this
44 section; and (2) dies in active service from a qualifying World Trade
45 Center condition ~~[or impairment of health]~~, as defined in ~~[paragraph (c)~~
46 ~~of subdivision one of this]~~ section two of the retirement and social
47 security law, ~~[that is]~~ as determined by the applicable head of the
48 retirement system or applicable medical board ~~[to have been caused by~~
49 ~~such member's participation in the World Trade Center rescue, recovery~~
50 ~~or cleanup operations, as defined in paragraph (d) of subdivision one of~~
51 ~~this section]~~, then unless the contrary be proven by competent evidence,
52 such member shall be deemed to have died as a natural and proximate
53 result of an accident sustained in the performance of duty and not as a
54 result of willful negligence on his or her part. Such member's eligible
55 beneficiary, as set forth in section 13-347 of this subchapter, shall be
56 entitled to an accidental death benefit provided he or she makes written

1 application to the head of the retirement system within the time for
 2 filing an application for an accidental death benefit as set forth in
 3 section 13-347 of this subchapter.

4 § 17. Section 13-168 of the administrative code of the city of New
 5 York, as amended by chapter 785 of the laws of 1986, subdivision a as
 6 amended by chapter 271 of the laws of 1989, paragraph 5 of subdivision b
 7 as amended by chapter 93 of the laws of 2005, item 4 of subparagraph (a)
 8 of paragraph 5 of subdivision b as amended by chapter 214 of the laws of
 9 2007, clause 5 of subparagraph (a) of paragraph 5 of subdivision b and
 10 item (A) of clause 2 of subparagraph (b) of paragraph 5 of subdivision b
 11 as amended by chapter 495 of the laws of 2007, subdivision c as amended
 12 and subdivision d as added by chapter 5 of the laws of 2007, is amended
 13 to read as follows:

14 § 13-168 Retirement; for accident disability. a. Medical examination
 15 of a member in city-service for accident disability and investigation of
 16 all statements and certifications by him or her or on his behalf in
 17 connection therewith shall be made upon the application of the head of
 18 the agency in which the member is employed, or upon the application of a
 19 member or of a person acting in his or her behalf, stating that such
 20 member is physically or mentally incapacitated for the performance of
 21 city-service, as a natural and proximate result of such city-service,
 22 and certifying the time, place and conditions of such city-service
 23 performed by such member resulting in such alleged disability and that
 24 such alleged disability was not the result of wilful negligence on the
 25 part of such member and that such member should, therefore, be retired.
 26 Such application shall be filed within two years from the happening of
 27 such accident, except, however, that such requirement as to time of
 28 filing shall not apply to any such application which (1) is filed by or
 29 with respect to a member who is a member of the uniformed force of the
 30 department of sanitation (as such force is defined in subdivision a of
 31 section 13-154 of this chapter) and [~~2~~] is based on an accident occur-
 32 ring wholly on or after July first, nineteen hundred sixty-three, or (2)
 33 if filed by a vested member incapacitated as a result of a qualifying
 34 World trade Center condition as defined in section two of the retirement
 35 and social security law. If such medical examination and investigation
 36 shows that any member, by whom or with respect to whom an application is
 37 filed under this section, is physically or mentally incapacitated for
 38 the performance of city-service as a natural and proximate result of an
 39 accidental injury received in such city-service while a member, and that
 40 such disability was not the result of wilful negligence on the part of
 41 such member and that such member should be retired, the medical board
 42 shall so certify to the board stating the time, place and conditions of
 43 such city-service performed by such member resulting in such disability.
 44 The board shall review such certification with respect to any issues
 45 other than the existence or non-existence of physical or mental incapac-
 46 itation and shall determine the member's eligibility with respect to any
 47 such issues. Upon such certification by the medical board of the
 48 member's physical or mental incapacitation and a determination by the
 49 board finding the member otherwise eligible, such member shall be
 50 retired for accident disability effective the date the application is
 51 filed or the date immediately following the last date the member was on
 52 the payroll, whichever is later.

53 b. 1. If such application is denied solely on the ground that such
 54 member is not, at the time of such examination, physically or mentally
 55 incapacitated for the performance of city-service, such application may
 56 thereafter be renewed during such member's city-service at any time

1 within five years from the happening of the accident but preceding the
2 date on which such member shall have reached his or her minimum service
3 retirement age, provided he or she submits himself or herself to such
4 further examinations as the medical board may require.

5 2. Such further application or applications shall be considered on the
6 same basis as the original application.

7 3. The medical board may at any time within five years of the happen-
8 ing of the accident, upon findings that such member is eligible for and
9 should be retired for accident disability in accordance with the
10 provisions of this section, certify to the board said fact. The board
11 shall review such certification with respect to any issues other than
12 the existence or non-existence of physical or mental incapacitation and
13 shall determine the member's eligibility with respect to any such
14 issues. Upon such certification by the medical board of the member's
15 physical or mental incapacitation and a determination by the board find-
16 ing the member otherwise eligible, such member shall be retired for
17 accident disability forthwith.

18 4. The provisions of paragraphs one, two and three of this subdivision
19 b shall not apply in the case of (1) any member who is a member of the
20 uniformed force of the department of sanitation and who files an appli-
21 cation under subdivision a of this section based on an accident occur-
22 ring wholly on or after July first, nineteen hundred sixty-three, or (2)
23 any vested member incapacitated as a result of a qualifying World Trade
24 Center condition as defined in section two of the retirement and social
25 security law.

26 5. (a) (1) Notwithstanding any provisions of this code or of any
27 general, special or local law, charter or rule or regulation to the
28 contrary, if any condition or impairment of health is caused by a quali-
29 fying ~~[condition or impairment of health resulting in disability to a~~
30 ~~member who participated in World Trade Center rescue, recovery or clean-~~
31 ~~up operations for a minimum of forty hours]~~ World Trade Center condition
32 as defined in section two of the retirement and social security law, it
33 shall be presumptive evidence that it was incurred in the performance
34 and discharge of duty and the natural and proximate result of an acci-
35 dent not caused by such member's own willful negligence, unless the
36 contrary be proved by competent evidence. ~~[A member shall be eligible~~
37 ~~for the presumption provided for under this paragraph notwithstanding~~
38 ~~the fact that the member did not participate in World Trade Center~~
39 ~~recovery and cleanup operations for a minimum of forty hours, provided~~
40 ~~that: (i) the member participated in the rescue, recovery, or cleanup~~
41 ~~operations at the World Trade Center site between September eleventh,~~
42 ~~two thousand one and September twelfth, two thousand one; (ii) the~~
43 ~~member sustained a documented physical injury at the World Trade Center~~
44 ~~site between September eleventh, two thousand one and September twelfth,~~
45 ~~two thousand one that is a qualifying condition or impairment of health~~
46 ~~resulting in disability to the member that prevented the member from~~
47 ~~continuing to participate in World Trade Center rescue, recovery or~~
48 ~~cleanup operations for a minimum of forty hours; and (iii) the docu-~~
49 ~~mented physical injury that resulted in a disability to the member that~~
50 ~~prevented the member from continuing to participate in World Trade~~
51 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
52 ~~hours is the qualifying condition or impairment of health which the~~
53 ~~member seeks to be eligible for the presumption provided for under this~~
54 ~~paragraph.~~

55 ~~(2) In order to be eligible for the presumption provided for under~~
56 ~~subparagraph one of this paragraph, a member must have successfully~~

1 ~~passed a physical examination for entry into public service which failed~~
 2 ~~to disclose evidence of the qualifying condition or impairment of health~~
 3 ~~that formed the basis for the disability.~~

4 ~~(3) For purposes of this subdivision, "qualifying condition or impair-~~
 5 ~~ment of health" shall include:~~

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

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

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

17 ~~(iv) Diseases of the psychological axis, including post-traumatic~~
 18 ~~stress disorder, anxiety, depression, or any combination of such condi-~~
 19 ~~tions;~~

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

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

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

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

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

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

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

42 ~~(E) repaired, cleaned or rehabilitated vehicles or equipment owned by~~
 43 ~~the city of New York that were contaminated by debris in the World Trade~~
 44 ~~Center site, regardless of whether the work on the repair, cleaning or~~
 45 ~~rehabilitation of said vehicles and equipment was performed within the~~
 46 ~~World Trade Center site, between September eleventh, two thousand one~~
 47 ~~and September twelfth, two thousand two, provided such work was~~
 48 ~~performed prior to decontamination of such vehicles or equipment.~~

49 ~~For the purposes of this subdivision, "World Trade Center site" shall~~
 50 ~~mean anywhere below a line starting from the Hudson River and Canal~~
 51 ~~Street, east on Canal Street to Pike Street, south on Pike Street to the~~
 52 ~~East River, and extending to the lower tip of Manhattan.~~

53 ~~(5) In order to be eligible for consideration for such presumption,~~
 54 ~~such member must file a written and sworn statement with the New York~~
 55 ~~city employees' retirement system (NYCERS) on a form provided by such~~
 56 ~~system indicating the dates and locations of employment. Such statement~~

1 ~~must be filed not later than four years following the effective date of~~
 2 ~~chapter one hundred four of the laws of two thousand five.~~

3 ~~(6)]~~ (2) The NYCERS board of trustees is hereby authorized to promul-
 4 gate rules and regulations to implement the provisions of this para-
 5 graph.

6 (b) (1) Notwithstanding the provisions of this chapter or of any
 7 general, special or local law, charter, administrative code or rule or
 8 regulation to the contrary, if a member who participated in World Trade
 9 Center rescue, recovery or cleanup operations [~~for a minimum of forty~~
 10 ~~hours~~] as defined in section two of the retirement and social security
 11 law, and subsequently retired on a service retirement, an ordinary disa-
 12 bility retirement, an accidental disability retirement, or a performance
 13 of duty disability retirement and subsequent to such retirement
 14 [~~incurred a disability caused by any qualifying condition or impairment~~
 15 ~~of health which the NYCERS board of trustees determines, after a deter-~~
 16 ~~mination of disability by the applicable medical board, to have been~~
 17 ~~caused by such member's having participated in World Trade Center~~
 18 ~~rescue, recovery or cleanup operations for a minimum of forty hours]~~ is
 19 determined by the board of trustees to have a qualifying World Trade
 20 Center condition as defined by section two of the retirement and social
 21 security law, upon such determination by the NYCERS board of trustees,
 22 it shall be presumed that such disability was incurred in the perform-
 23 ance and discharge of duty as the natural and proximate result of an
 24 accident not caused by such member's own willful negligence, and that
 25 the member would have been physically or mentally incapacitated for the
 26 performance and discharge of duty of the position from which he or she
 27 retired had the condition been known and fully developed at the time of
 28 the member's retirement, unless the contrary is proven by competent
 29 evidence. [~~A member shall be eligible for the presumption provided for~~
 30 ~~under this paragraph notwithstanding the fact that the member did not~~
 31 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 32 ~~for a minimum of forty hours, provided that: (i) the member participated~~
 33 ~~in the rescue, recovery, or cleanup operations at the World Trade Center~~
 34 ~~site between September eleventh, two thousand one and September twelfth,~~
 35 ~~two thousand one; (ii) the member sustained a documented physical injury~~
 36 ~~at the World Trade Center site between September eleventh, two thousand~~
 37 ~~one and September twelfth, two thousand one that is a qualifying condi-~~
 38 ~~tion or impairment of health resulting in disability to the member that~~
 39 ~~prevented the member from continuing to participate in World Trade~~
 40 ~~Center rescue, recovery or cleanup operations for a minimum of forty~~
 41 ~~hours; and (iii) the documented physical injury that resulted in a disa-~~
 42 ~~bility to the member that prevented the member from continuing to~~
 43 ~~participate in World Trade Center rescue, recovery or cleanup operations~~
 44 ~~for a minimum of forty hours is the qualifying condition or impairment~~
 45 ~~of health which the member seeks to be eligible for the presumption~~
 46 ~~provided for under this paragraph.~~

47 ~~(2) The reclassification provided for in subparagraph one of this~~
 48 ~~paragraph shall not be granted, unless:~~

49 ~~(A) the member files a written and sworn statement with NYCERS on a~~
 50 ~~form provided by such system indicating the dates and locations of~~
 51 ~~employment within four years following the effective date of chapter one~~
 52 ~~hundred four of the laws of two thousand five; and~~

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

1 ~~(3)~~ (2) The NYCERS board of trustees shall consider a reclassifica-
2 tion of the member's retirement as an accidental disability retirement
3 effective as of the date of such reclassification.

4 ~~[-(4)]~~ (3) Such member's retirement option shall not be changed as a
5 result of such reclassification.

6 ~~[-(5)]~~ (4) The member's former employer at the time of the member's
7 retirement shall have an opportunity to be heard on the member's appli-
8 cation for reclassification by the NYCERS board of trustees according to
9 procedures developed by the retirement system.

10 ~~[-(f)]~~ (c) The NYCERS board of trustees is hereby authorized to promul-
11 gate rules and regulations to implement the provisions of this para-
12 graph.

13 c. Notwithstanding any other provision of this chapter or of any
14 general, special or local law, charter, administrative code or rule or
15 regulation to the contrary, if a retiree who: (1) has met the criteria
16 of subdivision b of this section and retired on a service or disability
17 retirement, or would have met the criteria if not already retired on an
18 accidental disability; and (2) has not been retired for more than twen-
19 ty-five years; and (3) dies from a qualifying World Trade Center condi-
20 tion [~~or impairment of health, as defined in subparagraph (a) of para-~~
21 ~~graph five of subdivision b of this section, that is]~~ as defined in
22 section two of the retirement and social security law, as determined by
23 the applicable head of the retirement system or applicable medical board
24 [~~to have been caused by such retiree's participation in the World Trade~~
25 ~~Center rescue, recovery or cleanup operations, as defined in subpara-~~
26 ~~graph (a) of paragraph five of subdivision b of this section]~~, then
27 unless the contrary be proven by competent evidence, such retiree shall
28 be deemed to have died as a natural and proximate result of an accident
29 sustained in the performance of duty and not as a result of willful
30 negligence on his or her part. Such retiree's eligible beneficiary, as
31 set forth in section 13-149 of this chapter, shall be entitled to an
32 accidental death benefit as provided by section 13-149 of this chapter,
33 however, for the purposes of determining the salary base upon which the
34 accidental death benefit is calculated, the retiree shall be deemed to
35 have died on the date of his or her retirement. Upon the retiree's
36 death, the eligible beneficiary shall make a written application to the
37 head of the retirement system within the time for filing an application
38 for an accidental death benefit as set forth in section 13-149 of this
39 chapter requesting conversion of such retiree's service or disability
40 retirement benefit to an accidental death benefit. At the time of such
41 conversion, the eligible beneficiary shall relinquish all rights to the
42 prospective benefits payable under the service or disability retirement
43 benefit, including any post-retirement death benefits, since the
44 retiree's death. If the eligible beneficiary is not the only benefici-
45 ary receiving or entitled to receive a benefit under the service or
46 disability retirement benefit (including, but not limited to, post-re-
47 tirement death benefits or benefits paid or payable pursuant to the
48 retiree's option selection), the accidental death benefit payments to
49 the eligible beneficiary will be reduced by any amounts paid or payable
50 to any other beneficiary.

51 d. Notwithstanding any other provision of this code or of any general,
52 special or local law, charter, or rule or regulation to the contrary, if
53 a member who: (1) has met the criteria of subdivision b of this section;
54 and (2) dies in active service from a qualifying World Trade Center
55 condition [~~or impairment of health, as defined in subparagraph (a) of~~
56 ~~paragraph five of subdivision b of this section, that is]~~ as defined in

1 section two of the retirement and social security law, as determined by
2 the applicable head of the retirement system or applicable medical board
3 [~~to have been caused by such member's participation in the World Trade~~
4 ~~Center rescue, recovery or cleanup operations, as defined in subpara-~~
5 ~~graph (a) of paragraph five of subdivision b of this section], then
6 unless the contrary be proven by competent evidence, such member shall
7 be deemed to have died as a natural and proximate result of an accident
8 sustained in the performance of duty and not as a result of willful
9 negligence on his or her part. Such member's eligible beneficiary, as
10 set forth in section 13-149 of this chapter, shall be entitled to an
11 accidental death benefit provided he or she makes written application to
12 the head of the retirement system within the time for filing an applica-
13 tion for an accidental death benefit as set forth in section 13-149 of
14 this chapter.~~

15 § 18. Section 162 of the workers' compensation law, as amended by
16 chapter 199 of the laws of 2007, is amended to read as follows:

17 § 162. Registration of participation in World Trade Center rescue,
18 recovery and clean-up operations. In order for the claim of a partic-
19 ipant in World Trade Center rescue, recovery and clean-up operations to
20 come within the application of this article, such participant must file
21 a written and sworn statement with the board on a form promulgated by
22 the chair indicating the dates and locations of such participation and
23 the name of such participant's employer during the period of partic-
24 ipation. Such statement must be filed not later than [~~two years after~~
25 ~~the effective date of this article]~~ September eleventh, two thousand
26 ten. The board shall transmit a copy of such statement to the employer
27 or carrier named therein. The filing of such a statement shall not be
28 considered the filing of a claim for benefits under this chapter.

29 § 19. Section 164 of the workers' compensation law, as added by chap-
30 ter 446 of the laws of 2006, is amended to read as follows:

31 § 164. Disablement of a participant in World Trade Center rescue,
32 recovery and clean-up operations treated as an accident. The date of
33 disablement of a participant in World Trade Center rescue, recovery and
34 clean-up operations resulting from a qualifying condition that is
35 causally related to such participant shall be treated as the happening
36 of an accident within the meaning of this chapter and the procedure and
37 practice provided in this chapter shall apply to all proceedings under
38 this article, except where otherwise specifically provided herein. The
39 board shall determine the date of disablement that is most beneficial to
40 the claimant.

41 § 20. The workers' compensation law is amended by adding a new section
42 168 to read as follows:

43 § 168. Additional period for filing certain claims. A claim by a
44 participant in the World Trade Center rescue, recovery or cleanup oper-
45 ations whose disablement occurred between September eleventh, two thou-
46 sand three, and September eleventh, two thousand eight, shall not be
47 disallowed as barred by section eighteen or section twenty-eight of this
48 chapter if such claim is filed on or before September eleven, two thou-
49 sand ten. Any such claim by a participant in the World Trade Center
50 rescue, recovery or cleanup operations whose disablement occurred
51 between September eleventh, two thousand three, and September eleventh,
52 two thousand eight, and was disallowed by section eighteen or twenty-
53 eight of this chapter shall be reconsidered by the board.

54 § 21. Subdivision a of section 509 of the retirement and social secu-
55 rity law, as added by chapter 890 of the laws of 1976 and the closing

1 paragraph as added by chapter 105 of the laws of 2005, is amended to
2 read as follows:

3 a. The eligible beneficiary of a member in service, or a vested member
4 that dies as a result of a qualifying World Trade Center condition as
5 defined in section two of this chapter, shall be entitled to an acci-
6 dental death benefit in the form of a pension equal to fifty percent of
7 such member's final average salary if, upon application filed within two
8 years after the death of the member, the head of the retirement system
9 determines that such member:

10 1. Died before the effective date of retirement, as the natural and
11 proximate result of an accident sustained in the performance of duty in
12 the service upon which membership was based, and

13 2. Did not cause such accident by his or her own willful negligence.

14 Notwithstanding the provisions of section two hundred forty-two, two
15 hundred forty-three or two hundred forty-four of the military law or the
16 provisions of any other law to the contrary and solely for the purpose
17 of determining eligibility for an accidental death benefit, a member
18 shall be considered to have died as the natural and proximate result of
19 an accident sustained in the performance of duty provided such member
20 was on the payroll in the service upon which membership is based at the
21 time he or she was ordered to active duty, other than for training
22 purposes, pursuant to Title 10 of the United States Code, with the armed
23 forces of the United States and died while on such active duty on or
24 after the effective date of [~~the~~] chapter one hundred five of the laws
25 of two thousand five which added this paragraph.

26 § 22. Subdivision b of section 363-b of the retirement and social
27 security law, as added by chapter 684 of the laws of 1971 and paragraph
28 3 of subdivision b as amended by chapter 507 of the laws of 1983, is
29 amended to read as follows:

30 b. Eligibility. A member or officer shall be entitled to a state
31 police disability retirement allowance if, at the time application
32 therefor is filed, he is:

33 1. Under age sixty, and

34 2. (a) Physically or mentally incapacitated for performance of duty as
35 the natural and proximate result of a disability not caused by his own
36 willful negligence sustained in such service and while actually a member
37 of the policemen's and firemen's retirement system, or

38 (b) Physically or mentally incapacitated for performance of duty as a
39 result of a disability that was not sustained in such service, and has
40 at least five years of total service credit in the division, and

41 3. Actually in service upon which his membership is based, or, have
42 been discontinued from service, either voluntarily or involuntarily for
43 not more than ninety days provided the member was disabled prior to such
44 discontinuance, or is a vested member incapacitated as a result of a
45 qualifying World Trade Center condition as defined in section two of
46 this chapter. However, in a case where a member is discontinued from
47 service, either voluntarily or involuntarily, subsequent to sustaining a
48 disability in such service, application may be made not later than two
49 years after the member is discontinued from service and provided that
50 the member meets the requirements of subdivisions a and b of this
51 section.

52 § 23. Subdivision a of section 607 of the retirement and social secu-
53 rity law, as amended by chapter 105 of the laws of 2005, is amended to
54 read as follows:

55 a. The eligible beneficiary of a member in service, or of a vested
56 member who dies as a result of a qualifying World Trade Center condition

1 as defined in section two of this chapter, shall be entitled to an acci-
 2 dental death benefit in the form of a pension equal to fifty percent of
 3 such member's wages earned during his or her last year of actual service
 4 or his or her annual wage rate if he or she was credited with less than
 5 one year of service since last becoming a member, if, upon application
 6 filed within sixty days after the death of the member, the head of the
 7 retirement system determines that such member died before the effective
 8 date of retirement, as the natural and proximate result of an accident
 9 not caused by his or her own willful negligence sustained in the
 10 performance of his or her duties in active service and while actually a
 11 member of the retirement system.

12 Notwithstanding the provisions of section two hundred forty-two, two
 13 hundred forty-three or two hundred forty-four of the military law or the
 14 provisions of any other law to the contrary and solely for the purpose
 15 of determining eligibility for an accidental death benefit, a member
 16 shall be considered to have died as the natural and proximate result of
 17 an accident sustained in the performance of duty provided such member
 18 was on the payroll in the service upon which membership is based at the
 19 time he or she was ordered to active duty, other than for training
 20 purposes, pursuant to Title 10 of the United States Code, with the armed
 21 forces of the United States and died while on such active duty on or
 22 after the effective date of [~~the~~] chapter one hundred five of the laws
 23 of two thousand five which added this paragraph.

24 Provided, however, the head of the retirement system in its sole
 25 discretion may accept an application for an accidental death benefit
 26 after the expiration of the sixty day filing period, where, but only
 27 where, an ordinary death benefit has not been previously paid.

28 § 24. This act shall take effect immediately and shall be deemed to
 29 have been in full force and effect on and after September 11, 2001;
 30 provided, however, that:

31 (a) the amendments to sections 507, 507-b, 507-c, 605, 605-a, 605-b,
 32 605-c, 607-c, 607-b, 509 and 607 of the retirement and social security
 33 law made by sections four, five, six, nine, ten, eleven, twelve, thir-
 34 teen, fourteen, twenty-one and twenty-three of this act, respectively,
 35 shall expire on the same date as such sections expire pursuant to
 36 section 615 of such law; and

37 (b) the amendments to sections 162 and 164 of the workers' compen-
 38 sation law and the provisions of section 168 of the workers' compen-
 39 sation law made by sections eighteen, nineteen and twenty of this act,
 40 respectively, shall apply to all open and closed claims coming within
 41 its purview.

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

This bill would amend chapter 93 of the Laws of 2005 and chapter 445
 of the Laws of 2006, which provided members of public retirement systems
 who contract any form of disease or disability related to exposure to
 any elements in connection with the World Trade Center tragedy of
 September 11, 2001 to be presumptive evidence that such disability, or
 death as a result of such disability was the result of an accident and
 was sustained in the performance of duty. This bill would:

1. Allow certain members to qualify for this benefit if they partic-
 ipated in the World Trade Center rescue, recovery or cleanup operation
 within the first 48 hours at the site following the attack. Certain
 members would be required to have worked at the site during the first 24
 hours after the attack. Currently, a member must have worked at least 40
 hours during the period of September 11, 2001 through September 12,
 2002. This coverage would also apply to those who retire after September

11, 2001 and subsequently contract such disease or disability by allowing the retirement benefit to be replaced with an accidental disability or death benefit.

2. Provide a 75% of final average salary less workers compensation performance of duty disability benefit and a 50% of final salary accidental death benefit for certain Tier 3 State correction officers and certain Tier 3 and Tier 4 county sheriffs and correction officers who meet these criteria. Under current law, they are not eligible for this benefit.

3. Extend the deadline for filing notice regarding the eligibility for benefits for certain members who participated in the World Trade Center rescue, recovery or cleanup operation to September 11, 2010.

4. Remove the requirement that the member must have successfully passed a physical exam prior to entry into public service, provided that relevant medical records are provided and show no evidence of any such disqualifying condition.

5. Allow vested members who have not attained age 55 and who have been discontinued from service subsequent to the accident who have been incapacitated by a qualifying World Trade Center condition to become eligible immediately for benefits under this Chapter. Under current law, they have to wait until age 55 to file for this benefit.

If this bill is enacted, it would lead to more disabilities being classified as "in performance of duty" or "accidental". For the disabilities so classified due to this bill, the cost would depend on the age, service, salary and plan of the affected member or retiree, as well as whether such person would have otherwise been eligible for, or has been receiving an ordinary disability, a performance of duty disability or a service retirement. For those who contract such disease prior to retirement, it is estimated that there could be per person one-time costs of as much as four (4) times salary. For those who contract such disease subsequent to a service retirement, it is estimated that there would be an average per person cost of approximately 150% of final average salary. For those who contract such disease subsequent to an ordinary disability retirement, it is estimated that there would be an average per person cost of approximately four (4) times final average salary.

This bill would also lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary and plan of the affected individual, as well as whether such person was an active member or has been receiving an ordinary disability, a performance of duty disability, an accidental disability or a service retirement. It is estimated that the cost for each ERS and PFRS individual affected would average approximately three (3) times final average salary and seven (7) times final average salary, respectively.

These costs would be borne by the State of New York and all the participating employers in the ERS and the PFRS.

This estimate, dated June 13, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-270, prepared by the Actuary for the New York State and Local Employees' Retirement and the New York State and Local Police and Fire Retirement System.

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

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York City Retirement Systems ("NYCRS"), this proposed legislation would amend Retirement and Social Security Law ("RSSL") Sections 2, 507, 507-c, 605, 605-b, 605-c, 607-b and 607-c, Administrative Code of the City of New York ("ACNY") Sections 13-252.1, 13-353.1 and 13-168.5 and Workers'

Compensation Law Sections 162, 164 and 168 to simplify the language and to expand and clarify certain provisions relating to eligibility, coverage and benefits payable to certain members who participated in the Rescue, Recovery or Cleanup ("RRC") operations related to the World Trade Center ("WTC") attack on September 11, 2001.

The Effective Date of this proposed legislation would be retroactive to September 11, 2001.

Note, RSSL Section 2 is generally reserved for definitions applicable to the New York State and Local Employees' Retirement System ("NYSLERS"). However, under the proposed legislation, each of the sections of law applicable to the NYCERS refer to such RSSL Section 2 to derive their meaning. Such references would normally be found in the ACNY or other sections of the RSSL, as appropriate.

COVERAGE AND BENEFITS UNDER EXISTING WTC-RELATED PROVISIONS: Under current law (i.e., Chapter 93 of the Laws of 2005, Chapter 104 of the Laws of 2005, Chapter 5 of the Laws of 2007 and Chapter 214 of the Laws of 2007), active members and retirees of the following NYCERS could potentially be eligible for WTC-Related benefits ("WTC Potential Recipients"):

* Certain Tier I, Tier II, Tier III and Tier IV members of the New York City Employees' Retirement System ("NYCERS"),

* Certain Tier III and Tier IV members of the New York City Teachers' Retirement System ("NYCTRS"),

* Certain Tier III and Tier IV members of the New York City Board of Education Retirement System ("BERS"),

* Certain members of the New York City Police Pension Fund ("POLICE"), and

* Certain members of the New York City Fire Pension Fund ("FIRE").

Minimum Eligibility Criteria

Under current law, to be considered eligible, those WTC Potential Recipients must meet each of the following minimum requirements ("WTC Eligible"):

1. Must have passed a physical examination upon entry into public service which failed to disclose any "WTC-Related Malady",

2. Must meet the Qualifying Period criteria:

Must have worked at least 40 hours in the RRC operations at the "WTC Site" (defined later) between September 11, 2001 and September 12, 2002, or

Worked less than 40 hours in the RRC at the "WTC Site" and sustained a documented "WTC-Related Malady" between September 11, 2001 and September 12, 2001 and that such "WTC-Related Malady" is the one that is used to apply for WTC benefits.

3. Must register with the applicable NYCERS on a specified document before June 14, 2009 attesting to the time and location of employment at the WTC Site.

For this purpose, "WTC-Related Malady" is any of the following physical or psychological conditions:

1. Diseases of the Upper Respiratory Tract and Mucosae,

2. Diseases of the Lower Respiratory Tract,

3. Diseases of the Gastroesophageal Tract,

4. Diseases of the Psychological Axis,

5. Diseases of the Skin, and

6. New Onset Diseases resulting from exposure as such diseases occur in the future, including chronic psychological disease.

Under current law, "WTC Site" refers to:

1. Anywhere below a line starting from the Hudson River and Canal Street, extending east on Canal Street to Pike Street and then south on Pike Street to the East River and extending to the lower tip of Manhattan, or
2. The Fresh Kills Land Fill ("FKLF"), or
3. The New York City Morgue (including the temporary Morgue at the Pier), or
4. On barges between Manhattan and the FKLF, or
5. Locations where vehicles or equipment owned by the City of New York contaminated by WTC debris were repaired, cleaned or rehabilitated.

Accidental Disability Retirement Benefits

Under current law, if an active WTC Potential Recipient becomes partially or totally disabled due to a WTC-Related Malady, such condition or impairment of health incurred by the member will be considered presumptive evidence that it was sustained in the line-of-duty as the result of an accident unless the contrary can be proven by competent evidence.

Once such member's application is approved by the respective NYCERS Medical Board and the respective NYCERS Board of Trustees ("BOT"), then such member will be entitled to the applicable Accidental Disability Retirement ("ADR") Benefit ("ACCDIS") that is payable for a member in such NYCERS at such Tier and based upon a respective job title, if applicable. Such ACCDIS are generally subject to offset from any Workers' Compensation benefits payable.

Under current law, if an active WTC Potential Recipient who retires initially for Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR") or Performance of Duty Disability Retirement ("PODR") becomes partially or totally disabled due to a WTC-Related Malady, then such WTC-Related Malady would be considered presumptive evidence that it was incurred in the line-of-duty as the result of an accident.

Such retiree would be permitted to apply with the respective NYCERS for a reclassification of his retirement to a WTC-ADR. Upon the approval of the respective NYCERS Medical Board and the respective NYCERS BOT, such retiree would be entitled to receive an ACCDIS, based on the salaries and service at initial retirement date and determined under the respective NYCERS, payable from date of reclassification. There would be no change in optional form of payment elected at initial retirement date.

Under current law, in general, there is no reclassification permitted for ADR retirees.

It is the understanding of the Actuary that there may be an exception for certain Corrections and Emergency Medical Technicians ("EMT") members of NYCERS whose ADR was the result of HIV-related causes and which are denoted as Performance of Duty Retirements in the RSSL.

Accidental Death Benefits

Under current law, beneficiaries of those active WTC Potential Recipients who die either while actively employed or while on an approved leave of absence and whose cause of death was from a WTC-Related Malady may apply with the respective NYCERS within the applicable filing window for Accidental Death Benefits ("ACCDTH"). Once such application is approved by the respective NYCERS Medical Board and respective NYCERS BOT, then such beneficiaries would be entitled to the respective ACCDTH payable based on the NYCERS, Tier and job title, if applicable.

In addition, if such deceased NYCERS members were in any of the following:

- * POLICE,
- * FIRE,

- * NYCERS in certain Triboro Bridge and Tunnel Authority job titles,
- * NYCERS in certain Uniformed Department of Corrections job titles, or
- * NYCERS in certain EMT job titles.

then such deceased member's beneficiaries could also be entitled to a Special Accidental Death Benefit ("SADB") provided under General Municipal Law Section 208-f. Such SADB is generally based on the member's salary at date of death, reduced by the ACCDTH benefits payable and any Social Security and Workers' Compensation death benefits. SADB is subject to annual cost-of-living increases.

Under current law, the beneficiaries of those active WTC Potential Recipients who retire for SERV, ODR or ADR and die, whose cause of death was from a WTC-Related Malady and who have not been retired for more than 25 years, may apply with the respective NYCERS within the applicable filing period for receipt of an ACCDTH and SADB, if eligible. Once such application is approved by the respective NYCERS Medical Board and respective NYCERS BOT, then such beneficiaries would be entitled to the applicable benefits from the date of death.

To receive the ACCDTH, beneficiaries must relinquish their rights to any death benefits that would have otherwise been payable under the retiree's initial form of payment election.

These ACCDTH would replace the existent death benefits that are available for active, inactive and retired NYCERS members based on NYCERS, Tier and job title, if applicable.

IMPACT OF PROPOSED LEGISLATION ON WTC ELIGIBILITY PROVISIONS: Under the proposed legislation, there are three proposed changes to the current WTC eligibility provisions:

- * Pre-Employment Physical,
- * 40-Hour Rule, and
- * Extension of Time to Qualify.

Pre-Employment Physical

The proposed legislation, if enacted, would permit an alternative method for satisfying the existing requirement for a pre-employment physical upon entry into public employment.

This alternative method provides that a NYCERS member must authorize release of all relevant pre-September 11, 2001 medical records. Those records would be intended to provide evidence of the non-existence of pre-existing conditions of a claimed WTC-Related Malady.

40-Hour Rule

The proposed legislation, if enacted, would liberalize the conditions needed to become WTC Potential Recipients by revising the Qualifying Period to be:

1. For members identified with the currently-defined WTC Sites, any period of time within the first 48 hours after the first plane hit the WTC, or
2. A total of 40 hours accumulated at the currently-defined WTC Sites between September 11, 2001 and September 12, 2002, or
3. For certain WTC Responders identified with newly-defined WTC Site locations described later, any period of time within the first 24 hours after the first plane hit the WTC.

Extension of Time to Qualify

Under current law, a WTC Potential Recipient must register by June 14, 2009 in order to ever become eligible to qualify for WTC ACCDIS or ACCDTH provisions.

Under the proposed legislation, if enacted, the deadline for registering for WTC ACCDIS or ACCDTH provisions would be extended to September 11, 2010.

Also, certain claims for Workers' Compensation benefits that arose due to a WTC-Related Malady had a limited window of time in which a claim had to be filed.

Additionally, the two-year limitation for Workers' Compensation coverage would be extended to September 11, 2010. The Workers' Compensation Board would be empowered to determine the most beneficial date of disablement for the member. Certain claims for Workers' Compensation filed between September 11, 2003 and September 11, 2008 that were otherwise disallowed would be reconsidered by the Workers' Compensation Board.

IMPACT OF PROPOSED LEGISLATION ON WTC COVERAGE PROVISIONS: Under the proposed legislation, there are three proposed changes to the current WTC coverage provisions:

1. Coverage for certain Vested Terminations,
2. Expanded WTC Site Locations, and
3. Additional Coverage for certain WTC Responders.

Coverage for Certain Vested Terminations

Under current law, WTC Potential Recipients who leave active employment status other than for retirement no longer retain eligibility to apply for WTC-Related ACCDIS or ACCDTH.

Under the proposed legislation, if enacted, certain WTC Potential Recipients who terminate employment with a vested right to deferred benefits and who become incapacitated due to a WTC-Related Malady would become eligible to apply for WTC-Related ACCDIS and ACCDTH.

This provision would be extended to:

1. Tier I, II, III and IV members of NYCERS, including the ACCDIS benefits of Tier IV Uniformed Sanitation members,
2. Tier III and IV members of NYCTRS, and
3. Tier III and IV members of BERS.

Note: For purposes of this Fiscal Note, the Actuary has assumed that all potential terminated vested members of any NYCERS who are WTC Potential Recipients would be covered by this proposed legislation, even though the proposed legislation may not have included them (i.e., terminated vested of POLICE and FIRE).

Expanded WTC Site Locations

Under current law, there are five general locations that are included within the definition of the WTC Site.

Under the proposed legislation, if enacted, the number of WTC Site locations would be expanded to include those locations where certain WTC Responders may have been situated during the first 24 hours after the first plane hit the WTC.

These new locations are under three distinct departments:

New York City Police Department-2 Sites

- 1) 11 Metrotech Center, Brooklyn, and
- 2) 1 Police Plaza, Manhattan.

New York City Fire Department-7 Sites

- 1) 35 Empire Boulevard, Brooklyn,
- 2) 9 Metrotech Center, Brooklyn,
- 3) 25 Rockaway Boulevard, Brooklyn,
- 4) 79th Street Transverse, Manhattan,
- 5) 83-98 Woodhaven Boulevard, Queens,
- 6) 1129 East 180 Street, Bronx, and
- 7) 65 Slosson Avenue, Staten Island.

New York City Fire Department Emergency Medical Services-3 Sites

- 1) 1 Metrotech Center, Brooklyn,
- 2) 9 Metrotech Center, Brooklyn, and
- 3) 55-30 58th Street, Maspeth, Queens.

Additional Coverage for Certain WTC Responders

Under current law, NYCERS members who are WTC Responders are covered to the extent they would otherwise meet the qualifying conditions for a WTC Potential Recipient and become subject to a disabling WTC-Related Malady.

Under the proposed legislation, certain job titles under the three separate departments, shown below, would have eligibility to qualify for one specific WTC-Related Malady (i.e., diseases and conditions relating to the Psychological Axis which includes chronic psychological disease). These job titles are as follows:

New York City Police Department-7 Titles

- a. Police Communication Technician,
- b. Supervisor Police Communication Technician,
- c. Principal Police Communication Technician I,
- d. Principal Police Communication Technician II,
- e. Principal Police Communication Technician III,
- f. Administrative Manager-Communications, and
- g. Police Administrative Aide title series.

New York City Fire Department-5 Titles

- a. Fire Alarm Dispatcher,
- b. Supervising Fire Alarm Dispatcher I,
- c. Supervising Fire Alarm Dispatcher I (Borough Supervisor),
- d. Deputy Director & Director of Fire Dispatch Operations, and
- e. Assistant Commissioner for Communications.

New York City Fire Department Emergency Medical Services-6 Titles

- a. Emergency Medical Specialist-Level I (EMT),
- b. Emergency Medical Specialist-Level II (Paramedic),
- c. Supervising Emergency Medical Specialist-Level I (LT),
- d. Supervising Emergency Medical Specialist-Level II (Capt),
- e. Deputy Chief EMS Communications, and
- f. Division Commander EMS Communications.

GROUPING OF ELIGIBLE NYCERS MEMBERS: With respect to the NYCERS, it is the understanding of the Actuary that the enactment of this proposed legislation could result in changes in the number of members who would become WTC Potential Recipients and as a result become eligible to receive WTC-ADR benefits payable to the following groups of members:

Group A:

All active WTC Potential Recipients who, on June 30, 2007, were:

- * Tier I, Tier II, Tier III and Tier IV members of NYCERS,
- * Tier I, Tier II, Tier III and Tier IV members of NYCTRS,
- * Tier I, Tier II, Tier III and Tier IV member of BERS,
- * Tier I and Tier II members of POLICE,
- * Tier I and Tier II Members of FIRE.

Group B: All retired WTC Potential Recipients of NYCERS, NYCTRS, BERS, POLICE and FIRE.

All terminated vested WTC Potential Recipients of NYCERS, NYCTRS, BERS, POLICE and FIRE.

All other inactive (i.e., not on payroll but not otherwise classified) WTC Potential Recipients of NYCERS, NYCTRS, BERS, POLICE and FIRE.

Group A members are assumed to retire under the eligibility and benefit provisions for Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR") or Accidental Disability Retirement ("ADR") and to reclassify to WTC-ADR under assumptions described under the Actuarial Assumptions and Methods section.

Group B members who are currently retired are assumed to reclassify to WTC-ADR under assumptions described in the Actuarial Assumptions and

Methods section. Insufficient data exists on which to explicitly assume that other Group B members will reclassify to WTC-ADR. Liabilities for these members' benefits have been estimated as also described in the Actuarial Assumptions and Methods section.

ADDITIONAL ACTUARIAL PRESENT VALUE OF BENEFITS AND COSTS: Insofar as this proposed legislation relates to certain NYCERS, the additional Actuarial Present Value of Benefits ("APVB") cannot be readily determined. It would depend on the number, salaries, ages and lengths of service of members who would be affected by this proposed legislation.

These APVB would be offset, to some extent as described later in this Fiscal Note, by the possible prospective cessation of VSF benefits.

Employer contributions could also potentially be impacted by the Asset Cushions, if any, of certain VSFs as discussed later in this Fiscal Note.

Based upon the assumptions for reclassification of certain Service Retirements, certain Ordinary Disability Retirements, and certain Accidental Disability Retirements used for this Fiscal Note, the enactment of this proposed legislation would increase the APVB for NYCERS, NYCTRS, BERS, POLICE and FIRE and decrease the Actuarial Present Value ("APV") of Future SKIM payable from NYCERS, POLICE and FIRE to their respective VSFs. If the net APVB is funded over the future working lifetimes of the active members of each Retirement System on June 30, 2007, increased annual costs to each System are shown in the following Table I:

TABLE I
INCREASES IN APVB AND ANNUAL COST OF INCLUDING
CERTAIN RECOMMENDATIONS OF THE SEPTEMBER 11
WORKERS PROTECTION TASK FORCE
FOR CERTAIN MEMBERS OF NYCERS, NYCTRS, BERS, POLICE AND FIRE*

(\$ Millions)

ITEM	NYCERS	NYCTRS	BERS	POLICE#	FIRE#	TOTAL
Net Increase in						
APVB						
Group A	\$10.7	\$3.6	\$0.2	\$0.0	\$0.0	\$14.5
Group B	6.7	1.3	0.1	3.0	0.5	11.6
Total	<u>\$17.4</u>	<u>\$4.9</u>	<u>\$0.3</u>	<u>\$3.0</u>	<u>\$0.5</u>	<u>\$26.1</u>
	=====	=====	=====	=====	=====	=====
Estimated Annual						
Costs						
Increase in Annual Employer Costs**	\$ 2.2	\$0.5	***	\$0.4	\$0.1	\$ 3.2

* For purposes of this Fiscal Note, the Actuary has presumed that reclassification of certain retired members to WTC-Related Accidental Disability Retirement from Service Retirement or Ordinary Disability Retirement would result in changes in benefits, prospectively only, from date of reclassification and in the cessation of future VSF payments.

Net increase in APVB is shown but, given possible incorrect statutory reference, may not apply.

** Assumes Net Increases in APV of Future Employer Normal Costs are financed over the future working lifetimes of active members.

*** Less than \$50,000.

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

ADDITIONAL EMPLOYER CONTRIBUTIONS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

However, the timing and amount of additional employer contributions attributable to the enactment of this proposed legislation will depend primarily upon five factors:

* The point in time when the Actuary revises actuarial assumptions to reflect whether certain active members who now would be expected to receive Service Retirement benefits, Ordinary Disability Retirement benefits, or Accidental Disability Retirement benefits would in the future be eligible for World Trade Center Accidental Disability Retirement and/or Accidental Death benefits.

* The point in time at which the Actuary revises actuarial assumptions to reflect possible, further, increased expectations for Accidental Disability Retirements.

* The points in time after retirement, when diseases deemed to be disabling and attributable to WTC-related activities could result in reclassification of Service Retirements, Ordinary Disability Retirement or Accidental Disability Retirements to World Trade Center Accidental Disability Retirements.

* The points in time after retirement subsequent to reclassification, or in the application process, to a WTC-Related Accidental Disability Retirement which could result in Accidental Death from a WTC-Related Malady.

* The impact on employer contributions of any actuarial gains or losses attributable to additional Accidental Disability Retirements and Accidental Deaths.

FINANCIAL IMPACT - VSF BENEFITS: Under current law and not generally impacted by the proposed legislation, certain POLICE, FIRE and NYCERS Correction members who receive Service Retirement benefits are also eligible for Variable Supplements Fund ("VSF") benefits from their respective VSFs, namely:

- * Police Officers' Variable Supplements Fund ("POVSF"),
- * Police Superior Officers' Variable Supplements Fund ("PSOVSF"),
- * Firefighters' Variable Supplements Fund ("FFVSF"),
- * Fire Officers' Variable Supplements Fund ("FOVSF"), and
- * Correction Officers' Variable Supplements Fund ("COVSF")

In the event a Service Retiree was to become afflicted with a WTC-Related Malady, that retiree would be able to apply for reclassification as a WTC-ADR.

Once reclassified, it is the understanding of the Actuary that WTC-ADR benefits would replace SERV benefits. Therefore, any VSF payments would cease since VSF benefits are only payable to certain Service Retirees.

It is also the understanding of the Actuary that amounts already paid from the applicable VSFs to Service Retirees prior to reclassification would not be repaid by the retiree. This includes any VSF DROP benefits paid under Chapter 216 of the Laws of 2002.

FINANCIAL IMPACT - VSF ASSET CUSHION AS OF JUNE 30, 2007: Under the Liability Valuation Method implemented by the Actuary, whenever the APVB of a VSF exceeds the assets of that VSF, an Actuarial Present

Value ("APV") of the Future SKIM is established as a liability in the related NYCERS.

Over time, transfers of excess earnings on equities ("SKIM") from the NYCERS to their VSFs, together with greater than expected investment earnings, actuarial gains on plan experience and the cessation of VSF payments on reclassification, may result in VSF assets exceeding their respective APV of future VSF benefits.

Consequently, a VSF Asset Cushion can exist whenever the Actuarial Asset Value of a VSF exceeds the APVB of that VSF.

If a VSF Asset Cushion exists in a particular VSF, then no APV of Future SKIM for that VSF would be included as a liability in the calculation of employer contributions for the related NYCERS.

With respect to the VSFs of POLICE, there was no VSF Asset Cushion in either the POVSF or the PSOVSF as of June 30, 2007.

With respect to the VSFs of FIRE, there was no VSF Asset Cushion in either the FFVSF or the FOVSF as of June 30, 2007.

With respect to the VSF of NYCERS Correction members, there was no Asset Cushion in the COVSF as of June 30, 2007.

The decrease in the APVB of a VSF would decrease the APV of Future SKIM to be paid from the related NYCERS by a comparable amount except when a VSF has an Asset Cushion.

In the event the APV of Future SKIM did decrease by less than the decrease in the APVB of a VSF, then the increase in employer contributions would be somewhat greater than the increase in annual employer costs shown in Table I.

ADDITIONAL EMPLOYER CONTRIBUTIONS - FISCAL YEARS 2009 AND LATER: Assuming that this proposed legislation is enacted during the current Legislative Session before June 30, 2008 or after June 30, 2008 and before June 30, 2009, then the enactment of this proposed legislation would increase annual employer contributions beginning Fiscal Year 2009 as follows:

- * To NYCERS by approximately \$2.2 million and by a comparable percentage of payroll thereafter,

- * To NYCTRS by approximately \$0.5 million and by a comparable percentage of payroll thereafter,

- * To BERS by approximately less than \$50,000 and by a comparable percentage of payroll thereafter,

- * To POLICE by approximately \$0.4 million and by a comparable percentage of payroll thereafter, and

- * To FIRE by approximately \$0.1 million and by a comparable percentage of payroll thereafter.

UNMEASURED ADDITIONAL COSTS: The additional APVB and employer costs and contributions attributable to additional World Trade Center Accidental Disability Retirements and World Trade Center Accidental Deaths shown herein are based only upon the additional Group A and Group B benefits described in the GROUPING OF ELIGIBLE NYCERS MEMBERS section of this Fiscal Note using the actuarial assumptions and methods described herein.

Additional APVB and employer costs attributable to any other benefits have not been estimated.

No estimate has been made for non-vested, terminated members or for other possible WTC Potential Recipients who are not currently participants in the NYCERS.

No estimate has been made for the possible, initial reduction in payroll costs due to Additional Disability Retirements or Additional Deaths.

No estimate has been made for additional administrative expenses, for possible increases in Workers Compensation costs or for expected, increased medical and insurance related costs.

CENSUS DATA: With respect to the NYCERS, the calculation of estimated changes in APVB and changes in employer costs are in part based on the active census data used in June 30, 2007 (Lag) actuarial valuation. Such census was adjusted for employees who were hired on or after September 13, 2002 and could not be WTC Potential Recipients.

With respect to NYCERS, from the total active membership of 180,482 members with salaries of approximately \$10.6 billion used in the June 30, 2007 (Lag) actuarial valuation to determine Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs are based on the adjusted active census data which included:

Department of Corrections active members - 13 Tier I with salaries totaling approximately \$1.2 million, 5 Tier II with salaries totaling approximately \$0.5 million and 7,124 Tier III with salaries totaling approximately \$577.4 million.

Emergency Medical Technician active members - 5 Tier I with salaries totaling approximately \$0.3 million, 10 Tier II with salaries totaling approximately \$0.6 million and 1,905 Tier IV with salaries totaling approximately \$107.7 million.

Department of Sanitation active members - 23 Tier I with salaries totaling approximately \$2.4 million, 28 Tier II with salaries totaling approximately \$3.0 million and 5,490 Tier IV with salaries totaling approximately \$469.7 million.

New York City Transit Authority ("Transit") Members - 290 Tier I with salaries totaling approximately \$23.5 million, 245 Tier II with salaries totaling approximately \$18.7 million and 30,255 Tier IV with salaries totaling approximately \$2.0 billion.

Triboro Bridge and Tunnel Authority ("TBTA") members - 10 Tier I with salaries totaling approximately \$1.0 million, 18 Tier II with salaries totaling approximately \$1.9 million and 1,181 Tier IV with salaries totaling approximately \$91.2 million.

Certain other NYCERS members - 2,385 Tier I with salaries totaling approximately \$161.2 million, 1,707 Tier II with salaries totaling approximately \$115.5 million and 95,883 Tier IV with salaries totaling approximately \$5.6 billion.

With respect to NYCTRS, from the total active membership of 109,868 members with salaries of approximately \$7.2 billion, used in the June 30, 2007 (Lag) actuarial valuation to determine the Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs are based on the adjusted active census data which included:

Certain active NYCTRS pedagogical and non-pedagogical members - 3,606 Tier I with salaries totaling approximately \$340.3 million, 1,643 Tier II with salaries totaling approximately \$159.8 million and 60,180 Tier IV with salaries totaling approximately \$4.4 billion.

With respect to BERS, from the total active membership of 21,947 members with salaries of approximately \$777.5 million used in the June 30, 2007 (Lag) actuarial valuation to determine the Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs are based on the adjusted active census data which included:

Certain active BERS pedagogical and nonpedagogical members - 202 Tier I with salaries totaling approximately \$10.9 million, 109 Tier II

with salaries totaling approximately \$6.3 million and 15,009 Tier IV with salaries totaling approximately \$536.2 million.

With respect to POLICE, from the total active membership of 34,956 members with salaries of approximately \$2.9 billion used in the June 30, 2007 (Lag) actuarial valuation to determine Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs and contributions are based upon the adjusted census which included:

Certain active POLICE members - 87 Tier I with salaries totaling approximately \$12.0 million and 25,436 Tier II with salaries totaling approximately \$2.4 billion.

With respect to FIRE, from the total active membership of approximately 11,528 members with salaries of \$968.8 million used in the June 30, 2007 (Lag) actuarial valuation to determine Preliminary Fiscal Year 2009 employer contributions, the calculation of estimated changes in APVB and changes in employer costs and contributions are based upon the adjusted census which included:

Certain active FIRE members - 66 Tier I with salaries totaling approximately \$8.8 million and 8,340 Tier II with salaries totaling approximately \$779.2 million.

The calculation of estimated changes in APVB and changes in employer costs are in part based on the census data of retired members used in the June 30, 2007 (Lag) actuarial valuation used to determine the Preliminary Fiscal Year 2009 employer contributions. Such census data was adjusted to include post-9/11 retirees.

* With respect to NYCERS, 27,065 post-9/11 retirees were included out of 129,281 retirees and beneficiaries as of June 30, 2007.

* With respect to NYCTRS, 19,970 post-9/11 retirees were included out of 68,492 retirees and beneficiaries as of June 30, 2007.

* With respect to BERS, 4,473 post-9/11 retirees were included out of 12,991 retirees and beneficiaries as of June 30, 2007.

* With respect to POLICE, 10,477 post-9/11 retirees were included out of 43,731 retirees and beneficiaries as of June 20, 2007.

* With respect to FIRE, 2,044 post-9/11 retirees were included out of 17,479 retirees and beneficiaries as of June 30, 2007.

Also, based on June 30, 2007 census information, the following numbers of current Inactive members (including vested terminations between September 11, 2001 and June 30, 2007) were included to the extent that they were WTC Potential Recipients, could become incapacitated due to a WTC-Related Malady and reclassify as WTC-ADR:

* 37,649 Inactive members of NYCERS.

* 16,670 Inactive members of NYCERS.

* 4,342 Inactive members of BERS.

* 3,413 Inactive members of POLICE.

* 63 Inactive members of FIRE.

ACTUARIAL ASSUMPTIONS AND METHODS: The actuarial assumptions and methods used to determine additional APVB and employer costs and contributions are generally the same as the actuarial assumptions and methods used in the June 30, 2007 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE to determine Preliminary Employer Contributions for Fiscal Year 2009.

In order to develop an estimate of the increase in APVB for NYCERS Emergency Medical Technician members, NYCERS Corrections members, NYCERS Sanitation members, NYCERS Transit members and NYCERS TBTA members, the following probabilities of reclassification from Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR") and Acci-

dental Disability Retirement ("ADR"), respectively, to WTC-ADR were used at the ages shown:

RECLASSIFICATION TO ADR FROM

<u>AGE</u>	<u>SERV</u>	<u>ODR</u>	<u>ADR</u>
60	5%	5%	10%
70	10%	10%	10%
80	15%	15%	10%
90	15%	20%	10%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 5%
 ODR 10%
 ADR 20%

In order to develop an estimate of the increase in APVB for other NYCERS members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM

<u>AGE</u>	<u>SERV</u>	<u>ODR</u>	<u>ADR</u>
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%
 ODR 4%
 ADR 4%

In order to develop an estimate of the increase in APVB for NYCTRS members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM

<u>AGE</u>	<u>SERV</u>	<u>ODR</u>	<u>ADR</u>
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%
 ODR 4%
 ADR 4%

In order to develop an estimate of the increase in APVB for BERS members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM

<u>AGE</u>	<u>SERV</u>	<u>ODR</u>	<u>ADR</u>
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%
 ODR 4%
 ADR 4%

In order to develop an estimate of the increase in APVB for POLICE members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM			
<u>AGE</u>	<u>SERV</u>	<u>ODR</u>	<u>ADR</u>
60	5%	5%	10%
70	10%	10%	10%
80	15%	15%	10%
90	15%	20%	0%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 5%
 ODR 10%
 ADR 50%

In order to develop an estimate of the increase in APVB for FIRE members, the following probabilities of reclassification to WTC-ADR at the ages shown:

RECLASSIFICATION TO ADR FROM			
<u>AGE</u>	<u>SERV</u>	<u>ODR</u>	<u>ADR</u>
60	10%	10%	10%
70	15%	15%	10%
80	20%	20%	10%
90	20%	25%	0%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 10%
 ODR 20%
 ADR 60%

It has also been assumed that Accidental Disability Retirees who die within 25 years of date of initial retirement date would die from a WTC-Related Malady.

Due to limitations of time, resources and expected, limited impact on overall results, the following estimates were made relative to the June 30, 2007 (Lag) actuarial valuation to determine the Preliminary Fiscal Year 2009 employer contributions:

For Terminated Vested and Inactive members, the APVB was developed as the ratio of the respective liability to the total liability of all active members.

For certain active and retired members, APVB was estimated based on the number of the respective active or retired members to the APVB for such members in the total population for that NYCRS.

Terminated Vested and Inactive liabilities were also adjusted to reflect both the difference in the magnitude of a WTC-ACCDIS relative to the SERV benefit otherwise payable and in the payability date of such benefits.

In developing estimates of additional APVB upon reclassification after retirement, the increases in WTC-ADR benefits are assumed to be prospective from the date of reclassification.

Additionally, because the mortality expectation for an individual does not change just because that individual receives a different type of benefit, the measurement of the increase in APVB for Service Retirees who reclassify as WTC-ADR has been calculated based on post-disablement retirement mortality.

In order to measure the cost implications of the change in benefit structures, the Actuary has assumed that the value of COVSF payments are computed on the same actuarial assumptions as are used to determine the costs of NYCERS disability retirement benefits.

To provide an estimate of the percentage of NYCERS active members who could be eligible for the benefits of this proposed legislation as a consequence of a WTC-Related Malady, approximately 10% of NYCERS non-uniform clerical members, approximately 10% of NYCERS Correction members, approximately 10% of NYCERS Emergency Medical Technician members, approximately 10% of NYCERS Sanitation members, approximately 10% of NYCERS WTC-Vehicle Repairer members, approximately 10% of NYCERS Other Uniformed Members, approximately 10% of NYCTRS pedagogical members, approximately 10% of BERS pedagogical members, approximately 10% of POLICE members and 10% of FIRE members are assumed to have met the conditions to become WTC Eligible members and, hence, be potentially eligible for ADR under this proposed legislation.

To the extent that the enactment of this proposed legislation would cause a greater (lesser) number of members to be reclassified from Service Retirement or Ordinary Disability Retirement to Accidental Disability Retirement, then the additional APVB and employer contributions shown herein would also be greater (lesser).

To the extent that the enactment of this proposed legislation would cause a greater (lesser) number of members to retire, become reclassified, or in the application process for WTC-Related Accidental Disability Retirement and then die from a WTC-Related Malady, then the additional APVB and employer contributions shown herein would also be greater (lesser).

With respect to COLA benefits which become payable under Chapter 125 of the Laws of 2000 for SERV or ODR retirees, the Actuary has assumed the eligibility for COLA would be determined from original retirement date but would be paid prospectively upon reclassification to WTC-ADR.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualifications Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2008 Legislative Session. It is Fiscal Note 2008-09, dated June 18, 2008, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York City Fire Pension Fund.

STATE OF NEW YORK

A. 11137-A - S. 8285-A

IN ASSEMBLY

May 19, 2008

Introduced by M. of A. FARRELL -- (at request of the State Comptroller) -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to making certain technical changes for the purpose of bringing certain provisions of such law into compliance with the government accounting standards board (GASB) rules and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivision 4 of section 122-a of the state finance law, as
2 added by section 41-k of part F of chapter 405 of the laws of 1999, is
3 amended to read as follows:

4 4. The scope of any audit performed pursuant to this section shall be
5 an audit of all of the [~~general purpose~~] **basic** financial statements and
6 all of the supporting schedules required by generally accepted account-
7 ing principles to be included in a comprehensive annual financial
8 report.

9 § 2. Subdivision 11-b of section 2 of the state finance law, as added
10 by chapter 476 of the laws of 1984, is amended to read as follows:

11 11-b. Governmental funds. A group of fund types that includes those
12 funds that are classified as the general fund, special revenue funds,
13 debt service funds [~~and~~], capital project funds **and permanent funds** as
14 defined in this chapter.

15 § 3. Section 2 of the state finance law is amended by adding a new
16 subdivision 13-b to read as follows:

17 **13-b. "Permanent funds". Funds that report resources that are legally**
18 **restricted in that only earnings, and not principal, may be used to**
19 **support the government or its citizens.**

20 § 4. Subdivision 7 of section 2 of the state finance law, as separate-
21 ly added by chapters 405 and 957 of the laws of 1981, is amended to read
22 as follows:

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

LBD15604-06-8

1 7. "Fiduciary funds". Funds used to account for assets held by the
 2 state in a trustee capacity or as an agent for individuals, private
 3 organizations, and other governmental units. Fiduciary funds include
 4 pension trust funds, private-purpose trust funds and agency funds.

5 § 5. Subdivision 1 of section 70 of the state finance law, as sepa-
 6 rately added by chapters 405 and 957 of the laws of 1981, is amended to
 7 read as follows:

8 1. The comptroller shall establish the [~~following seven fund types~~
 9 ~~according to which all funds of the state shall be classified: (a) a~~
 10 ~~general fund to account for all moneys except for moneys required to be~~
 11 ~~accounted for in another fund, (b) special revenue funds, (c) capital~~
 12 ~~projects funds, (d) debt service funds, (e) enterprise funds, (f) inter-~~
 13 ~~nal service funds, and (g) fiduciary funds] necessary fund types
 14 required to comply with generally accepted accounting principles. When
 15 the establishment or elimination of a fund type would be required to
 16 implement a change in generally accepted accounting principles, the
 17 comptroller shall designate an effective date for the establishment or
 18 elimination of the fund type to coincide with the date of implementation
 19 of new accounting principles.~~

20 § 6. Subdivision 9-c of section 8 of the state finance law is
 21 REPEALED.

22 § 7. Subdivision 5 of section 4 of the state finance law, as amended
 23 by chapter 260 of the laws of 1993, is amended to read as follows:

24 5. No money or other financial resources shall be transferred or
 25 temporarily loaned from one fund to another without specific statutory
 26 authorization for such transfer or temporary loan, except that the comp-
 27 troller is hereby authorized to temporarily loan money from the general
 28 fund or any other fund to the fund/accounts that are authorized to
 29 receive a loan. Such loans shall be limited to the amounts immediately
 30 required to meet disbursements, made in pursuance of an appropriation by
 31 law and authorized by a certificate of approval issued by the director
 32 of the budget with copies thereof filed with the comptroller and the
 33 chair of the senate finance committee and the chair of the assembly ways
 34 and means committee. The director of the budget shall not issue such a
 35 certificate unless he or she shall have determined that the amounts to
 36 be so loaned are receivable on account. When making loans, the comp-
 37 troller shall establish appropriate accounts and if the loan is not
 38 repaid by the end of the month, provide on or before the fifteenth day
 39 of the following month to the director of the budget, the chair of the
 40 senate finance committee and the chair of the assembly ways and means
 41 committee, an accurate accounting and report of the financial resources
 42 of each such fund at the end of such month. Within ten days of the
 43 receipt of such accounting and reporting, the director of the budget
 44 shall provide the comptroller and the chair of the senate finance
 45 committee and the chair of the assembly ways and means committee an
 46 expected schedule of repayment by fund and by source for each outstand-
 47 ing loan. Repayment shall be made by the comptroller from the first cash
 48 receipt of this fund.

49 § 8. Subdivision 1 of section 92-u of the state finance law, as added
 50 by chapter 766 of the laws of 1992, is amended to read as follows:

51 1. Pursuant to article fifteen of the state constitution, there is
 52 hereby established in the joint custody of the state comptroller and the
 53 commissioner of taxation and finance a [~~special revenue~~ fund to be
 54 known as the "New York state canal system development fund".

55 § 9. Subdivision 1 of section 94 of the state finance law, as amended
 56 by chapter 62 of the laws of 1988, is amended to read as follows:

1 1. There is hereby established in the joint custody of the state comp-
2 troller and the commissioner of taxation and finance a [~~special revenue~~]
3 fund to be known as the "court facilities incentive aid fund."

4 Within such fund there is hereby established a special account for
5 each political subdivision of the state to which state assistance is
6 apportioned and payable pursuant to section fifty-four-j of this chap-
7 ter.

8 § 10. Subdivision 1 of section 94-a of the state finance law, as added
9 by chapter 55 of the laws of 1992, is amended to read as follows:

10 1. There is hereby established in the joint custody of the state comp-
11 troller and the commissioner of taxation and finance a [~~special revenue~~]
12 fund to be known as the "New York city county clerks' operations offset
13 fund."

14 § 11. Subdivision 1 of section 94-b of the state finance law, as added
15 by chapter 55 of the laws of 1992, is amended to read as follows:

16 1. There is hereby established in the joint custody of the state comp-
17 troller and the commissioner of taxation and finance a [~~special revenue~~]
18 fund to be known as the "judiciary data processing offset fund."

19 § 12. Subdivision 1 of section 94-d of the state finance law, as added
20 by chapter 205 of the laws of 1996, is amended to read as follows:

21 1. There is hereby established in the joint custody of the state comp-
22 troller and the commissioner of taxation and finance a [~~special revenue~~]
23 fund to be known as the "New York state collectible series fund."

24 § 13. Subdivision 1 of section 97-h of the state finance law, as added
25 by chapter 617 of the laws of 1987, is amended to read as follows:

26 1. There is hereby established in the joint custody of the state comp-
27 troller and the commissioner of taxation and finance a [~~special revenue~~]
28 fund to be known as the Lake George park trust fund.

29 § 14. Subdivision 1 of section 97-hh of the state finance law, as
30 amended by chapter 434 of the laws of 1999, is amended to read as
31 follows:

32 1. There is hereby established in the joint custody of the comptroller
33 and the commissioner of taxation and finance a [~~special revenue~~] fund to
34 be known as the "tuition reimbursement fund".

35 § 15. Subdivision 1 of section 97-l of the state finance law, as added
36 by chapter 565 of the laws of 1989, is amended to read as follows:

37 1. There is hereby established in the joint custody of the state comp-
38 troller and the commissioner of taxation and finance a [~~special revenue~~]
39 fund to be known as the "sewage treatment program management and admin-
40 istration fund".

41 § 16. Subdivision 1 of section 97-n of the state finance law, as added
42 by chapter 748 of the laws of 1991, is amended to read as follows:

43 1. There is hereby established in the joint custody of the state comp-
44 troller and the commissioner of taxation and finance a [~~special revenue~~]
45 fund to be known as the Hudson river valley greenway fund.

46 § 17. Subdivision 1 of section 97-o of the state finance law, as added
47 by chapter 262 of the laws of 1993, is amended to read as follows:

48 1. There is hereby established in the joint custody of the state comp-
49 troller and the commissioner of taxation and finance a [~~special revenue~~]
50 fund to be known as the Pine Barrens fund.

51 § 18. Subdivision 1 of section 97-oo of the state finance law, as
52 added by chapter 608 of the laws of 1993, is amended to read as follows:

53 1. There is hereby established in the joint custody of the state comp-
54 troller and the commissioner of taxation and finance a [~~special revenue~~]
55 fund to be known as the "clean air fund" which shall consist of an
56 "operating permit program account" and a "mobile source account".

1 § 19. Subdivision 1 of section 97-bb of the state finance law, as
2 added by chapter 62 of the laws of 1989, is amended to read as follows:

3 1. There is hereby established in the joint custody of the state comp-
4 troller and the commissioner of the department of taxation and finance a
5 [~~special revenue~~] fund to be known as the "criminal justice improvement
6 account".

7 § 20. Subdivision 1 of section 97-mm of the state finance law, as
8 added by section 387 of chapter 55 of the laws of 1992, is amended to
9 read as follows:

10 1. There is hereby established in the joint custody of the state comp-
11 troller and the commissioner of taxation and finance a [~~miscellaneous~~
12 ~~special revenue~~] fund to be known as the "state police motor vehicle law
13 enforcement account".

14 § 21. Subdivision 1 of section 97-oo of the state finance law, as
15 added by chapter 554 of the laws of 1993, is amended to read as follows:

16 1. There is hereby established in the joint custody of the state comp-
17 troller and the commissioner of taxation and finance a [~~special revenue~~]
18 fund to be known as the biodiversity stewardship and research fund which
19 shall consist of a state land biodiversity stewardship account and a
20 biodiversity research account.

21 § 22. Subdivision 1 of section 97-qq of the state finance law, as
22 added by section 37 of part E of chapter 58 of the laws of 1998, is
23 amended to read as follows:

24 1. There is hereby established in the joint custody of the state comp-
25 troller and the commissioner of taxation and finance a [~~special revenue~~]
26 fund to be known as the "New York state wireless telephone emergency
27 service account".

28 § 23. Subdivision 1 of section 97-ddd of the state finance law, as
29 added by chapter 432 of the laws of 1997, is amended to read as follows:

30 1. There is hereby established in the joint custody of the state comp-
31 troller and the commissioner of taxation and finance a [~~special revenue~~]
32 fund to be known as the "drinking water program management and adminis-
33 tration fund".

34 § 24. Subdivision 1 of section 97-eee of the state finance law, as
35 added by chapter 432 of the laws of 1997, is amended to read as follows:

36 1. There is hereby established in the joint custody of the state comp-
37 troller and the commissioner of taxation and finance a [~~special revenue~~]
38 fund to be known as the "clean water/clean air implementation fund."

39 § 25. Subdivision 1 of section 97-lll of the state finance law, as
40 added by section 88 of part A of chapter 436 of the laws of 1997, is
41 amended to read as follows:

42 1. There is hereby established in the joint custody of the state
43 comptroller and the commissioner of the department of taxation and
44 finance a [~~special revenue~~] fund to be known as the vocational rehabili-
45 tation fund.

46 § 26. Subdivision 1 of section 99-d of the state finance law, as added
47 by chapter 309 of the laws of 1996, is amended to read as follows:

48 1. There is hereby established in the joint custody of the state comp-
49 troller and the commissioner of taxation and finance an account [~~in the~~
50 ~~miscellaneous special revenue fund~~] to be known as the city university
51 stabilization account.

52 § 27. Subdivision 1 of section 99-f of the state finance law, as
53 amended by chapter 612 of the laws of 1999, is amended to read as
54 follows:

1 1. There is hereby established in the joint custody of the state comp-
 2 troller and the commissioner of taxation and finance a [~~special revenue~~]
 3 fund to be known as the "spinal cord injury research trust fund".

4 § 28. Subdivision 1 of section 97-vvv of the state finance law, as
 5 added by section 65-a of part A of chapter 60 of the laws of 2000, is
 6 amended to read as follows:

7 1. There is hereby established in the [~~sole~~] joint custody of the
 8 comptroller and the commissioner of taxation and finance a [~~special~~]
 9 fund, to be known as the "universal prekindergarten reserve fund".

10 § 29. Subdivision 1 of section 97-www of the state finance law, as
 11 added by chapter 416 of the laws of 2000, is amended to read as follows:

12 1. There is hereby established in the joint custody of the state comp-
 13 troller and the commissioner of taxation and finance a [~~special revenue~~]
 14 fund to be known as the "quality child care and protection fund".

15 § 30. Subdivision 1 of section 98-c of the state finance law, as added
 16 by section 19 of part J of chapter 62 of the laws of 2003, is amended to
 17 read as follows:

18 1. There is hereby established in the joint custody of the state comp-
 19 troller and the commissioner of the department of taxation and finance a
 20 [~~special revenue~~] fund to be known as the legal services assistance
 21 fund.

22 § 31. Subdivision 7 of section 92-z of the state finance law is
 23 REPEALED.

24 § 32. Section 85 of the state finance law is REPEALED.

25 § 33. Section 97-nn of the state finance law, as amended by chapter
 26 138 of the laws of 1998, subdivisions 1 and 2 as amended by section 1 of
 27 part K1 of chapter 62 of the laws of 2003, is amended to read as
 28 follows:

29 § 97-nn. "I love NY waterways" [~~boating safety~~] fund. 1. There is
 30 hereby established in the joint custody of the commissioner of [~~parks,~~
 31 ~~recreation and historic preservation~~] taxation and finance and the state
 32 comptroller a special fund to be known as the "I love NY waterways"
 33 [~~boating safety~~] fund. [~~The moneys in such fund~~]

34 2. The "I love NY waterways" fund shall consist of two accounts: (a)
 35 the "I love NY waterways" boating safety account; and (b) the "I love NY
 36 waterways" vessel access account. Moneys in each account shall be kept
 37 separate and not commingled with any other moneys of the state.

38 3. The "I love NY waterways" boating safety account shall consist of
 39 the revenues required to be deposited pursuant to the provisions of
 40 sections seventy-eight and two hundred one of the navigation law, and
 41 all other moneys credited or transferred thereto from any other fund or
 42 source pursuant to law and shall be available [~~upon appropriation to the~~
 43 ~~office of parks, recreation and historic preservation for: (a)] for the
 44 administration and enforcement of the boating safety program including
 45 payments to counties for expenditures incurred in connection with such
 46 county's waterway boating safety program pursuant to section seventy-
 47 nine-b of the navigation law, including costs and expenses incidental
 48 and appurtenant thereto[~~and~~~~

49 ~~(b) the creation, enhancement or maintenance of state or municipal~~
 50 ~~facilities or services to provide boating access to the waters of the~~
 51 ~~state, provided that the state share of the cost of any project for the~~
 52 ~~creation, enhancement or maintenance of municipal facilities or services~~
 53 ~~shall not exceed fifty percent of such cost].~~

54 [2] 4. The "I love NY waterways" [~~boating safety fund~~] vessel access
 55 account shall consist of[~~(a) the revenues required to be deposited~~
 56 ~~therein pursuant to the provisions of sections seventy-eight and two~~

1 ~~hundred one of the navigation law, and all other moneys credited or~~
2 ~~transferred thereto from any other fund or source pursuant to law; and~~
3 ~~(b) the vessel access subaccount consisting of]~~ the revenues derived
4 from the vessel access surcharge collected upon the registration of
5 vessels pursuant to section twenty-two hundred fifty-one of the vehicle
6 and traffic law and shall be available for the creation, enhancement or
7 maintenance of state or municipal facilities or services to provide
8 boating access to the waters of the state, provided that the state share
9 of the cost of any project for the creation, enhancement or maintenance
10 of municipal facilities or services shall not exceed fifty percent of
11 such cost.

12 [~~3]~~ 5. The moneys in such fund shall be paid out as appropriated by
13 the legislature. No moneys in the "I love NY waterways" [~~boating safety~~]
14 fund shall be paid except upon the audit and warrant of the state comp-
15 troller on vouchers certified by the commissioner of parks, recreation
16 and historic preservation.

17 § 34. This act shall take effect immediately.

STATE OF NEW YORK

S. 6856-A - A. 9970

Cal. No. 335

IN SENATE

January 31, 2008

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to authorize the county of Washington to offer an optional twenty-five year retirement plan to deputy sheriffs Gregory Danio, Kristen Frasier, Scott McFarren and Robert Sullivan

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the county of Washington, 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 employed by such county, is hereby authorized to make participation in
7 such plan available to Gregory Danio, Kristen Frasier, Scott McFarren
8 and Robert Sullivan, deputy sheriffs employed by the county of Washing-
9 ton, who, for reasons not ascribable to their own negligence failed to
10 make timely application to participate in such optional twenty-five year
11 retirement plan. The county of Washington may so elect by filing with
12 the state comptroller, on or before December 31, 2008, a resolution of
13 the Washington county board of supervisors together with certification
14 that such deputy sheriffs did not bar themselves from participation in
15 such retirement plan as a result of their own negligence. Thereafter,
16 such deputy sheriffs may elect to be covered by the provisions of
17 section 551 of the retirement and social security law, and shall be
18 entitled to the full rights and benefits associated with coverage under
19 such section, by filing a request to that effect with the state comp-
20 troller on or before June 30, 2009.

21 § 2. All past service costs associated with implementing the
22 provisions of this act shall be borne by the county of Washington.

23 § 3. This act shall take effect immediately.

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

LBD14635-03-8

FISCAL NOTE.-- This bill will reopen the provisions of Section 551 of the Retirement and Social Security Law for four law enforcement deputy sheriffs with Washington County.

If this bill were enacted, we anticipate that there will be an increase of approximately \$5,400 in the annual contributions of Washington County.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$16,000 which would be borne by Washington County as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2009.

This estimate, dated January 29, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-143, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

S. 7920 - A. 11270

IN SENATE

April 28, 2008

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

AN ACT to authorize the town of Saugerties, in the county of Ulster, to offer an optional twenty year retirement plan to police officers Christopher Helsmoortel and Kenneth Swart

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the town of Saugerties, in the county of Ulster, a participating employ-
3 er in the New York state and local police and fire retirement system,
4 which previously elected to offer the optional twenty year retirement
5 plan, established pursuant to section 384-d of the retirement and social
6 security law, to police officers employed by such town, is hereby
7 authorized to make participation in such plan available to Christopher
8 Helsmoortel and Kenneth Swart, police officers employed by the town of
9 Saugerties, who, for reasons not ascribable to their own negligence
10 failed to make a timely application to participate in such optional
11 twenty year retirement plan. The town of Saugerties may so elect by
12 filing with the state comptroller, on or before December 31, 2008, a
13 resolution of its town board together with certification that such
14 police officers did not bar themselves from participation in such
15 retirement plan as a result of their own negligence. Thereafter, such
16 police officers may elect to be covered by the provisions of section
17 384-d of the retirement and social security law, and shall be entitled
18 to the full rights and benefits associated with coverage under such
19 section, by filing a request to that effect with the state comptroller
20 on or before June 30, 2009.

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

23 § 3. This act shall take effect immediately.

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

This bill will allow Officers Kenneth Swart and Christopher Helsmoortel of the Town of Saugerties police to become covered by the provisions of Section 384-d of the Retirement and Social Security Law.

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

LBD16158-02-8

If this bill were enacted, we anticipate that there will be an increase of approximately \$6,100 in the annual contributions of the Town of Saugerties for the fiscal year ending March 31, 2009.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$55,200 which would be borne by the Town of Saugerties as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2009.

This estimate, dated April 25, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-233, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

APPROVAL MEMORANDUM - No. 34 Chapter 585

MEMORANDUM filed with Assembly Bill Number 10252-A, entitled:

"AN ACT to amend the retirement and social security law, in relation to the mandatory retirement age of police officers and fire-fighters who have elected to contribute to the New York state policemen's and firemen's retirement system"

APPROVED

Outside of New York City, most police officers participate in the pension plan set forth under Retirement and Social Security Law Section 384-d. Under this plan, an officer must retire at age 62 or transfer to a different retirement plan that would require more years of work to receive a comparable benefit. As a result, for almost all such officers, 62 has become the de facto retirement age unless a lower mandatory age is provided for by law for a specific locality.

This bill would raise the age at which an officer can participate in a Section 384-d plan to 65, provided that an officer over the age of 62 is "capable of performing the duties" of the position. I am highly sympathetic to the policy that underlies this bill. Older workers have much to contribute. They have years of experience and training, and the State and localities should be wary before compelling them to leave public service prematurely. Further, while it is important to make certain that officers are physically fit to perform their jobs, advances in medical technology mean that many individuals can perform demanding tasks at a later age than was once the case. For these reasons, I approve this legislation.

Nonetheless, several concerns have been raised about this bill by local governments and advocacy groups, and they warrant serious consideration. After a careful review, however, I have determined that these concerns do not warrant disapproval of this bill.

First, some have characterized this bill as a "pension enhancement." I do not believe that is an accurate characterization. Undoubtedly, officers who work longer will be able to accrue more pension credits, and thus receive higher benefits. Those same officers, however, will also need to forego their pensions during the years they remain on the force, resulting in a savings to the pension system. Thus, the fiscal note to the bill indicates that it will not require added pension contributions by localities. Further, the pension system has graciously provided data on those officers who presently continue to work past the age of 60, which indicates that the number of individuals likely to be impacted by this bill is quite limited. I am very concerned in this time of extreme fiscal constraint to avoid placing additional financial burdens on localities, but I do not believe that this bill will create such burdens.

Second, a concern has been raised that this bill will allow officers to work two twenty-year stints for different police forces to thereby receive two separate pensions. I am grateful to those who are exploring

these issues. Since pension benefits are constitutionally protected, the State must be vigilant as to potential unintended impacts on the pension system. Nonetheless, after careful consideration of this complex question, I have concluded that this bill will not have this result. Section

384-d does not grant any additional benefit when an officer accrues 20 years of service. Thus, under present law an officer can already take a

second pension under this section; the bill does not add to that. I note that the pension system is unaware of any individual who has actually done that. That is because, for a variety of reasons, there is a significant financial advantage to a public employee combining pension credits from different employers, so as to receive a single, higher pension benefit. In any event, I believe that this particular fear is not justified.

Third, local governments express the legitimate concern that disabled officers, who receive full salary under General Municipal Law Section 207-c yet are not able to carry out the duties of their position, will be able to remain on a police force for three additional years under this bill. Last year, my predecessor vetoed a similar bill for just this reason. As noted above, however, the sponsors have recognized this issue, and have added language to address it.

Finally, I note that this bill would leave in place any mandatory retirement age that a locality may have under a different statute, thus preserving local autonomy and prerogatives. This is different from another bill I vetoed today (A.10508/S.7332), which raised the mandatory retirement age for every police officer in the State to 65. That bill also did not address the Section 207-c concerns noted above. As that veto indicates, I believe any effort to allow officers to work longer, even if warranted by the important policy considerations I have described, must be carefully scrutinized for unintended consequences and costs. After such a careful review, I have concluded that this bill is worthy of enactment.

The bill is approved.

(signed) DAVID A. PATERSON

STATE OF NEW YORK

A. 10252-A - S. 7990

IN ASSEMBLY

March 12, 2008

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

AN ACT to amend the retirement and social security law, in relation to the mandatory retirement age of police officers and firefighters who have elected to contribute to the New York state policemen's and firemen's retirement system

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

1 Section 1. Subdivision i of section 384-d of the retirement and social
2 security law, as added by chapter 1064 of the laws of 1968, is amended
3 to read as follows:
4 i. Every member contributing on the basis of this section shall be
5 separated from the service on the last day of the calendar month next
6 succeeding the calendar month in which he or she attains age [~~sixty-two~~
7 sixty-five, provided, however, that such a member who attained the age
8 of [~~sixty-two~~ sixty-five before his or her employer elected to make the
9 benefits provided herein available to him or her, or who attains the age
10 of [~~sixty-two~~ sixty-five within one month after his or her employer
11 makes such benefits available, to be eligible for a pension computed in
12 accordance with the provisions of subdivision e of this section, shall
13 be separated from the service within three months after his or her
14 employer makes such benefits available, or on or before December thir-
15 ty-first, nineteen hundred sixty-eight, whichever shall last occur,
16 provided further, however, to be eligible to remain on payroll under
17 this section after attaining the age of sixty-two, such members must be
18 capable of performing the duties of their position.
19 § 2. This act shall take effect immediately.

FISCAL NOTE.--This bill would allow members covered under Sections 384-d and 384-e of the Retirement and Social Security Law to accrue additional service credit and salary increases from age 62 through age 65. In order to be eligible to remain on the payroll until age 65, they must be performing the full duties of their position.

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

LBD15145-04-8

If this bill is enacted, there would be additional benefits for certain members who remain employed beyond age 62. However, if some members delay retirement due to enactment of this bill, we would not anticipate that there would be an increase in the annual contribution rates as a percentage of payroll of the participating employers in the New York State and Local Police and Fire Retirement System.

This estimate, dated February 26, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-184, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

S. 7002-A A. 11196-A

IN SENATE

February 25, 2008

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize the village of Lloyd Harbor to offer an optional twenty year retirement plan to a certain police officer employed by such village

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the village of Lloyd Harbor, in the county of Suffolk, 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 Carl
8 R. Kieninger, a police officer employed by the village of Lloyd Harbor,
9 who, for reasons not ascribable to his own negligence, failed to make a
10 timely application to participate in such optional twenty year retire-
11 ment plan. The village of Lloyd Harbor may so elect by filing with the
12 state comptroller, on or before December 31, 2008, a resolution of its
13 local legislative body together with certification that such police
14 officer did not bar himself from participation in such retirement plan
15 as a result of his own negligence. Thereafter, such police officer may
16 elect to be covered by the provisions of section 384-d of the retirement
17 and social security law, and shall be entitled to the full rights and
18 benefits associated with coverage under such section, by filing a
19 request to that effect with the state comptroller on or before June 30,
20 2009.

21 § 2. All employer costs associated with implementing the provisions of
22 this act shall be borne by the village of Lloyd Harbor over a period of
23 5 years.

24 § 3. This act shall take effect immediately.

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

LBD15196-05-8

FISCAL NOTE.--This bill will allow Officer Carl R. Kieninger of the Village of Lloyd Harbor police to become covered by the provisions of Section 384-d of the Retirement and Social Security Law.

If this bill were enacted, we anticipate that there will be an increase of approximately \$5,100 in the annual contributions of the Village of Lloyd Harbor for the fiscal year ending March 31, 2009.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$54,400 which will be borne by the Village of Lloyd Harbor over a period of five years. The cost for the first year, including interest, will be approximately \$12,600. This estimate is based on the assumption that the first payment will be made on February 1, 2009.

This estimate, dated June 10, 2008 and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-290, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

APPROVAL MEMORANDUM - No. 46 Chapter 640

MEMORANDUM filed with Senate Bill Number 8699, entitled:

"AN ACT to amend the education law and the retirement and social security law, in relation to professional services providers"

APPROVED

During the past year, an investigation by the New York State Attorney General revealed significant abuses in the New York State pension system. Such abuses included independent contractors participating in our employee pension system, and recently retired school district employees returning to their same positions and receiving both pension and salary. This bill was introduced in response to the findings of the Attorney General's investigation, and institutes a wide variety of important reforms to the public pension system. Among other provisions, it forbids attorneys from acting both as employees and independent contractors of school districts and boards of cooperative education; fosters greater disclosure through additional reporting requirements; creates additional civil and criminal enforcement remedies; and clarifies the requirements that must be met before a public employer may hire an individual who continues to receive a New York public pension. I am grateful to the Attorney General for having brought these issues to light, and to the sponsors for having so quickly advanced a legislative response. I am proud to be a part of this reform effort, and to sign this legislation into law.

One section of the bill amends Retirement and Social Security Law (RSSL) Section 211, which allows state agencies and local governments to obtain permission (via a so-called "211 waiver") to employ an individual while that individual also receives a New York State or local government pension. This provision has played an important role in New York's workforce management, particularly in the law enforcement arena, although it is also crucial for filling other jobs, such as nurses and school bus drivers. Some parties have sought assurance that the bill would allow for continued use of 211 waivers when necessary. I believe the sponsors have been careful to ensure that it does, while at the same time addressing the abuses found in the investigation.

The import of this portion of the legislation is clear and unmistakable: the public must be protected from improper "double-dipping," especially in these trying economic times, while employers must perform their governmental functions using the best available talent, giving careful thought and consideration to all factors in hiring. I trust that the Civil Service Commission and other officers, commissions and boards authorized to approve waivers will fulfill their obligations to see that the public is served by the implementation of this legislation and that the agencies of government continue to have the tools necessary to protect the public interest.

Already under present law, 211 waivers may only be obtained under limited circumstances. They may only be granted for periods of up to two years, and the prospective employer must show that qualified, non-retired persons are not readily available for recruitment. Some have expressed concerns, however, that the hiring of retirees under a 211 waiver, when their services are legitimately needed, will be unduly restrained by a provision in the bill that would bar a retiree from

"return(ing) to work in the same or similar position for a period of one year following retirement." Here, the specific abuse uncovered in the Attorney General's investigation was that employees retired and then immediately returned to a position with essentially the same functions. When this occurs, the employee is able to have his or her cake and eat it - to retire and continue in the same capacity as a full time employee, with the taxpayers footing the bills for both pension and compensation payments.

I strongly share the goal of the sponsors to end this practice. This provision need not, however - and should not - be read to bar an employer from hiring a recent retiree under a 211 waiver merely because the same types of skills are required for the new position and the work the individual previously performed. For example, nothing in this language would bar a recently retired police officer from receiving a 211 waiver to work as an investigator in a district attorney's office. Indeed, the productive use of the investigative skills possessed by such an officer is the epitome of what section 211 seeks to achieve.

Other concerns have been raised about the bill's requirements that a prospective employer seeking a 211 waiver prepare a "detailed recruitment plan to fill such vacancy on a permanent basis," and (unless the waiver is needed to meet a sudden or unexpected circumstance), attest that it has "undertaken extensive recruitment efforts to fill such vacancy and as a result thereof, has determined that there are no available non-retired persons qualified to perform the duties of such position." Again, I think this is a salutary provision requiring employers to fully and openly explain the need for such waivers, but it would not prohibit appropriate 211 waivers, such as those used currently by law enforcement bodies. Waivers issued under RSSL Section 211 have always been temporary, and the employing authority at issue must look for qualified, non-retired candidates during their pendency. The bill requires that such recruitment efforts be set forth in a plan. It does not mandate the contents of the plan, nor does it require that recruitment efforts be undertaken even when it is clear they would be fruitless. Rather, it requires a reasonable effort to find non-retired personnel, albeit with greater specificity as to the requirement that there be prior disclosure of the intended recruitment efforts.

As to the requirement that there be "no available non-retired persons qualified to perform the duties of such position," the key here is that the available alternative to retirees must be "qualified." When there are qualified active employees available, there should be no need for a 211 waiver. In contrast, when an extensive law enforcement background is needed to carry out the responsibilities of a position, and the only available individuals that possess those skills are retirees, the prospective employer will be eligible under this law to hire them.

Finally, I note that the bill contains a grandfather clause which will ensure that agencies currently hiring numerous individuals under 211 waivers will not face extensive turnover of their experienced employees. The amendments to RSSL Section 211 do not apply to individuals "to whom waivers were granted prior to the effective date of this act." Thus, any individual for whom a 211 waiver is in effect upon enactment will remain subject to the previous Section 211 standards. The bill also wisely provides for the issuance of 211 waivers in certain exigent circumstances, as an alternative to the standard 211 process set forth in the bill.

I urge the New York State Civil Service Commission and all officers, commissions and boards authorized to approve waivers to issue regulations and other guidance consistent with this message.

As the above makes clear, the crafters of this legislation have taken on a complex and difficult issue. While I fully respect the concerns expressed about this bill, I am confident that this bill allows the continued use of 211 waivers where warranted, while addressing the very real problems in the pension system unearthed by the Attorney General's investigation.

The bill is approved.

(signed) DAVID A. PATERSON

STATE OF NEW YORK

S. 8699 - A. 11743

IN SENATE

June 20, 2008

Introduced by Sens. SKELOS, LAVALLE -- (at request of the Attorney General) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law and the retirement and social security law, in relation to professional services providers

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

1 Section 1. Article 41 of the education law is amended by adding a new
2 part 3 to read as follows:

3 PART III

4 PROFESSIONAL SERVICES PROVIDERS

5 Section 2050. Definition.

6 2051. Charging for professional services.

7 2052. Enforcement.

8 2053. Reports regarding lawyers.

9 2054. Non-exclusivity of rights or remedies.

10 § 2050. Definition. As used in this part, a "lawyer" shall mean an
11 attorney or counselor governed by article fifteen of the judiciary law,
12 who receives remuneration or other compensation from a school district
13 or board of cooperative educational services in exchange for legal
14 services provided to such district or board.

15 § 2051. Charging for professional services. 1. A lawyer shall not
16 simultaneously be an independent contractor and an employee of a school
17 district or board of cooperative educational services for the purpose of
18 providing legal services to such school district or board of cooperative
19 educational services.

20 2. A lawyer who is not an employee of a school district or board of
21 cooperative educational services, shall not seek to be or be considered,
22 treated or otherwise reported by the school district, or board of coop-
23 erative educational services as an employee thereof for purposes of
24 compensation, remuneration, health insurance, pension and all employ-
25 ment-related benefits and emoluments associated therewith.

26 § 2052. Enforcement. 1. Any lawyer who violates section two thousand
27 fifty-one of this part, shall be liable for a civil penalty not to

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

LBD17129-12-8

1 exceed three times the charges and fees for contracted services or sala-
 2 ry received by the lawyer and paid by such school district or board of
 3 cooperative educational services for legal services, and in addition,
 4 may be enjoined from continuing such violation. Civil penalties and
 5 injunctive relief provided in this section shall be recoverable in an
 6 action brought by the attorney general.

7 2. Any person who shall knowingly:

8 (a) violate subdivision two of section two thousand fifty-one of this
 9 part;

10 (b) make a false statement of material fact; or

11 (c) falsify or permit to be falsified any record or records of the
 12 retirement system established in this chapter
 13 in an attempt to defraud the retirement system established in this chap-
 14 ter as a result of such act for the purpose of obtaining a credit
 15 towards pension benefits, or a benefit or payment in excess of one thou-
 16 sand dollars from such retirement system for a professional services
 17 provider to which such professional services provider would not be enti-
 18 tled, shall be guilty of a class E felony.

19 § 2053. Reports regarding lawyers. Every school district and board of
 20 cooperative educational services shall, on or before the forty-fifth day
 21 after the commencement of its fiscal year, file with the department, the
 22 comptroller and the attorney general a report specifying: (a) all
 23 lawyers who provide legal services to such district or board; (b) wheth-
 24 er such district or board hired such lawyers as employees; and (c) all
 25 remuneration and compensation paid for legal services.

26 § 2054. Non-exclusivity of rights or remedies. Nothing in this part
 27 shall be construed to limit, in any matter, any rights or remedies
 28 otherwise available under law against any party or to any person or
 29 entity, including, but not limited to, the attorney general or the comp-
 30 troller of the state of New York.

31 § 2. Subdivision 3 of section 2601-a of the education law, as amended
 32 by section 10-c of part L of chapter 405 of the laws of 1999, is amended
 33 to read as follows:

34 3. The board of education shall prepare a proposed school district
 35 budget for the ensuing year in accordance with the provisions of section
 36 seventeen hundred sixteen of this chapter, including all provisions
 37 relating to required notices and appendices to the statement of expendi-
 38 tures. No board of education shall incur a school district liability
 39 except as authorized by the provisions of section seventeen hundred
 40 eighteen of this chapter. Such proposed budget shall be presented in
 41 three components: a program component, a capital component and an admin-
 42 istrative component which shall be separately delineated in accordance
 43 with regulations of the commissioner after consultation with local
 44 school district officials. The administrative component shall include,
 45 but need not be limited to, office and central administrative expenses,
 46 traveling expenses and ~~salaries and benefits of all certified school~~
 47 ~~administrators and supervisors who spend a majority of their time~~
 48 ~~performing administrative or supervisory duties] all compensation, sala-~~
 49 ~~ries and benefits of all school administrators and supervisors, includ-~~
 50 ~~ing business administrators, superintendents of schools and deputy,~~
 51 ~~assistant, associate or other superintendents under all existing employ-~~
 52 ~~ment contracts or collective bargaining agreements, any and all expendi-~~
 53 ~~tures associated with the operation of the board of education, the~~
 54 ~~office of the superintendent of schools, general administration, the~~
 55 ~~school business office, consulting costs not directly related to direct~~
 56 ~~student services and programs, planning and all other administrative~~

1 activities. The program component shall include, but need not be limited
2 to, all program expenditures of the school district, including the sala-
3 ries and benefits of teachers and any school administrators or supervi-
4 sors who spend a majority of their time performing teaching duties, and
5 all transportation operating expenses. The capital component shall
6 include, but need not be limited to, all transportation capital, debt
7 service, and lease expenditures; costs resulting from judgments in tax
8 certiorari proceedings or the payment of awards from court judgments,
9 administrative orders or settled or compromised claims; and all facili-
10 ties costs of the school district, including facilities lease expendi-
11 tures, the annual debt service and total debt for all facilities
12 financed by bonds and notes of the school district, and the costs of
13 construction, acquisition, reconstruction, rehabilitation or improvement
14 of school buildings, provided that such budget shall include a rental,
15 operations and maintenance section that includes base rent costs, total
16 rent costs, operation and maintenance charges, cost per square foot for
17 each facility leased by the school district, and any and all expendi-
18 tures associated with custodial salaries and benefits, service
19 contracts, supplies, utilities, and maintenance and repairs of school
20 facilities. For the purposes of the development of a budget for the
21 nineteen hundred ninety-seven--ninety-eight school year, the board of
22 education shall separate its program, capital and administrative costs
23 for the nineteen hundred ninety-six--ninety-seven school year in the
24 manner as if the budget for such year had been presented in three compo-
25 nents. Except as provided in subdivision four of this section, nothing
26 in this section shall preclude the board, in its discretion, from
27 submitting additional items of expenditure to the voters for approval as
28 separate propositions or the voters from submitting propositions pursu-
29 ant to sections two thousand eight and two thousand thirty-five of this
30 chapter.

31 § 3. The retirement and social security law is amended by adding a new
32 section 217 to read as follows:

33 **§ 217. Reporting requirements; school salary transparency and disclo-**
34 **sure. 1. A school district and a board of cooperative educational**
35 **services shall report all money earned by a retired person in their**
36 **employ that is in excess of the earnings limitation outlined in section**
37 **two hundred twelve of this article to the retirement system administered**
38 **by the state or any of its political subdivisions from whom such retired**
39 **person is collecting their retirement allowance.**

40 **2. A school district or a board of cooperative educational services**
41 **employing a retired person who is eligible to collect or is already**
42 **collecting a retirement allowance from a retirement system administered**
43 **by the state or any of its political subdivisions shall report on an**
44 **annual basis to the retirement system paying such retirement allowance**
45 **to such retired person and to the state comptroller. This report shall**
46 **consist of the re-employed retiree's name, date of birth, place of**
47 **employment, current position and all earnings.**

48 § 4. Subdivision 4 of section 1608 of the education law, as amended by
49 section 5 of part A of chapter 436 of the laws of 1997, is amended to
50 read as follows:

51 4. Commencing with the proposed budget for the nineteen hundred nine-
52 ty-eight--ninety-nine school year, such proposed budget shall be
53 presented in three components: a program component, a capital component
54 and an administrative component which shall be separately delineated in
55 accordance with regulations of the commissioner after consultation with
56 local school district officials. The administrative component shall

1 include, but need not be limited to, office and central administrative
 2 expenses, traveling expenses and [~~salaries and benefits of all certified~~
 3 ~~school administrators and supervisors who spend a majority of their time~~
 4 ~~performing administrative or supervisory duties,~~] all compensation,
 5 salaries and benefits of all school administrators and supervisors,
 6 including business administrators, superintendents of schools and depu-
 7 ty, assistant, associate or other superintendents under all existing
 8 employment contracts or collective bargaining agreements any and all
 9 expenditures associated with the operation of the office of trustee or
 10 board of trustees, the office of the superintendent of schools, general
 11 administration, the school business office, consulting costs not direct-
 12 ly related to direct student services and programs, planning and all
 13 other administrative activities. The program component shall include,
 14 but need not be limited to, all program expenditures of the school
 15 district, including the salaries and benefits of teachers and any school
 16 administrators or supervisors who spend a majority of their time
 17 performing teaching duties, and all transportation operating expenses.
 18 The capital component shall include, but need not be limited to, all
 19 transportation capital, debt service, and lease expenditures; costs
 20 resulting from judgments in tax certiorari proceedings or the payment of
 21 awards from court judgments, administrative orders or settled or compro-
 22 mised claims; and all facilities costs of the school district, including
 23 facilities lease expenditures, the annual debt service and total debt
 24 for all facilities financed by bonds and notes of the school district,
 25 and the costs of construction, acquisition, reconstruction, rehabili-
 26 tation or improvement of school buildings, provided that such budget
 27 shall include a rental, operations and maintenance section that includes
 28 base rent costs, total rent costs, operation and maintenance charges,
 29 cost per square foot for each facility leased by the school district,
 30 and any and all expenditures associated with custodial salaries and
 31 benefits, service contracts, supplies, utilities, and maintenance and
 32 repairs of school facilities. For the purposes of the development of a
 33 budget for the nineteen hundred ninety-eight--ninety-nine school year,
 34 the trustee or board of trustees shall separate the district's program,
 35 capital and administrative costs for the nineteen hundred ninety-seven-
 36 -ninety-eight school year in the manner as if the budget for such year
 37 had been presented in three components.

38 § 5. Subdivision 4 of section 1716 of the education law, as amended by
 39 section 7 of part A of chapter 436 of the laws of 1997, is amended to
 40 read as follows:

41 4. Commencing with the proposed budget for the nineteen hundred nine-
 42 ty-eight--ninety-nine school year, such proposed budget shall be
 43 presented in three components: a program component, a capital component
 44 and an administrative component which shall be separately delineated in
 45 accordance with regulations of the commissioner after consultation with
 46 local school district officials. The administrative component shall
 47 include, but need not be limited to, office and central administrative
 48 expenses, traveling expenses and [~~salaries and benefits of all certified~~
 49 ~~school administrators and supervisors who spend a majority of their time~~
 50 ~~performing administrative or supervisory duties]~~ all compensation, sala-
 51 ries and benefits of all school administrators and supervisors, includ-
 52 ing business administrators, superintendents of schools and deputy,
 53 assistant, associate or other superintendents under all existing employ-
 54 ment contracts or collective bargaining agreements, any and all expendi-
 55 tures associated with the operation of the board of education, the
 56 office of the superintendent of schools, general administration, the

1 school business office, consulting costs not directly related to direct
2 student services and programs, planning and all other administrative
3 activities. The program component shall include, but need not be limited
4 to, all program expenditures of the school district, including the sala-
5 ries and benefits of teachers and any school administrators or supervi-
6 sors who spend a majority of their time performing teaching duties, and
7 all transportation operating expenses. The capital component shall
8 include, but need not be limited to, all transportation capital, debt
9 service, and lease expenditures; costs resulting from judgments in tax
10 certiorari proceedings or the payment of awards from court judgments,
11 administrative orders or settled or compromised claims; and all facili-
12 ties costs of the school district, including facilities lease expendi-
13 tures, the annual debt service and total debt for all facilities
14 financed by bonds and notes of the school district, and the costs of
15 construction, acquisition, reconstruction, rehabilitation or improvement
16 of school buildings, provided that such budget shall include a rental,
17 operations and maintenance section that includes base rent costs, total
18 rent costs, operation and maintenance charges, cost per square foot for
19 each facility leased by the school district, and any and all expendi-
20 tures associated with custodial salaries and benefits, service
21 contracts, supplies, utilities, and maintenance and repairs of school
22 facilities. For the purposes of the development of a budget for the
23 nineteen hundred ninety-eight--ninety-nine school year, the board of
24 education shall separate the district's program, capital and administra-
25 tive costs for the nineteen hundred ninety-seven--ninety-eight school
26 year in the manner as if the budget for such year had been presented in
27 three components.

28 § 6. Subdivision 2 of section 1716 of the education law, as amended by
29 section 7 of part A of chapter 436 of the laws of 1997, is amended to
30 read as follows:

31 2. Such statement shall be completed at least seven days before the
32 budget hearing at which it is to be presented and copies thereof shall
33 be prepared and made available, upon request **and at the school district**
34 **offices, at any public library or free association library within the**
35 **district and on the school district's internet website, if one exists,**
36 to residents within the district during the period of fourteen days
37 immediately preceding the annual meeting and election or special
38 district meeting at which the budget vote will occur and at such meeting
39 or hearing. The board shall also as a part of the notice required by
40 section two thousand four of this chapter give notice of the date, time
41 and place of the budget hearing and that a copy of such statement may be
42 obtained by any resident in the district at each schoolhouse in the
43 district in which school is maintained during certain designated hours
44 on each day other than a Saturday, Sunday or holiday during the fourteen
45 days immediately preceding such meeting. The board shall include notice
46 of the availability of such statement at least once during the school
47 year in any district-wide mailing distributed.

48 § 7. Subdivision 2 of section 1608 of the education law, as amended by
49 section 5 of part A of chapter 436 of the laws of 1997, is amended to
50 read as follows:

51 2. Such statement shall be completed at least seven days before the
52 budget hearing at which it is to be presented and copies thereof shall
53 be prepared and made available, upon request **and at the school district**
54 **offices, at any public library or free association library within the**
55 **district and on the school district's internet website, if one exists,**
56 to residents within the district during the period of fourteen days

1 immediately preceding the annual meeting and election or special
 2 district meeting at which the budget vote will occur and at such meeting
 3 or hearing. The board shall also as a part of the notice required by
 4 section two thousand three of this chapter give notice of the date, time
 5 and place of the budget hearing and that a copy of such statement may be
 6 obtained by any resident in the district at each schoolhouse in the
 7 district in which school is maintained during certain designated hours
 8 on each day other than a Saturday, Sunday or holiday during the fourteen
 9 days immediately preceding such meeting. The board shall include notice
 10 of the availability of such statement at least once during the school
 11 year in any district-wide mailing distributed.

12 § 8. Subdivision 1 and paragraph (b) of subdivision 2 of section 211
 13 of the retirement and social security law, subdivision 1 as amended by
 14 chapter 161 of the laws of 1969 and paragraph (b) of subdivision 2 as
 15 amended by chapter 635 of the laws of 1970, are amended to read as
 16 follows:

17 1. Notwithstanding the provisions of sections one hundred one, two
 18 hundred twelve and four hundred one of this chapter or section five
 19 hundred three of the education law, or the provisions of any local law
 20 or charter, a retired person may be employed and earn compensation in a
 21 position or positions in the public service, without any effect on his
 22 or her status as retired and without suspension or diminution of his or
 23 her retirement allowance subject to one of the following: (a) His or her
 24 total compensation in such position or ~~[positions]~~ positions in any
 25 calendar year, including compensation earned under other provisions of
 26 this article, shall not exceed the multiple of five hundred dollars next
 27 higher than the difference between (1) the sum of his or her annual
 28 retirement allowance computed without optional modification plus annual
 29 supplemental retirement payments, if any, and (2) the salary on which
 30 his or her retirement allowance is based or his or her final salary,
 31 whichever is greater; or (b) The position in which he or she is employed
 32 is not a position in the service of a former employer.

33 (b) Such approval may be granted only on the written request of the
 34 prospective employer of such retired person, which request shall state
 35 detailed reasons therefor related to the standards set forth herein, and
 36 on a finding, on evidence satisfactory to the appropriate officer or
 37 authority specified in paragraph (a) of this subdivision,

38 (1) that the retired person is duly qualified, competent and phys-
 39 ically fit for performance of the duties of the position in which he or
 40 she is to be employed and is properly certified where such certification
 41 is required;

42 (2) ~~[that there is need for his services in such position;~~
 43 ~~(3) if] that~~ he or she will earn more than one thousand dollars in one
 44 year, including compensation earned in such position under other
 45 provisions of this article~~[7]~~ that there are not readily available for
 46 recruitment persons qualified to perform the duties of such position;
 47 and (4)];

48 (3) that the prospective employer has prepared a detailed recruitment
 49 plan to fill such vacancy on a permanent basis;

50 (4) that his or her employment is in the best interests of the govern-
 51 ment service; and

52 (5) (i) that there is an urgent need for his or her services in such
 53 position as a result of an unplanned, unpredictable and unexpected
 54 vacancy where sufficient time is not available to recruit a qualified
 55 individual and that such hiring shall be deemed as non-permanent rather
 56 than a final filling of such position; or

1 (ii) that the prospective employer has undertaken extensive recruit-
 2 ment efforts to fill such vacancy and as a result thereof, has deter-
 3 mined that there are no available non-retired persons qualified to
 4 perform the duties of such position.

5 Such approvals may be granted for periods not exceeding two years
 6 each, provided that such person may not return to work in the same or
 7 similar position for a period of one year following retirement. The
 8 authority or officer specified in paragraph (a) of this subdivision,
 9 upon approving employment of a retired person under this section, shall
 10 certify such approval to the retirement system or pension plan from
 11 which such person is receiving a retirement allowance.

12 § 9. Subdivision 1 of section 212 of the retirement and social securi-
 13 ty law, as amended by chapter 474 of the laws of 2002, is amended to
 14 read as follows:

15 1. Notwithstanding the provisions of section one hundred one, two
 16 hundred eleven or four hundred one of this chapter or of section five
 17 hundred three of the education law, or the provisions of any local law
 18 or charter, any retired person may continue as retired and, without
 19 loss, suspension or diminution of his or her retirement allowance, earn
 20 in a position or positions in public service in any calendar year an
 21 amount not exceeding the amount set forth in the table in subdivision
 22 two of this section provided such retired person employed under this
 23 section duly executes and files with the retirement system from which he
 24 or she is receiving a retirement allowance a statement that he elects to
 25 have the provisions of this section apply to him or her. A statement of
 26 election executed and filed pursuant to this section may be withdrawn by
 27 a retired person at any time by a statement similarly executed and
 28 filed. However, there shall be no earning limitations under the
 29 provisions of this section on or after the calendar year in which any
 30 retired person attains age sixty-five. The retirement board of the New
 31 York state teachers' retirement system is authorized to adopt rules and
 32 regulations which would allow retired persons receiving a retirement
 33 allowance from such system to make such statements of earnings from a
 34 position or positions in public service as such board shall determine
 35 necessary to enforce the provisions of this section in lieu of the fore-
 36 going statement of election.

37 § 10. Section 525 of the education law is amended to read as follows:

38 § 525. Protection against fraud. 1. Any person who shall knowingly
 39 make any false statement, or shall falsify or permit to be falsified any
 40 record or records of this retirement system in any attempt to defraud
 41 such system as a result of such act, shall be guilty of a misdemeanor,
 42 and shall be punishable therefor under the laws of the state of New
 43 York.

44 2. Any violation of subdivision one of this section that results in a
 45 member or beneficiary of the retirement system receiving a benefit or
 46 payment in excess of one thousand dollars more than he or she would have
 47 been entitled to shall be a class E felony. Any violation of subdivi-
 48 sion one of this section that results in a member or beneficiary of the
 49 retirement system to receive a benefit or payment in excess of three
 50 thousand dollars more than he or she would have been entitled to shall
 51 be a class D felony.

52 3. Should any change or error in records result in any employee or
 53 beneficiary receiving from the retirement system more or less than he
 54 would have been entitled to receive had the records been correct, then,
 55 on the discovery of any such error, the retirement board shall correct
 56 such error, and, as far as practicable, shall adjust the payments in

1 such a manner that the actuarial equivalent of the benefit to which he
2 was correctly entitled shall be paid.

3 § 11. Section 111 of the retirement and social security law is amended
4 to read as follows:

5 § 111. Protection against fraud. a. Any person who shall:

- 6 1. Knowingly make any false statement, or
- 7 2. Falsify or permit to be falsified any record of the retirement
- 8 system, in any attempt to defraud such system as the result of such act
- 9 shall be guilty of a misdemeanor.

10 **b. Any violation of subdivision a of this section that results in a**
 11 **member or beneficiary of the retirement system receiving a benefit or**
 12 **payment in excess of one thousand dollars more than he or she would have**
 13 **been entitled to shall be a class E felony. Any violation of subdivision**
 14 **a of this section that results in a member or beneficiary of the retire-**
 15 **ment system receiving a benefit or payment in excess of three thousand**
 16 **dollars more than he or she would have been entitled to shall be a class**
 17 **D felony.**

18 **c.** In the event that any change or error in any record of the retire-
 19 ment system causes a member or beneficiary of such system to receive
 20 more or less than he would have been entitled to receive had such record
 21 been correct, the comptroller, upon the discovery of any such change or
 22 error, shall correct such record. As far as practicable, the comptroller
 23 shall adjust payments in such a manner that the actuarial equivalent of
 24 any benefit rightly due shall be paid.

25 § 12. Section 411 of the retirement and social security law, as added
26 by chapter 1000 of the laws of 1966, is amended to read as follows:

27 § 411. Protection against fraud. a. Any person who shall:

- 28 1. Knowingly make any false statement, or
- 29 2. Falsify or permit to be falsified any record of the [~~police-~~
- 30 ~~men's and firemen's]~~ **New York state and local police and fire** retirement
- 31 system, in any attempt to defraud such system as the result of such act
- 32 shall be guilty of a misdemeanor.

33 **b. Any violation of subdivision a of this section that results in a**
 34 **member or beneficiary of the retirement system receiving a benefit or**
 35 **payment in excess of one thousand dollars more than he or she would have**
 36 **been entitled to shall be a class E felony. Any violation of subdivision**
 37 **a of this section that results in a member or beneficiary of the retire-**
 38 **ment system receiving a benefit or payment in excess of three thousand**
 39 **dollars more than he or she would have been entitled to shall be a class**
 40 **D felony.**

41 **c.** In the event that any change or error in any record of the [~~police-~~
 42 ~~men's and firemen's]~~ **New York state and local police and fire** retirement
 43 system causes a member or beneficiary of such system to receive more or
 44 less than he would have been entitled to receive had such record been
 45 correct, the comptroller, upon the discovery of any such change or
 46 error, shall correct such record. As far as practicable, the comp-
 47 troller shall adjust payments in such a manner that the actuarial equiv-
 48 alent of any benefit rightly due shall be paid.

49 § 13. This act shall take effect immediately, provided that sections
50 one through seven of this act shall take effect on the ninetieth day
51 after it shall have become a law; and provided further that section
52 eight of this act shall not apply to individuals to whom waivers were
53 granted prior to the effective date of this act.

SECTION II

VETOED LEGISLATION AFFECTING THE NEW YORK STATE AND LOCAL RETIREMENT SYSTEM



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VETO MESSAGE - No. 35

TO THE SENATE:

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

Senate Bill Number 3215-A entitled:

"AN ACT to amend the retirement and social security law, in relation to the special retirement plan for deputy sheriffs in the county of Nassau"

NOT APPROVED

Retirement and Social Security Law Section 552 allows counties to opt into a special 20-year retirement plan for deputy sheriffs, under which participants may retire after twenty years regardless of age. Such plans are typically reserved for law enforcement personnel, and so section 552 requires the relevant county sheriff to certify that fifty percent of a deputy sheriff's service has been spent in criminal law enforcement before the service may be credited to the plan. Similar certification requirements are present in other special retirement plans, and are the basis for distinguishing participants in those plans from civilian employees.

This bill would exempt one group of employees - Nassau County deputy sheriffs - from this certification requirement, and these employees would all automatically qualify for the retirement credit. The proposal apparently arises out of concerns that members of the unit have not been certified although the bill's supporters argue that these employees have met the statutory criteria. I hope that these concerns receive full and thorough consideration, but I do not believe they are appropriately addressed through legislation, which carves one group out of statutory criteria that are applicable to everyone else. Such an approach will undoubtedly lead to similar requests from other employees that they, too, should escape the certification requirement, and this bill provides no obvious guideposts for determining who should be subject to such a requirement, and who should not. The same defects led Governor Pataki to veto a similar bill (Veto No. 393 of 2006) and the Division of Budget and Governor's Office of Employee Relations to oppose this one. While I respect the concerns of the employees at issue, and honor their service, I do not think piecemeal exceptions to broad-based legislation are the best way to address such local disputes.

The bill is disapproved.

(signed) DAVID A. PATERSON

STATE OF NEW YORK

S.3215-A - A.7697-A

2007-2008 Regular Sessions

IN SENATE

February 28, 2007

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the special retirement plan for deputy sheriffs in the county of Nassau

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

1 Section 1. Section 552 of the retirement and social security law is
2 amended by adding a new subdivision 1 to read as follows:

3 **1. As used in this section, "creditable service" shall also include**
4 **any and all services performed as a deputy sheriff employed by the coun-**
5 **ty of Nassau.**

6 § 2. This act shall take effect immediately.

FISCAL NOTE.--This bill would require that all service performed by Nassau County sheriffs, deputy sheriffs or undersheriffs enrolled in the Sheriff plan be creditable service in such plan.

If this bill is enacted, the certification by the Nassau County Sheriff that the various sheriffs engaged directly in criminal law enforcement activities that aggregate fifty percent of their service would be unnecessary. Currently, all of the various sheriffs in Nassau County are enrolled in an Article 14B Sheriff plan and Nassau County is being annually billed assuming that all of their service is creditable under such plan.

If the Sheriff certifies that the service performed by the various sheriffs is creditable under the plan, there will not be any impact of this legislation. However, if some of the sheriffs' service is not ultimately deemed creditable, when the sheriffs retire they will not be

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

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receiving the full benefits of the sheriff plan even though the Retirement System will have received additional contributions to cover the increased benefits under the Article 14B plan. At that time, the Retirement System will realize an actuarial gain which would be shared by all employers. This bill will eliminate such gain.

This estimate, dated January 9, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-115, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

VETO MESSAGE - No. 72

TO THE SENATE:

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

Senate Bill Number 6703, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

and Senate Bill Number 8429, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

NOT APPROVED

Police officers, firefighters and other public safety employees in this State can receive certain benefits if they are disabled in the line of duty, and their families may claim death benefits if an employee dies as a result of his or her important work. When such disability or death is the result of an "accident," these benefits are augmented significantly. These bills are the latest salvo in a long battle over the appropriate way of determining what benefits should be given an employee that dies of heart disease and, under what circumstances such disease should be deemed the result of an "accident." Present law on this issue varies by title and location. For example, outside New York City, firefighters have a rebuttable presumption that any heart disease they suffer was caused by an accident, while police officers must affirmatively prove that an accident occurred. In New York City, in contrast, no proof of accident is required to obtain a comparable benefit.

These bills are aimed at giving public safety employees across the State parity with their counterparts in New York City by removing the requirement that they prove heart disease arose out of an accident. S.6703 would achieve this result for both death and disability benefits, while S.8429 does so only for disability. While the latter bill imposes a lower cost, the expense of both is significant: S.6703 would require additional annual pension contributions by the State and localities of over \$13 million, while S.8429 would impose costs of over \$4 million per year.

I commend the desire of the sponsors to remove differences in the treatment of employees that seem to have no reason behind them. Nonetheless, these proposals cannot be viewed in isolation from the deep fiscal crisis in which the State now finds itself. However worthy the sponsors' goals, these bills would increase public spending at a time when the State must find extensive reductions in expenditures. This is not the approach the State should be taking.

I also note that, despite the sponsors' valiant efforts to remove inconsistencies from the standards governing such benefits, the potential for claims of unfairness will remain if these bills are enacted. For example, an officer injured while escorting a prisoner might be

judged not to have been injured during an "accident," while an officer disabled as a result of a heart attack in his or her home would automatically meet this standard, and receive a higher benefit. There is no perfect line that can be drawn between "accident" and "line of duty" disability pensions that would not produce troubling results in particular cases. Therefore, my touchstone in considering this legislation under the present climate must simply be the fiscal realities of the State. Those realities do not allow me to endorse these bills.

The bills are disapproved.

(signed) DAVID A. PATERSON

STATE OF NEW YORK

S.6703 - A.10016

IN SENATE

(Prefiled)

January 9, 2008

Introduced by Sens. MORAHAN, FUSCHILLO, HANNON, LANZA, LEIBELL, MALTESE, MARCELLINO, PADAVAN, TRUNZO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

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

- 1 Section 1. Subdivision 2 of section 363-a of the retirement and social
- 2 security law, as amended by chapter 967 of the laws of 1974, is amended
- 3 to read as follows:
- 4 2. Notwithstanding any provision of this chapter or of any general,
- 5 special or local law to the contrary, any condition of impairment of
- 6 health caused by diseases of the heart, resulting in disability or death
- 7 to a policeman, presently employed, and who shall have sustained such
- 8 disability while so employed, shall be presumptive evidence that [~~is~~] it
- 9 was incurred in the performance and discharge of duty and the natural
- 10 and proximate result of an accident, unless the contrary be proved by
- 11 competent evidence.
- 12 § 2. The retirement and social security law is amended by adding a new
- 13 section 809 to read as follows:
- 14 § 809. Effect and rebuttal of certain medical presumptions pertaining
- 15 to diseases of the heart. a. This section shall apply to certain appli-
- 16 cations for disability retirement allowances made by or on behalf of a
- 17 member of the New York state and local employees' retirement system or
- 18 the New York state and local police and fire retirement system and to
- 19 certain applications for death benefits made on account of the death of
- 20 a member of the New York state and local employees' retirement system or
- 21 the New York state and local police and fire retirement system. It shall
- 22 apply only to applications that are subject under this chapter to a
- 23 provision that any condition of impairment of health caused by a disease
- 24 of the heart, resulting in disability or death, shall be presumptive

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

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1 evidence that such disability or death was incurred in the performance
2 and discharge of duty and the natural and proximate result of an acci-
3 dent.

4 b. Notwithstanding any other provision of law to the contrary, an
5 application for an accidental disability retirement allowance that is
6 based on a permanent incapacity caused by a disease of the heart, or an
7 application for an accidental death benefit that is based on a disease
8 of the heart shall not be required to allege or establish:

9 (1) that the member sustained an accident or other incident related to
10 the performance and discharge of duty; or

11 (2) that notice was provided thereof.

12 c. Notwithstanding any other provision of law to the contrary, the
13 presumptions referred to in subdivision a of this section may be
14 rebutted only by competent evidence that the disability or death is not
15 the natural and proximate result of the performance and discharge of
16 duty.

17 § 3. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities and deaths for members in the New York State and Local Employees' Retirement System (ERS) who currently have "heart provisions" and all members in the New York State and Local Police and Fire Retirement System (PFRS). It would grant accidental disability and death benefits for heart cases by deeming such disabilities or deaths to have been sustained in the performance of duty, and the natural and proximate result of an accident, unless the contrary be proven by competent evidence.

If this bill is enacted, more accidental disabilities and accidental death benefits would be granted. The estimated increases in the annual contributions to the State of New York would be approximately \$4.9 million for its PFRS members and Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately \$9.5 million. The increases in annual contributions for ERS counties that have elected the provisions of Article 14-B for their sheriffs would be approximately 0.4% of salary. The increase in annual contribution for the Town of Tonawanda would be approximately 0.3% of the salary of its paramedics.

This estimate, dated December 3, 2007, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-59 prepared by the Actuary for the NYS&LERS and NYS&LPFRS.

TO THE SENATE:

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

Senate Bill Number 6703, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

and Senate Bill Number 8429, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

NOT APPROVED

Police officers, firefighters and other public safety employees in this State can receive certain benefits if they are disabled in the line of duty, and their families may claim death benefits if an employee dies as a result of his or her important work. When such disability or death is the result of an "accident," these benefits are augmented significantly. These bills are the latest salvo in a long battle over the appropriate way of determining what benefits should be given an employee that dies of heart disease and, under what circumstances such disease should be deemed the result of an "accident." Present law on this issue varies by title and location. For example, outside New York City, firefighters have a rebuttable presumption that any heart disease they suffer was caused by an accident, while police officers must affirmatively prove that an accident occurred. In New York City, in contrast, no proof of accident is required to obtain a comparable benefit.

These bills are aimed at giving public safety employees across the State parity with their counterparts in New York City by removing the requirement that they prove heart disease arose out of an accident. S.6703 would achieve this result for both death and disability benefits, while S.8429 does so only for disability. While the latter bill imposes a lower cost, the expense of both is significant: S.6703 would require additional annual pension contributions by the State and localities of over \$13 million, while S.8429 would impose costs of over \$4 million per year.

I commend the desire of the sponsors to remove differences in the treatment of employees that seem to have no reason behind them. Nonetheless, these proposals cannot be viewed in isolation from the deep fiscal crisis in which the State now finds itself. However worthy the sponsors' goals, these bills would increase public spending at a time when the State must find extensive reductions in expenditures. This is not the approach the State should be taking.

I also note that, despite the sponsors' valiant efforts to remove inconsistencies from the standards governing such benefits, the potential for claims of unfairness will remain if these bills are enacted. For example, an officer injured while escorting a prisoner might be

STATE OF NEW YORK

S.8429 - A.11455

IN SENATE

June 6, 2008

Introduced by Sens. MORAHAN, FUSCHILLO, O. JOHNSON, LANZA, LEIBELL, MALTESE, MARCELLINO, PADAVAN, TRUNZO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

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

1 Section 1. Subdivision 2 of section 363-a of the retirement and social
2 security law, as amended by chapter 967 of the laws of 1974, is amended
3 to read as follows:

4 2. Notwithstanding any provision of this chapter or of any general,
5 special or local law to the contrary, any condition of impairment of
6 health caused by diseases of the heart, resulting in disability or death
7 to a policeman, presently employed, and who shall have sustained such
8 disability while so employed, shall be presumptive evidence that [~~is~~] it
9 was incurred in the performance and discharge of duty and the natural
10 and proximate result of an accident, unless the contrary be proved by
11 competent evidence.

12 § 2. The retirement and social security law is amended by adding a new
13 section 809 to read as follows:

14 § 809. Effect and rebuttal of certain medical presumptions pertaining
15 to diseases of the heart. a. This section shall apply to certain appli-
16 cations for disability retirement allowances made by or on behalf of a
17 member of the New York state and local employees' retirement system or
18 the New York state and local police and fire retirement system. It
19 shall apply only to applications that are subject under this chapter to
20 a provision that any condition of impairment of health caused by a
21 disease of the heart, resulting in disability, shall be presumptive
22 evidence that such disability was incurred in the performance and
23 discharge of duty and the natural and proximate result of an accident.

24 b. Notwithstanding any other provision of law to the contrary an
25 application for an accidental disability retirement allowance that is

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

LBD17081-01-8

1 based on a permanent incapacity caused by a disease of the heart, shall
2 not be required to allege or establish:

- 3 (1) that the member sustained an accident or other incident related to
- 4 the performance and discharge of duty; or
- 5 (2) that notice was provided thereof.
- 6 c. Notwithstanding any other provision of law to the contrary, the
- 7 presumptions referred to in subdivision a of this section may be
- 8 rebutted only by competent evidence that the disability is not the
- 9 natural and proximate result of the performance and discharge of duty.

10 § 3. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities for members in the New York State and Local Employees' Retirement System (ERS) who currently have heart presumptions that reference an accident and all members in the New York State and Local Police and Fire Retirement System (PFRS). It would grant accidental disability benefits for heart cases by deeming such disabilities to have been sustained in the performance of duty, and the natural and proximate result of an accident, unless the contrary be proven by competent evidence. Further, the same criteria that exist for determining accidental death benefits for firefighters would be extended to police officers.

If this bill is enacted, more accidental disability benefits would be granted. The estimated increase in the annual contributions to the State of New York would be approximately \$500,000 for its PFRS members and approximately \$1.3 million for its Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately \$2.2 million. The increases in annual contributions for ERS counties that have elected the provisions of Article 14-B for their sheriffs with a date of membership prior to January 1, 1985 would be less than 0.1% of salary. The increase in annual contributions for the Town of Tonawanda would be less than 0.1% of the salary of its paramedics.

This estimate, dated May 30, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-277 prepared by the Actuary for the NYS&LERS and NYS&LPFRS.

VETO MESSAGE - No. 113

TO THE SENATE:

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

Senate Bill Number 6547-A, entitled:

"AN ACT establishing the task force on retiree health insurance protection; and providing for the repeal of certain provisions upon expiration thereof"

NOT APPROVED

This bill would establish a task force to study "cost-effective strategies for protecting adequate and affordable health insurance for retired public employees and their dependents." In conjunction with the task force's deliberations, the bill would prohibit, until June 30, 2009, any diminution in health benefits for retirees or their dependents in the New York State and Local Employees' Retirement System, the Optional Retirement Program, or a teachers' retirement system, "unless a corresponding diminution of benefits or contributions is effected...from the corresponding group of active employees."

The sponsors express a goal which I fully support: to ensure that this State continues to provide its public retirees with affordable and quality health care, even in this time of tight budgets. Because, however, there are significant problems with the manner in which this bill seeks to effectuate that goal, I must regretfully disapprove it.

The sponsors have wisely sought to foster further study of this important issue, through the creation of a task force. I believe that the State would benefit from such an examination, and from the consideration of a variety of viewpoints and productive interchange between individuals with different interests and responsibilities. Unfortunately, the task force created by the legislation does not accomplish this goal, but rather creates a body that does not sufficiently reflect a diversity of opinion. The Governor is given two appointees; the legislature eight. The New York State AFL-CIO would nominate three members of the task force (one more than the Governor); local governments and retirees directly impacted by the bill would choose none. The views of organized labor and the legislature are of great importance on this question, and they must be a central part of any effort to address this issue. But I cannot approve a bill that leaves crucial interests unrepresented, or that grants the Chief Executive such a limited role in a task force whose recommendation may impact the State's fisc.

Further, while I greatly appreciate the sponsors' efforts to preserve local government flexibility by seeking to allow some means of altering retiree benefits, it is not clear that the terms of the bill in this regard can ever be met. The bill does not make clear what a "corresponding" reduction is, nor does it define the "corresponding group" of active employees that must be subject to such reduction. As a result, making the requisite reduction for active employees may simply prove impossible. Retirees often have a set of benefits distinct from those of active public employees, and they are organized in groupings that are different from the way in which employees are classified while active.

It is unclear to me how parallel changes for retired and active employees - the latter of which could only be accomplished via a collective bargaining agreement - could be accomplished under these circumstances.

I am also concerned that the bill may make impossible - or at least subject to legal challenge - legitimate efforts to change retiree health benefits in ways that reflect their unique status, or that reasonably improve efficiency. For example, an employer may seek to alter retiree benefits to reflect changes in Medicare which do not apply to most active employees. Yet under this bill, even if a corresponding change in active employee benefits is unwarranted due to their different circumstances, one would have to be made (if possible) before any change for retirees could be effectuated. Further, efforts by a public employer to save retiree health care costs by increasing the role of managed care, or by requiring that certain purchases be made through a network, could also be subject to court challenges as diminutions of benefits.

Finally, I note that the bill is deemed to be in full force and effect as of May 1, 2008. This would appear to bar, after the fact, any diminutions of benefits that may already have taken place since that date. Such retroactive application will at least breed confusion, and may even require reopening of decisions fully legal at the time they were made.

These flaws should not obscure or detract from the key work done by the sponsors in focusing attention on this important issue, or the significant need for further study to address both the very real concerns of retirees and the daunting challenges faced by the State and local governments in meeting rising health care costs. To that end, I will adopt one important aspect of the sponsors' proposal, and will issue an Executive Order creating a task force to further study this issue. In light of the concerns noted above, the task force will include representatives of public employee retirees, organized labor, local governments, state agencies, the legislature and other interested parties. I will direct the task force to report, before the close of the next legislative session, on matters including: (1) the present state of public employee retiree health benefits; (2) the degree to which those benefits have been impacted by difficult fiscal times; (3) potential means of insuring the continuation of quality, affordable health care for public retirees; (4) potential avenues for addressing rising health care costs; and (5) the impact of public accounting standard GASB 45, which requires public entities to include the present value of future retiree health benefits among their liabilities for purposes of financial disclosure.

It is my strong hope that the Executive Order will not be the end of a process, but rather will lead to productive dialogue directed at finding the appropriate balance between protecting the important interests of retirees, and insuring adequate flexibility for the State and local governments in this time of fiscal constraint.

The bill is disapproved.

(signed) DAVID A. PATERSON

STATE OF NEW YORK

S.6457-A - A.9393-A

Cal. No. 63

2007-2008 Regular Sessions

IN SENATE

August 27, 2007

Introduced by Sens. FARLEY, BONACIC, DeFRANCISCO, FLANAGAN, LARKIN, LEIBELL, MALTESE, MAZIARZ, RATH, SALAND, SEWARD, TRUNZO, VOLKER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT establishing the task force on retiree health insurance protection; and providing for the repeal of certain provisions upon expiration thereof

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

- 1 Section 1. Legislative findings. The legislature finds that adequate
 2 and affordable health insurance coverage is a crucial issue for retired
 3 public employees and their dependents. State government actions have
 4 been inconsistent, protecting health insurance coverage for some groups
 5 of retirees pursuant to chapter 43 of the laws of 2008, while denying
 6 protection to others (see vetoes 119 and 120 of 2007).
- 7 § 2. Task force on retiree health insurance protection. 1. There is
 8 hereby created a twelve member task force on retiree health insurance
 9 protection. The members of the task force shall be:
- 10 (a) the chair of the senate committee on civil service and pensions,
 11 the chair of the assembly committee on governmental employees, and the
 12 president of the state civil service commission, or their designees, who
 13 shall serve as co-chairs;
- 14 (b) two members appointed by the governor, one of whom shall be
 15 appointed upon the recommendation of the New York state AFL-CIO;

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

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1 (c) two members appointed by the temporary president of the senate,
2 one of whom shall be appointed upon the recommendation of the New York
3 state AFL-CIO;

4 (d) two members appointed by the speaker of the assembly, one of whom
5 shall be appointed upon the recommendation of the New York state
6 AFL-CIO;

7 (e) the state comptroller, or his or her designee;

8 (f) one member appointed by the minority leader of the senate; and

9 (g) one member appointed by the minority leader of the assembly.

10 2. Task force members shall receive no compensation for their
11 services, but shall be reimbursed for actual and necessary expenses
12 incurred in the performance of their duties.

13 3. The task force shall meet at least four times and shall hold at
14 least one public hearing.

15 4. The task force shall consult with, and seek advice and recommenda-
16 tions from, public officers, organizations, and entities affected,
17 including but not limited to, the director of the budget, the super-
18 intendent of insurance, the director of the office for the aging, the
19 director of the office of employee relations, the secretary of state and
20 his or her designees with particular expertise in municipal government,
21 organizations representing retirees including alliances of retiree
22 organizations, organizations representing municipal officials, organiza-
23 tions representing local governments, and organizations representing
24 school districts.

25 5. The co-chairs shall provide the task force with personnel and
26 support services necessary to accomplish its duties.

27 § 3. Report of the task force. No later than June 1, 2009, the task
28 force shall transmit to the governor, the temporary president of the
29 senate, and the speaker of the assembly a report recommending cost-ef-
30 fective strategies for protecting adequate and affordable health insur-
31 ance for retired public employees and their dependents.

32 § 4. Health insurance moratorium. 1. From on and after May 1, 2008
33 until June 30, 2009, a public employer shall be prohibited from dimin-
34 ishing the health insurance benefits provided to retirees and their
35 dependents or the contributions such employer makes for such health
36 insurance coverage below the level of such benefits or contributions
37 made on behalf of such retirees and their dependents by such employer
38 unless a corresponding diminution of benefits or contributions is
39 effected from the present level as of May 1, 2008 during this period by
40 such employer from the corresponding group of active employees for such
41 retirees. For the purpose of this act, "public employer" shall mean the
42 following: (i) the state; (ii) a county, city, town or village; (iii)
43 any governmental entity operating a college or university; (iv) a public
44 improvement or special district; (v) a public authority, commission or
45 public benefit corporation; (vi) a school district, board of cooperative
46 educational services, vocational education and extension board or a
47 school district as enumerated in section 1 of chapter 566 of the laws of
48 1967, as amended; or (vii) any other public corporation, agency, instru-
49 mentality or unit of government which exercises governmental power under
50 the laws of this state. For the purpose of this act, "retirees and
51 their dependents" shall mean retired members and dependents of the New
52 York state and local employees' retirement system, the optional retire-
53 ment program, or a teachers' retirement system.

54 2. Nothing contained in this act shall supersede or diminish the terms
55 of a collective bargaining agreement. Nothing contained in this act

1 shall supersede or diminish the provisions of chapter 729 of the laws of
2 1994 as amended by chapter 43 of the laws of 2008.
3 § 5. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after May 1, 2008. The task
5 force created by section two of this act shall expire and be deemed
6 repealed on and after June 2, 2009.

VETO MESSAGE - No. 147

TO THE ASSEMBLY:

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

Assembly Bill Number 10508, entitled:

"AN ACT to amend the retirement and social security law, in relation to not allowing mandatory retirement or separation from service on the basis of age for police officers less than sixty-five years of age"

NOT APPROVED

Under this bill, public employers would be barred from mandating that police officers retire on the basis of age before they are 65 years old. In short, it would eliminate all lower mandatory retirement ages for police, such as age 63 for New York City officers and age 60 for the State Police.

There is much value that an employer can gain from older individuals who desire to work, and who possess experience and institutional memory. Increasing longevity and medical advances also provide good reason for carefully reviewing the State's current age limitations on officers, to ensure that they are warranted. Nonetheless, this bill is significantly flawed. It imposes a cookie cutter approach on a host of State and local police forces, from those employed by the New York City Police Department to the Metropolitan Transit Authority to the Department of Environmental Conservation. In short, the bill has implications for tens of different and uniquely situated employers each of which may be affected in a different manner. To give one example, the State Police retirement age was just increased last summer to 60. A year later, without examining the impact of this change, or allowing the Division of State Police to absorb it, this bill would increase that age by five more years.

Further, I am deeply concerned about the manner in which this proposal would interact with General Municipal Law Section 207-c. That provision allows officers for municipalities who are injured in the line of duty to receive full salary while on leave or, under certain circumstances, performing "light tasks." This bill would allow these officers - even if they are performing no work at all - to have their active tenure extended at full salary.

This bill would also generate enormous confusion. It leaves all mandatory retirement statutes on the books, and then overturns them in a separate provision. An individual seeking to learn the mandatory retirement age of a state trooper, for example, would find it is still listed in statute at 60, with no indication that the provision is inoperative. I believe a better technical approach to changing any retirement age is to amend the provision that specifically provides for such restriction.

I am sympathetic to targeted efforts to allow qualified older officers to stay on the job longer. Indeed, today I have approved a bill (A.10252-A/S.7990), that would allow officers participating in a plan under Retirement and Social Security Law Section 384-d to continue in that plan until age 65. In doing so, I note that A.10252-A: (1) impacts

only the age at which an officer can participate in a particular pension plan, not the age at which he or she can retire; (2) addresses concerns about Section 207-c by requiring that officers "be capable of performing the duties of their position" to work past age 62; (3) impacts a very limited number of individuals; (4) is not expected, according to the fiscal note, to have any impact on contributions by employers to the pension system; and (5) leaves in place laws that allow a locality to have a distinct mandatory retirement age.

I will continue to carefully review legislative efforts to meet the needs of older officers who wish to continue serving the public. I cannot, however, approve this bill, which is overly broad in its application, and fails to address the potential pitfalls of an across-the-board increase in the mandatory police retirement age.

The bill is disapproved.

(signed) DAVID A. PATERSON

STATE OF NEW YORK

A.10508 - S.7332-A

IN ASSEMBLY

April 8, 2008

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

AN ACT to amend the retirement and social security law, in relation to not allowing mandatory retirement or separation from service on the basis of age for police officers less than sixty-five years of age

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

1 Section 1. Section 530 of the retirement and social security law is
2 amended by adding a new subdivision c-1 to read as follows:

3 c-1. Notwithstanding any other provision of law to the contrary
4 including subdivisions b and c of this section, no employer, as such
5 term is defined in section two of this chapter and including without
6 limitation any participating or public employer, shall require mandatory
7 retirement or separation from service on the basis of age for a police
8 officer who is age sixty-five years or less, nor shall any requirement
9 for such mandatory retirement or separation be required for any police
10 officer who is age sixty-five years or less serving an employer in any
11 public retirement system funded and maintained by a city or who is a
12 participant in a local pension system or in any retirement system, as
13 such terms are defined in section two of this chapter.

14 § 2. This act shall take effect immediately.

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

This bill would provide that no police officer shall be mandatorily retired who is age sixty-five or less.

Insofar as this will affect the New York State and Local Police and Fire Retirement System, if this bill is enacted, there would be additional benefits for certain police officers who remain employed beyond their current mandatory retirement age. However, if some members delay retirement due to enactment of this bill, we would not anticipate that there would be an increase in the annual contribution rates as a percentage of payroll of the participating employers in the New York State and Local Police and Fire Retirement System.

This estimate, dated April 3, 2008, and intended for use only during the 2008 Legislative Session, is Fiscal Note No. 2008-215, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

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

LBD15957-04-8

SECTION III

LEGISLATION AFFECTING OTHER NEW YORK PUBLIC RETIREMENT SYSTEMS



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APPROVAL MEMORANDUM - No. 4 Chapter 19

MEMORANDUM filed with Assembly Bill Number 9820, entitled:

"AN ACT to amend the retirement and social security law, in relation to the establishment of retirement programs to permit members of the New York city teachers' retirement system and certain members of the board of education retirement system of the city of New York, who are subject to articles 11 and 15 of such law, to retire prior to age sixty-two without a reduction in their retirement allowance based upon such earlier retirement and to make conforming and technical amendments to such articles 11 and 15; and to amend the retirement and social security law, the administrative code of the city of New York and the education law, in relation to providing for employer pick up, pursuant to provisions of the federal internal revenue code, of certain additional member contributions required to be made by participants in such retirement programs"

APPROVED

Teachers and certain other members of the New York City Teachers' Retirement System and Board of Education Retirement System currently can retire without penalty at age 55 only if they have accrued 30 years of service. This bill would give certain present employees of these systems the choice of opting into a plan which would allow them to retire without penalty at age 55 with 25 years of experience. Future employees would all be required to participate in a similar plan, except that retirement at age 55 would require 27 years of experience. Present and future employees will make additional contributions to the pension system to fund this new retirement benefit.

This bill has the full support of the affected employer and employee organizations - the City of New York and the United Federation of Teachers (UFT). Moreover, the bill is the result of many years of careful negotiation as part of a broader series of understandings between the two parties, and involves significant compromises by both sides. The City of New York is the only public entity that bears the costs of the proposal, and it presents evidence that in the long term, the bill will be cost neutral. UFT, whose present and future members will make additional payments, believes that these additional burdens are warranted by the benefits the bill will create.

Given the careful negotiations that led to this bill, and the lack of any adverse impact on any third parties, deference to the mutual understandings of the City of New York and UFT is fully warranted. A very different situation would be presented if such a bill were presented over the objections of either an affected employer or public employee organization, and thus any similar retirement benefit bills that are passed in the future will have to be evaluated on a case-by-case basis.

The bill is approved.

(signed) ELIOT SPITZER

STATE OF NEW YORK

A. 9820 S. 6689-A.

IN ASSEMBLY

January 24, 2008

Introduced by M. of A. ABBATE, COLTON, CUSICK, PHEFFER, LANCMAN, LENTOL, MILLMAN, SPANO, TITONE, WEINSTEIN -- Multi-Sponsored by -- M. of A. BENEDETTO, BRADLEY, BRENNAN, CAMARA, CYMBROWITZ, DINOWITZ, GLICK, GOTTFRIED, HEASTIE, HIKIND, JAFFEE, MAISEL, MARKEY, ORTIZ, REILLY, J. RIVERA, ROSENTHAL, WEISENBERG, WRIGHT, K. ZEBROWSKI -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to the establishment of retirement programs to permit members of the New York city teachers' retirement system and certain members of the board of education retirement system of the city of New York, who are subject to articles 11 and 15 of such law, to retire prior to age sixty-two without a reduction in their retirement allowance based upon such earlier retirement and to make conforming and technical amendments to such articles 11 and 15; and to amend the retirement and social security law, the administrative code of the city of New York and the education law, in relation to providing for employer pick up, pursuant to provisions of the federal internal revenue code, of certain additional member contributions required to be made by participants in such retirement programs

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

1 Section 1. Subdivision a of section 442 of the retirement and social
2 security law, as amended by chapter 96 of the laws of 1995, is amended
3 to read as follows:
4 a. The minimum retirement age for any member of a retirement system
5 who is subject to the provisions of this article, other than a member
6 permitted to retire upon completion of twenty or twenty-five years of
7 service pursuant to section four hundred forty-five of this article, or
8 a member who is eligible to retire pursuant to subdivision c of section
9 four hundred forty-five-d of this article **or subdivision c of section**
10 **four hundred forty-five-i of this article**, and exclusive of retirement
11 for disability, shall be sixty-two; however, such a member may retire
12 prior to attainment of age sixty-two in which event the amount of his
13 retirement benefit otherwise computed without optional modification from
14 funds based on other than his own contributions and exclusive of his
15 pension-for-increased-take-home-pay, shall be reduced in accordance with
16 the following schedule:

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

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1 1. For each of the first twenty-four full months that retirement
2 predates age sixty-two, one-half of one percentum per month; and

3 2. For each full month that retirement predates age sixty, one-quar-
4 ter of one percentum per month, but in no event shall retirement be
5 permitted prior to attainment of age fifty-five.

6 § 2. The retirement and social security law is amended by adding a new
7 section 445-i to read as follows:

8 § 445-i. Optional age fifty-five retirement program for New York city
9 teachers and certain other members. a. Definitions. The following words
10 and phrases as used in this section shall have the following meanings
11 unless a different meaning is plainly required by the context.

12 1. "TRS" shall mean the New York city teachers' retirement system.

13 2. "BERS" shall mean the board of education retirement system of the
14 city of New York.

15 3. "Administrative code" shall mean the administrative code of the
16 city of New York.

17 4. "BERS rules and regulations" shall mean the rules and regulations
18 for the government, management and control of BERS adopted pursuant to
19 section twenty-five hundred seventy-five of the education law.

20 5. "New York city eligible position" shall mean:

21 (i) with respect to members of TRS, all positions as a teacher (as
22 defined in subdivision seven of section 13-501 of the administrative
23 code), and shall not include any position covered by section 13-563 of
24 the administrative code; or

25 (ii) with respect to members of BERS, the following positions in
26 education service: head nurses, head nurses (BOE), supervisors of nurs-
27 es, staff nurses, registered nurses (BOE), public health nurses, pedia-
28 tric nurse associates, supervising therapists, senior occupational ther-
29 apists, senior occupational therapists (BOE), occupational therapists,
30 occupational therapists (BOE), senior physical therapists, senior phys-
31 ical therapists (BOE), physical therapists, physical therapists (BOE),
32 substitute vocational assistants, non-annualized adult education teach-
33 ers, non-annualized adult education assistant coordinators, non-annual-
34 ized adult education coordinators, directors of drug and alcohol
35 programs, assistant directors of drug and alcohol programs, sign
36 language interpreters, teachers of military science, senior army, navy,
37 air force, aerospace, marine corps or coast guard instructors, army,
38 navy, air force, aerospace, marine corps or coast guard instructors,
39 youth development specialists and the following positions represented by
40 the recognized teacher organization for collective bargaining purposes:
41 education administrators, education officers, associate education offi-
42 cers, education analysts and associate education analysts.

43 6. "New York city eligible member" shall mean a member of TRS or BERS
44 who is subject to the provisions of this article and who is employed in
45 a New York city eligible position.

46 7. "Age fifty-five retirement program" shall mean all the terms and
47 conditions of this section.

48 8. "Starting date of the age fifty-five retirement program" shall mean
49 the commencement date of the first payroll period which begins after the
50 enactment date of the age fifty-five retirement program.

51 9. "Enactment date of the age fifty-five retirement program" shall
52 mean the date this section takes effect.

53 10. "Participant in the age fifty-five retirement program" shall mean
54 any New York city eligible member who, under the applicable provisions
55 of subdivision b of this section, is entitled to the rights, benefits

1 and privileges and is subject to the obligations of the age fifty-five
2 retirement program, as applicable to him or her.

3 11. "Participating retirement system" shall mean TRS or BERS.

4 12. "Active service" shall mean, for a member of TRS, service as a
5 teacher (as defined in subdivision seven of section 13-501 of the admin-
6 istrative code) for which such member is being paid on the payroll or,
7 for a member of BERS, education service for which such member is being
8 paid on the payroll.

9 13. "Education service" shall mean service as a paid official or
10 employee of the board of education of the city of New York or the New
11 York city school construction authority, and allowable pursuant to the
12 applicable provisions which govern the service credit of a member of
13 BERS.

14 b. Participation in age fifty-five retirement program. 1. Subject to
15 the provisions of paragraphs five and six of this subdivision, any
16 person who is a New York city eligible member in active service on the
17 enactment date of the age fifty-five retirement program may elect to
18 become a participant in the age fifty-five retirement program by filing,
19 within one hundred eighty days after such enactment date, a duly
20 executed application for such participation with the retirement system
21 of which such person is a member, provided he or she is a New York city
22 eligible member in active service on the date such application is filed.

23 2. Subject to the provisions of paragraphs five and six of this subdivi-
24 vision, any person who becomes a New York city eligible member in active
25 service after the enactment date of the age fifty-five retirement
26 program may elect to become a participant in the age fifty-five retire-
27 ment program by filing, within one hundred eighty days after becoming a
28 New York city eligible member in active service, a duly executed appli-
29 cation for such participation with the retirement system of which such
30 person is a member, provided he or she is a New York city eligible
31 member in active service on the date such application is filed.

32 3. (i) Except as provided in subparagraph (ii) of this paragraph, any
33 election to be a participant in the age fifty-five retirement program
34 shall be irrevocable.

35 (ii) Notwithstanding any other provision of law to the contrary, any
36 participant in the age fifty-five retirement program whose age and
37 amount of credited service (which amount of credited service shall, for
38 the limited purposes only of this subparagraph, include service rendered
39 previous to becoming a member which is not yet credited, but for which
40 such person is or may become eligible to obtain service credit pursuant
41 to applicable provisions of law) at the time of first becoming such a
42 participant are such that he or she could not possibly be able to accu-
43 mulate a total of at least twenty-five years of credited service by the
44 time he or she reaches age sixty-two, assuming such person were to earn
45 a full year of credited service in each and every year until he or she
46 becomes sixty-two years of age (whether or not such person actually
47 intends to earn such amounts of credit), may withdraw from the age
48 fifty-five retirement program by filing, within three hundred sixty-five
49 days after first becoming such a participant, a written request to with-
50 draw from such program with the retirement system of which such person
51 is a member.

52 4. Where any participant in the age fifty-five retirement program
53 shall cease to hold a New York city eligible position, he or she shall
54 cease to be such a participant and, during any period in which such
55 person is not a New York city eligible member, he or she shall not be a
56 participant in the age fifty-five retirement program.

1 5. Where any participant in the age fifty-five retirement program
2 terminates service in a New York city eligible position and returns to
3 service in a New York city eligible position at a later date and again
4 becomes a New York city eligible member, he or she shall again become
5 such a participant upon becoming a New York city eligible member.

6 6. Notwithstanding any other provision of law to the contrary, any
7 person who is eligible to elect to become a participant in the age
8 fifty-five retirement program pursuant to paragraph one or two of this
9 subdivision for the full one hundred eighty-day period provided for in
10 such applicable paragraph, and who fails to timely file a duly executed
11 application for such participation with the appropriate retirement
12 system, shall not thereafter be eligible to become a participant in such
13 program.

14 c. 1. Service retirement. Notwithstanding any other provision of law
15 to the contrary, a participant in the age fifty-five retirement program:

16 (i) who is otherwise eligible to retire for service with immediate
17 payability of a retirement allowance pursuant to the applicable service
18 retirement provisions of the administrative code or the BERS rules and
19 regulations; and

20 (ii) who has completed twenty-five or more years of credited service;
21 and

22 (iii) who has attained age fifty-five; and

23 (iv) who, subject to the provisions of paragraph nine of subdivision d
24 of this section, has paid, before the effective date of retirement, all
25 additional member contributions and interest (if any) required by para-
26 graphs one, four and five of subdivision d of this section; and

27 (v) who shall be a participant in the age fifty-five retirement
28 program in active service at the time so specified for his or her
29 retirement; shall, subject to the provisions of paragraph nine of subdivi-
30 sion d of this section, be permitted to retire pursuant to the appli-
31 cable service retirement provisions of the administrative code or the
32 BERS rules and regulations with a minimum retirement age of fifty-five,
33 and the benefit reduction provisions set forth in subdivision a of
34 section four hundred forty-two of this article shall not be applied to
35 the calculation of such participant's retirement benefit, provided,
36 however, that no such participant who otherwise meets the retirement
37 eligibility requirements of this paragraph shall be permitted to retire
38 pursuant to this paragraph prior to June thirtieth, two thousand eight.

39 2. Vesting. (i) A participant in the age fifty-five retirement
40 program:

41 (A) who, on or after June thirtieth, two thousand eight, as such a
42 participant in such retirement program, discontinues service as a teach-
43 er (as defined in subdivision seven of section 13-501 of the administra-
44 tive code) or discontinues education service (as defined in paragraph
45 thirteen of subdivision a of this section), other than by death or
46 retirement; and

47 (B) who, prior to such discontinuance, completed twenty-five or more
48 years of credited service; and

49 (C) who, subject to the provisions of paragraph nine of subdivision d
50 of this section, has paid, prior to such discontinuance, all additional
51 member contributions and interest (if any) required by paragraphs one,
52 four and five of subdivision d of this section; and

53 (D) who does not withdraw in whole or in part his or her accumulated
54 deductions pursuant to the applicable provisions of the administrative
55 code or the BERS rules and regulations unless such participant thereaft-
56 er returns to public service and repays the amounts so withdrawn,

1 together with interest; shall be entitled to receive a deferred vested
2 benefit as provided in this paragraph.

3 (ii) (A) Upon such discontinuance under the conditions and in compli-
4 ance with the provisions of subparagraph (i) of this paragraph, such
5 deferred vested benefit shall vest automatically.

6 (B) Such vested benefit shall become payable on the earliest date on
7 which such discontinued member could have retired for service if such
8 discontinuance had not occurred.

9 (iii) Subject to the provisions of paragraph nine of subdivision d of
10 this section, such deferred benefit shall be a retirement allowance
11 determined in accordance with the applicable provisions of subparagraph
12 (v) of paragraph one of this subdivision in the same manner as if he or
13 she had retired for service pursuant to paragraph one of this subdivi-
14 sion.

15 d. Additional member contributions. 1. In addition to the member
16 contributions required by the applicable provisions of the administra-
17 tive code or the BERS rules and regulations, each participant in the age
18 fifty-five retirement program shall contribute to the retirement system
19 of which he or she is a member (subject to the applicable provisions of
20 section 13-521.1 of the administrative code or subdivision nineteen of
21 section twenty-five hundred seventy-five of the education law) an addi-
22 tional one and eighty-five one-hundredths percent of his or her compen-
23 sation earned from all credited service rendered on and after the start-
24 ing date of the age fifty-five retirement program (i) while such person
25 is a participant in such program;

26 (ii) before such person becomes such a participant pursuant to para-
27 graph one or two of subdivision b of this section (whether or not
28 rendered in a New York city eligible position); and

29 (iii) after such person ceases to be a participant, but before he or
30 she again becomes such a participant pursuant to paragraph five of
31 subdivision b of this section (whether or not rendered in a New York
32 city eligible position).

33 2. A participant in the age fifty-five retirement program shall
34 contribute additional member contributions until the later of (i) June
35 twenty-ninth, two thousand eight; or (ii) the date on which he or she
36 has completed twenty-five years of credited service.

37 3. (i) Commencing with the first full payroll period after each person
38 becomes a participant in the age fifty-five retirement program, addi-
39 tional member contributions at the rate specified in paragraph one of
40 this subdivision shall be deducted, subject to the applicable provisions
41 of section 13-521.1 of the administrative code or subdivision nineteen
42 of section twenty-five hundred seventy-five of the education law, from
43 the compensation of such participant on each and every payroll of such
44 participant for each and every payroll period for which he or she is
45 such a participant.

46 (ii) (A) Those portions of the additional member contributions
47 required by paragraph one of this subdivision which are attributable to
48 credited service rendered on and after the starting date of the age
49 fifty-five retirement program, and prior to the actual commencement of
50 deductions from compensation pursuant to subparagraph (i) of this para-
51 graph, by a person who becomes a participant pursuant to paragraph one
52 of subdivision b of this section, shall be paid by deductions from the
53 compensation of such participant pursuant to and in accordance with the
54 provisions of item (B) of this subparagraph.

55 (B) Commencing with the payroll period in which deductions of addi-
56 tional member contributions from such participant's compensation are

1 begun pursuant to subparagraph (i) of this paragraph, in addition to
2 such deductions required by subparagraph (i) of this paragraph, there
3 shall be another deduction of additional member contributions made from
4 the compensation of such participant at one-third the rate at which
5 deductions are being made pursuant to subparagraph (i) of this para-
6 graph, subject to the applicable provisions of section 13-521.1 of the
7 administrative code or subdivision nineteen of section twenty-five
8 hundred seventy-five of the education law, on each and every payroll
9 period until the total amount of unpaid additional member contributions
10 described in item (A) of this subparagraph, if any, has been paid by
11 deductions from compensation pursuant to this subparagraph, provided,
12 however, that deductions pursuant to this item shall be made only during
13 the period while such person is a participant after first becoming a
14 participant pursuant to paragraph one of subdivision b of this section
15 and before ceasing to be such a participant.

16 4. (i) Each participant in the age fifty-five retirement program shall
17 be charged with a contribution deficiency consisting of the total amount
18 of additional member contributions such person is required to make
19 pursuant to paragraph one of this subdivision which is not deducted from
20 his or her compensation pursuant to paragraph three of this subdivision,
21 if any, together with interest thereon, compounded annually, and
22 computed in accordance with the provisions of subparagraphs (ii) and
23 (iii) of this paragraph.

24 (ii) (A) Subject to the provisions of subparagraph (iii) of this para-
25 graph, the interest required to be paid on the amount specified in
26 subparagraph (i) of this paragraph shall accrue from the end of each of
27 the payroll periods for which such amount would have been deducted from
28 compensation if he or she had been a participant at the beginning of
29 that payroll period and such deduction had been required for such
30 payroll period, until such amount is paid to the retirement system.

31 (B) The rate of interest to be applied to such amount during the peri-
32 od for which interest accrues on that amount shall be equal to the rate
33 or rates of interest required by law to be used during that same period
34 to credit interest on the accumulated deductions of retirement system
35 members.

36 (iii) Except as otherwise provided in paragraph five of this subdivi-
37 sion, no interest shall be due on any unpaid additional member contrib-
38 utions which are not attributable to a period prior to the first full
39 payroll period referred to in paragraph three of this subdivision.

40 5. (i) (A) Should any person who, pursuant to paragraph eleven of this
41 subdivision, has received a refund of the employee portion of his or her
42 additional member contributions (as established in accordance with item
43 (B) of subparagraph (ii) of paragraph six of this subdivision), includ-
44 ing any interest paid on such employee portion, again become a partic-
45 ipant in the age fifty-five retirement program pursuant to paragraph
46 five of subdivision b of this section, an appropriate amount shall be
47 included in such participant's contribution deficiency (including inter-
48 est thereon as calculated pursuant to subparagraph (ii) of this para-
49 graph) for any credited service for which such person received a refund
50 of such employee portion of additional member contributions (including
51 any amount of an unpaid loan balance deemed to have been returned to
52 such person pursuant to paragraph thirteen of this subdivision), as if
53 such employee portion of additional member contributions never had been
54 paid.

55 (B) Any person who has his or her membership in one participating
56 retirement system terminated without transferring such membership

1 directly from such participating retirement system to the other partic-
2 ipating retirement system, who has an unpaid balance of a loan of the
3 employee portion of his or her additional member contributions pursuant
4 to paragraph twelve of this subdivision at the time of the termination
5 of such membership, who, pursuant to paragraph five of subdivision b of
6 this section, thereafter again becomes a participant in the age fifty-
7 five retirement program as a member of either participating retirement
8 system without having received a refund of the employee portion of his
9 or her additional member contributions pursuant to paragraph eleven of
10 this subdivision, shall have an appropriate amount included in such
11 participant's contribution deficiency (including interest thereon as
12 calculated in subparagraph (ii) of this paragraph) for any credited
13 service for which such person borrowed and did not repay such employee
14 portion of additional member contributions, as if such employee portion
15 of additional member contributions never had been paid.

16 (ii) (A) Interest on the employee portion of a participant's addi-
17 tional member contributions included in such participant's contribution
18 deficiency pursuant to subparagraph (i) of this paragraph shall be
19 calculated as if such employee portion of additional member contrib-
20 utions never had been paid by such participant, and such interest shall
21 accrue from the end of the payroll period to which an amount of such
22 employee portion of additional member contributions is attributable,
23 compounded annually, until such amount is paid to the retirement system.

24 (B) The rate of interest to be applied to each such amount during the
25 period for which interest accrues on that amount shall be equal to the
26 rate or rates of interest required by law to be used during that same
27 period to credit interest on the accumulated deductions of retirement
28 system members.

29 6. (i) All additional member contributions required by this subdivi-
30 sion (and any interest paid thereon) which are received by the retire-
31 ment system of which the participant is a member shall be paid into its
32 contingent reserve fund and shall not for any purpose be deemed to be
33 member contributions or accumulated deductions of a member under the
34 applicable provisions of the administrative code or the BERS rules and
35 regulations or otherwise while he or she is a participant in the age
36 fifty-five retirement program or otherwise.

37 (ii) All additional member contributions required for any period of
38 credited service pursuant to paragraph one of this subdivision (and any
39 interest paid thereon pursuant to paragraph four of this subdivision)
40 which, pursuant to subparagraph (i) of this paragraph, are paid by a
41 participant, subject to the applicable provisions of section 13-521.1 of
42 the administrative code or subdivision nineteen of section twenty-five
43 hundred seventy-five of the education law, into the contingent reserve
44 fund of the retirement system of which such participant is a member
45 (other than repayments of loans of additional member contributions
46 pursuant to paragraph twelve of this subdivision or amounts paid in
47 satisfaction of a contribution deficiency calculated in accordance with
48 paragraph five of this subdivision) shall be divided in the following
49 manner:

50 (A) one-half of such additional member contributions (and any such
51 interest paid thereon) shall be the employer contribution portion of
52 such additional member contributions; and

53 (B) one-half of such additional member contributions (and any such
54 interest paid thereon) shall be the employee portion of such additional
55 member contributions, and shall be credited to the employee additional

1 contributions account which shall be established for such participant
2 within the contingent reserve fund of such retirement system.

3 (iii) No person, while he or she is a participant or otherwise, shall
4 at any time be permitted:

5 (A) to borrow, pursuant to paragraph twelve of this subdivision or any
6 other provision, any of the employer contribution portion of his or her
7 additional member contributions (as established in accordance with item
8 (A) of subparagraph (ii) of this paragraph, including any interest paid
9 thereon) which has been paid into the contingent reserve fund of the
10 retirement system; or

11 (B) to receive a refund of any of such employer contribution portion
12 pursuant to paragraph eleven of this subdivision or any other provision.

13 (iv) None of the employer contribution portion of a participant's
14 additional member contributions (including any interest paid thereon)
15 shall for any purpose:

16 (A) be deemed to be part of the employee portion of additional member
17 contributions paid by a participant; or

18 (B) be credited to the employee additional contributions account
19 established for such participant in the contingent reserve fund of the
20 retirement system.

21 (v) All repayments of loans of the employee portion of additional
22 member contributions pursuant to paragraph twelve of this subdivision
23 and all payments of the employee portion of additional member contrib-
24 utions in satisfaction of a contribution deficiency calculated in
25 accordance with paragraph five of this subdivision which are paid by a
26 participant to the contingent reserve fund of a participating retirement
27 system (and any interest paid thereon) shall be part of the employee
28 portion of such participant's additional member contributions and shall
29 be credited to the employee additional contributions account established
30 for such participant in the contingent reserve fund of such retirement
31 system.

32 7. Where a person who was a participant in the age fifty-five retire-
33 ment program as a member of one participating retirement system becomes
34 such a participant as a member of the other participating retirement
35 system:

36 (i) the employer contribution portion of the additional member
37 contributions paid by such person to such first retirement system pursu-
38 ant to this subdivision (including any interest paid thereon) that is
39 attributable to any period of credited service obtained in such second
40 retirement system by purchase or transfer, which previously was credited
41 in such first retirement system, shall (only for purposes of this subdivi-
42 vision, and not for purposes of determining required employer contrib-
43 utions to such second retirement system) be deemed to have been paid to
44 such second retirement system rather than to such first retirement
45 system; and

46 (ii) the employee portion of the additional member contributions paid
47 by such person to such first retirement system pursuant to this subdivi-
48 sion (including any interest paid thereon) which remains credited to the
49 employee additional contributions account established for such person in
50 the contingent reserve fund of such first retirement system that is
51 attributable to any period of credited service obtained in such second
52 retirement system by purchase or transfer, which previously was credited
53 in such first retirement system, shall (only for purposes of this subdivi-
54 vision, and not for purposes of determining required employer contrib-
55 utions to such second retirement system) be deemed to have been paid to
56 such second retirement system rather than to such first retirement

1 system, and shall be credited to the employee additional contributions
2 account established for such participant in the contingent reserve fund
3 of such second retirement system.

4 8. A person who was a participant in the age fifty-five retirement
5 program as a member of one participating retirement system, who becomes
6 such a participant as a member of the other participating retirement
7 system and who thereafter transfers his or her membership in such first
8 retirement system directly to such second retirement system as such a
9 participant shall be deemed to have the same unpaid balance of a loan of
10 the employee portion of additional member contributions pursuant to
11 paragraph twelve of this subdivision (including accrued interest) as he
12 or she had in such first retirement system at the time of such transfer
13 of membership to the second retirement system.

14 9. (i) Where a participant who is otherwise eligible for service
15 retirement pursuant to paragraph one of subdivision c of this section
16 did not, prior to the effective date of retirement, pay the entire
17 amount of a contribution deficiency chargeable to him or her pursuant to
18 paragraphs four and five of this subdivision, or repay the entire amount
19 of a loan of the employee portion of his or her additional member
20 contributions pursuant to paragraph twelve of this subdivision (includ-
21 ing accrued interest on such loan), that participant, nevertheless,
22 shall be eligible to retire pursuant to paragraph one of subdivision c
23 of this section, provided, however, that where such participant is not
24 entitled to a refund of the employee portion of additional member
25 contributions pursuant to subparagraph (iii) of paragraph eleven of this
26 subdivision, such participant's service retirement benefit calculated
27 pursuant to the applicable provisions of the administrative code or the
28 BERS rules and regulations shall be reduced by a life annuity (calcu-
29 lated in accordance with the method set forth in subdivision h of
30 section six hundred thirteen-a of this chapter) which is actuarially
31 equivalent to:

32 (A) the amount of any unpaid contribution deficiency chargeable to
33 such member pursuant to paragraphs four and five of this subdivision;
34 plus

35 (B) the amount of any unpaid balance of a loan of the employee portion
36 of his or her additional member contributions pursuant to paragraph
37 twelve of this subdivision (including accrued interest on such loan).

38 (ii) Where a participant who is otherwise eligible for a vested right
39 to a deferred benefit pursuant to paragraph two of subdivision c of this
40 section did not, prior to the date of discontinuance of service, pay the
41 entire amount of a contribution deficiency chargeable to him or her
42 pursuant to paragraphs four and five of this subdivision, or repay the
43 entire amount of a loan of the employee portion of his or her additional
44 member contributions pursuant to paragraph twelve of this subdivision
45 (including accrued interest on such loan), that participant, neverthe-
46 less, shall be eligible for a vested right to a deferred benefit pursu-
47 ant to paragraph two of subdivision c of this section, provided, howev-
48 er, that the deferred vested benefit determined pursuant to subparagraph
49 (iii) of paragraph two of such subdivision c shall be reduced by a life
50 annuity (calculated in accordance with the method set forth in subdivi-
51 sion h of section six hundred thirteen-a of this chapter) which is actu-
52 arially equivalent to:

53 (A) the amount of any unpaid contribution deficiency chargeable to
54 such member pursuant to paragraphs four and five of this subdivision;
55 plus

1 (B) the amount of any unpaid balance of a loan of the employee portion
2 of his or her additional member contributions pursuant to paragraph
3 twelve of this subdivision (including accrued interest on such loan).

4 10. The retirement board of TRS and the retirement board of BERS may,
5 consistent with the provisions of this subdivision, promulgate regu-
6 lations for the payment of additional member contributions required by
7 this subdivision, and any interest thereon, by participants in the age
8 fifty-five retirement program (including the deduction of such contrib-
9 utions, and any interest thereon, from the participants' compensation).

10 11. (i) Subject to the provisions of paragraph thirteen of this subdivi-
11 vision, a participant in the age fifty-five retirement program who
12 retires for disability pursuant to the applicable provisions of the
13 administrative code or the BERS rules and regulations shall be entitled,
14 upon such retirement, to a refund of the employee portion of his or her
15 additional member contributions paid pursuant to this subdivision
16 (including any interest on such employee portion paid to the retirement
17 system) which remains credited to the employee additional contributions
18 account established for such person in the contingent reserve fund of
19 the retirement system of which he or she is a member at the time of such
20 retirement for disability, together with interest thereon at the rate of
21 interest required by law to be used to credit interest on the accumu-
22 lated deductions of retirement system members, compounded annually.

23 (ii) Subject to the provisions of paragraph thirteen of this subdivi-
24 sion, upon the death of a participant in the age fifty-five retirement
25 program, there shall be paid to such person as he or she has nominated
26 or shall nominate to receive his or her accumulated deductions by writ-
27 ten designation duly executed and filed with the retirement system
28 during the lifetime of such participant, or, to his or her estate if no
29 such person is nominated, the employee portion of his or her additional
30 member contributions paid pursuant to this subdivision (including any
31 interest on such employee portion paid to the retirement system) which
32 remains credited to the employee additional contributions account estab-
33 lished for such person in the contingent reserve fund of the retirement
34 system of which he or she is a member at the time of his or her death,
35 together with interest thereon at the rate of interest required by law
36 to be used to credit interest on the accumulated deductions of retire-
37 ment system members, compounded annually.

38 (iii) Subject to the provisions of paragraph thirteen of this subdivi-
39 sion, a person:

40 (A) who is or was a participant in the age fifty-five retirement
41 program;

42 (B) who retires for service as a member of TRS or BERS pursuant to the
43 applicable service retirement provisions of the administrative code or
44 the BERS rules and regulations;

45 (C) who is in active service on the effective date of retirement;

46 (D) who is at least sixty-two years of age on the effective date of
47 retirement; and

48 (E) who was in active service for a total of at least six months out
49 of each of the two twelve-month periods immediately preceding his or her
50 retirement for service, shall, upon such retirement for service, be
51 entitled to a refund of the employee portion of his or her additional
52 member contributions paid pursuant to this subdivision (including any
53 interest on such employee portion paid to the retirement system) which
54 remains credited to the employee additional contributions account estab-
55 lished for such person in the contingent reserve fund of the retirement
56 system of which he or she is a member at the time of such retirement for

1 service, together with interest thereon at the rate of interest required
2 by law to be used to credit interest on the accumulated deductions of
3 retirement system members, compounded annually.

4 (iv) Subject to the provisions of paragraph thirteen of this subdivi-
5 sion, a person who ceases to be a participant in the age fifty-five
6 retirement program as a member of a participating retirement system
7 because he or she ceases to hold a New York city eligible position, who
8 thereafter is employed in another position in public employment which is
9 not a New York city eligible position, but which entitles such person to
10 membership in another public retirement system which is maintained in
11 whole or in part by the city or state of New York, and who thereafter
12 transfers his or her membership in such participating retirement system
13 directly to such second public retirement system, shall be permitted to
14 withdraw the employee portion of his or her additional member contrib-
15 utions paid pursuant to this subdivision (including any interest on such
16 employee portion paid to the retirement system) which remains credited
17 to the employee additional contributions account established for such
18 person in the contingent reserve fund of such participating retirement
19 system, together with interest thereon at the rate of interest required
20 by law to be used to credit interest on the accumulated deductions of
21 retirement system members, compounded annually.

22 (v) Subject to the provisions of paragraph thirteen of this subdivi-
23 sion, any person who withdraws as a participant in the age fifty-five
24 retirement program by filing a valid request for such withdrawal pursu-
25 ant to subparagraph (ii) of paragraph three of subdivision b of this
26 section shall, upon such withdrawal, be entitled to a refund of the
27 employee portion of his or her additional member contributions paid
28 pursuant to this subdivision (including any interest on such employee
29 portion paid to the retirement system) which remains credited to the
30 employee additional contributions account established for such person in
31 the contingent reserve fund of the retirement system of which he or she
32 is a member at the time of such withdrawal as a participant, together
33 with interest thereon at the rate of interest required by law to be used
34 to credit interest on the accumulated deductions of retirement system
35 members, compounded annually.

36 (vi) Subject to the provisions of paragraph thirteen of this subdivi-
37 sion, a participant in the age fifty-five retirement program who has
38 been terminated from employment in a New York city eligible position for
39 economic reasons by his or her public employer shall be entitled, upon
40 such termination, to withdraw the employee portion of his or her addi-
41 tional member contributions paid pursuant to this subdivision (including
42 any interest on such employee portion paid to the retirement system)
43 which remains credited to the employee additional contributions account
44 established for such person in the contingent reserve fund of the
45 retirement system of which he or she is a member at the time of such
46 termination from employment, together with interest thereon at the rate
47 of interest required by law to be used to credit interest on the accumu-
48 lated deductions of retirement system members, compounded annually.

49 (vii) Notwithstanding any other provision of law to the contrary,

50 (A) no person shall be permitted to withdraw from the retirement
51 system any additional member contributions paid pursuant to this subdivi-
52 vision or any interest paid thereon, except pursuant to and in accord-
53 ance with the preceding subparagraphs of this paragraph;

54 (B) no person, while he or she is a participant in the age fifty-five
55 retirement program, shall be permitted to withdraw any such additional

1 member contributions or any interest paid thereon pursuant to any of the
2 preceding subparagraphs of this paragraph or otherwise; and

3 (C) no person, while he or she is a participant or otherwise, shall at
4 any time be permitted to withdraw any of the employer contribution
5 portion of his or her additional member contributions, including any
6 interest paid thereon (as established in accordance with item (A) of
7 subparagraph (ii) of paragraph six of this subdivision), pursuant to any
8 of the preceding subparagraphs of this paragraph or otherwise.

9 12. A participant in the age fifty-five retirement program shall be
10 permitted to borrow from the employee portion of his or her additional
11 member contributions (as established in accordance with item (B) of
12 subparagraph (ii) of paragraph six of this subdivision, including any
13 interest paid thereon) which is credited to the employee additional
14 contributions account established for such participant in the contingent
15 reserve fund of the retirement system of which he or she is a member.
16 The borrowing from such employee portion of additional member contrib-
17 utions pursuant to this paragraph shall be governed by the same rights,
18 privileges, obligations and procedures set forth in the applicable
19 provisions of section six hundred thirteen-a of this chapter (for TRS
20 members) or section six hundred thirteen-b of this chapter (for BERS
21 members) which govern the borrowing by members subject to article
22 fifteen of this chapter of member contributions made pursuant to section
23 six hundred thirteen of this chapter. The retirement board of TRS and
24 the retirement board of BERS may, consistent with the provisions of this
25 subdivision and the applicable provisions of section six hundred thir-
26 teen-a of this chapter (for TRS) or section six hundred thirteen-b of
27 this chapter (for BERS) as made applicable to this subdivision, promul-
28 gate regulations governing the borrowing of such employee portion of
29 additional member contributions, provided, however, that no person,
30 while he or she is a participant or otherwise, shall at any time be
31 permitted to borrow, pursuant to this paragraph or any other provision,
32 any of the employer contribution portion of his or her additional member
33 contributions, including any interest paid thereon (as established in
34 accordance with item (A) of subparagraph (ii) of paragraph six of this
35 subdivision).

36 13. Whenever a person has an unpaid balance of a loan of the employee
37 portion of his or her additional member contributions pursuant to para-
38 graph twelve of this subdivision at the time he or she becomes entitled
39 to a refund of the employee portion of his or her additional member
40 contributions pursuant to paragraph eleven of this subdivision, the
41 amount of such unpaid loan balance (including accrued interest) shall be
42 deemed to have been returned to such member, and the refund of such
43 employee portion shall be the net amount of such employee portion,
44 together with interest thereon in accordance with the provisions of
45 paragraph eleven of this subdivision.

46 14. Notwithstanding any other provision of law to the contrary, the
47 provisions of section one hundred thirty-eight-b of this chapter shall
48 not be applicable to the additional member contributions which are
49 required by this subdivision.

50 15. Notwithstanding any other provision of law to the contrary, the
51 additional member contributions which are required by this subdivision
52 shall not be reduced under any program for increased-take-home-pay.

53 16. The provisions of subdivision b of section four hundred forty of
54 this article shall apply to participants under this section.

1 § 3. Subdivision a of section 603 of the retirement and social securi-
 2 ty law, as amended by chapter 682 of the laws of 2003, is amended to
 3 read as follows:

4 a. The service retirement benefit specified in section six hundred
 5 four of this article shall be payable to members who have met the mini-
 6 mum service requirements upon retirement and attainment of age sixty-
 7 two, other than members who are eligible for early service retirement
 8 pursuant to subdivision c of section six hundred four-b of this article,
 9 subdivision c of section six hundred four-c of this article, subdivision
 10 d of section six hundred four-d of this article, subdivision c of
 11 section six hundred four-e of this article, subdivision c of section six
 12 hundred four-f of this article, subdivision c of section six hundred
 13 four-g of this article [~~or~~], subdivision c of section six hundred four-h
 14 of this article **or subdivision c of section six hundred four-i of this**
 15 **article**, provided, however, a member who is a peace officer employed by
 16 the unified court system or a member of a teachers' retirement system or
 17 the New York state and local employees' retirement system may retire
 18 without reduction of his or her retirement benefit upon attainment of at
 19 least fifty-five years of age and completion of thirty or more years of
 20 service.

21 § 3-a. Subdivision a of section 603 of the retirement and social secu-
 22 rity law, as amended by chapter 414 of the laws of 2002, is amended to
 23 read as follows:

24 a. The service retirement benefit specified in section six hundred
 25 four of this article shall be payable to members who have met the mini-
 26 mum service requirements upon retirement and attainment of age sixty-
 27 two, other than members who are eligible for early service retirement
 28 pursuant to subdivision c of section six hundred four-b of this article,
 29 subdivision c of section six hundred four-c of this article, subdivision
 30 d of section six hundred four-d of this article, subdivision c of
 31 section six hundred four-e of this article [~~or~~], subdivision c of
 32 section six hundred four-f of this article [~~or~~], subdivision c of
 33 section six hundred four-g of this article, **subdivision c of section six**
 34 **hundred four-h of this article or subdivision c of section six hundred**
 35 **four-i of this article** provided, however, a member who is a peace offi-
 36 cer employed by the unified court system or a member of a teachers'
 37 retirement system or the New York state and local employees' retirement
 38 system may retire without reduction of his or her retirement benefit
 39 upon attainment of at least fifty-five years of age and completion of
 40 thirty or more years of service.

41 § 4. Subdivision i of section 603 of the retirement and social securi-
 42 ty law, as amended by chapter 553 of the laws of 2000, is amended to
 43 read as follows:

44 i. 1. A member of a teachers' retirement system or the New York state
 45 and local employees' retirement system who has met the minimum service
 46 requirements but who has less than thirty years of credited service may
 47 retire prior to normal retirement age, but no earlier than attainment of
 48 age fifty-five, in which event, **unless such person is a member of the**
 49 **New York city teachers' retirement system who is otherwise eligible for**
 50 **early service retirement pursuant to subdivision c of section six**
 51 **hundred four-i of this article**, the amount of his or her retirement
 52 benefit otherwise computed without optional modification shall be
 53 reduced in accordance with the following schedule:

54 (i) for each of the first twenty-four full months that retirement
 55 predates age sixty-two, one-half of one per centum per month; and

1 (ii) for each full month that retirement predates age sixty, one-quarter
2 ter of one per centum per month, but in no event shall retirement be
3 permitted prior to attainment of age fifty-five.

4 2. A member of the New York city employees' retirement system or the
5 board of education retirement system of the city of New York who has met
6 the minimum service requirement, but who is not (a) a participant in the
7 twenty-five-year early retirement program, as defined in paragraph ten
8 of subdivision a of section six hundred four-c of this article (as added
9 by chapter ninety-six of the laws of nineteen hundred ninety-five), or
10 (b) a participant in the age fifty-seven retirement program, as defined
11 in paragraph three of subdivision b of section six hundred four-d of
12 this article, or (c) a New York city transit authority member, as
13 defined in paragraph one of subdivision a of section six hundred four-b
14 of this article, may retire prior to normal retirement age, but no
15 earlier than attainment of age fifty-five, in which event, **unless such**
16 **person is a member of the board of education retirement system of such**
17 **city who is otherwise eligible for early service retirement pursuant to**
18 **subdivision c of section six hundred four-i of this article,** the amount
19 of his or her retirement benefit computed without optional modification
20 shall be reduced in accordance with the following schedule:

21 (i) for each of the first twenty-four full months that retirement
22 predates age sixty-two, one-half of one per centum per month; and

23 (ii) for each full month that retirement predates age sixty, one-quarter
24 ter of one per centum per month, but in no event shall retirement be
25 permitted prior to attainment of age fifty-five.

26 § 5. The retirement and social security law is amended by adding a new
27 section 604-i to read as follows:

28 **§ 604-i. Age fifty-five retirement program for New York city teachers**
29 **and certain other members. a. Definitions. The following words and**
30 **phrases as used in this section shall have the following meanings unless**
31 **a different meaning is plainly required by the context.**

32 **1. "TRS" shall mean the New York city teachers' retirement system.**

33 **2. "BERS" shall mean the board of education retirement system of the**
34 **city of New York.**

35 **3. "Administrative code" shall mean the administrative code of the**
36 **city of New York.**

37 **4. "BERS rules and regulations" shall mean the rules and regulations**
38 **for the government, management and control of BERS adopted pursuant to**
39 **section twenty-five hundred seventy-five of the education law.**

40 **5. "New York city eligible position" shall mean:**

41 **(i) with respect to members of TRS, all positions as a teacher (as**
42 **defined in subdivision seven of section 13-501 of the administrative**
43 **code), and shall not include any position covered by section 13-563 of**
44 **the administrative code; or**

45 **(ii) with respect to members of BERS, the following positions in**
46 **education service: head nurses, head nurses (BOE), supervisors of nurs-**
47 **es, staff nurses, registered nurses (BOE), public health nurses, pedia-**
48 **tric nurse associates, supervising therapists, senior occupational ther-**
49 **apists, senior occupational therapists (BOE), occupational therapists,**
50 **occupational therapists (BOE), senior physical therapists, senior phys-**
51 **ical therapists (BOE), physical therapists, physical therapists (BOE),**
52 **substitute vocational assistants, non-annualized adult education teach-**
53 **ers, non-annualized adult education assistant coordinators, non-annual-**
54 **ized adult education coordinators, directors of drug and alcohol**
55 **programs, assistant directors of drug and alcohol programs, sign**
56 **language interpreters, teachers of military science, senior army, navy,**

1 air force, aerospace, marine corps or coast guard instructors, army,
2 navy, air force, aerospace, marine corps or coast guard instructors,
3 youth development specialists and the following positions represented by
4 the recognized teacher organization for collective bargaining purposes:
5 education administrators, education officers, associate education offi-
6 cers, education analysts and associate education analysts.

7 6. "New York city eligible member" shall mean a member of TRS or BERS
8 who is subject to the provisions of this article and who is employed in
9 a New York city eligible position.

10 7. "Age fifty-five retirement program" shall mean all the terms and
11 conditions of this section.

12 8. "Starting date of the age fifty-five retirement program" shall mean
13 the commencement date of the first payroll period which begins after the
14 enactment date of the age fifty-five retirement program.

15 9. "Enactment date of the age fifty-five retirement program" shall
16 mean the date this section takes effect.

17 10. "Participant in the age fifty-five retirement program" shall mean
18 any New York city eligible member who, under the applicable provisions
19 of subdivision b of this section, is entitled to the rights, benefits
20 and privileges and is subject to the obligations of the age fifty-five
21 retirement program, as applicable to him or her.

22 11. "Twenty-five-year participant in the age fifty-five retirement
23 program" shall mean a participant in the age fifty-five retirement
24 program who first became such a participant pursuant to paragraph one or
25 two of subdivision b of this section.

26 12. "Twenty-seven-year participant in the age fifty-five retirement
27 program" shall mean a participant in the age fifty-five retirement
28 program who first became such a participant pursuant to paragraph four
29 or five of subdivision b of this section.

30 13. "Participating retirement system" shall mean TRS or BERS.

31 14. "Education service" shall mean service as a paid official or
32 employee of the board of education of the city of New York or the New
33 York city school construction authority, and allowable pursuant to the
34 applicable provisions which govern the service credit of a member of
35 BERS.

36 b. Participation in age fifty-five retirement program. 1. Subject to
37 the provisions of paragraphs seven, eight and nine of this subdivision,
38 any person who is employed in a New York city eligible position on the
39 enactment date of the age fifty-five retirement program, and who is a
40 New York city eligible member in active service on such enactment date,
41 may elect to become a participant in the age fifty-five retirement
42 program by filing, within one hundred eighty days after the enactment
43 date of the age fifty-five retirement program, a duly executed applica-
44 tion for such participation with the retirement system of which such
45 person is a member, provided he or she is a New York city eligible
46 member in active service on the date such application is filed.

47 2. Subject to the provisions of paragraphs seven, eight and nine of
48 this subdivision, any person: (i) who is employed in a New York city
49 eligible position on the enactment date of the age fifty-five retirement
50 program, or who, on such enactment date, is a discontinued member not in
51 active service who is entitled to a deferred vested benefit at normal
52 retirement age; and (ii) who becomes a New York city eligible member in
53 active service after such enactment date, may elect to become a partic-
54 ipant in the age fifty-five retirement program by filing, within one
55 hundred eighty days after becoming a New York city eligible member in
56 active service, a duly executed application for such participation with

1 the retirement system of which such person is a member, provided he or
2 she is a New York city eligible member in active service on the date
3 such application is filed.

4 3. (i) Except as provided in subparagraph (ii) of this paragraph, any
5 election to be a participant in the age fifty-five retirement program
6 shall be irrevocable.

7 (ii) Notwithstanding any other provision of law to the contrary, any
8 participant in the age fifty-five retirement program who became such a
9 participant pursuant to paragraph one or two of this subdivision, and
10 whose age and amount of credited service (which amount of credited
11 service shall, for the limited purposes only of this subparagraph,
12 include service rendered previous to becoming a member which is not yet
13 credited, but for which such person is or may become eligible to obtain
14 credit pursuant to section six hundred nine of this article) at the time
15 of first becoming such a participant are such that he or she could not
16 possibly be able to accumulate a total of at least twenty-five years of
17 credited service by the time he or she reaches age sixty-two, assuming
18 such person were to earn a full year of credited service in each and
19 every year until he or she becomes sixty-two years of age (whether or
20 not such person actually intends to earn such amounts of credit), may
21 withdraw from the age fifty-five retirement program by filing, within
22 three hundred sixty-five days after first becoming such a participant, a
23 written request to withdraw from such program with the retirement system
24 of which such person is a member.

25 4. Subject to the provisions of paragraphs seven and nine of this
26 subdivision, any person (i) other than a person who is deemed pursuant
27 to paragraph eight of this subdivision to be employed for the purposes
28 of paragraph one or two of this subdivision in a New York city eligible
29 position on the enactment date of the age fifty-five retirement program,
30 or other than a person who, on such enactment date, is a discontinued
31 member not in active service who is entitled to a deferred vested bene-
32 fit at normal retirement age, (ii) who becomes a New York city eligible
33 member in active service after the enactment date of the age fifty-five
34 retirement program and (iii) who, as such an eligible member or other-
35 wise, last became subject to the provisions of this article prior to
36 such enactment date, may elect to become a participant in the age
37 fifty-five retirement program by filing, within one hundred eighty days
38 after becoming a New York city eligible member in active service, a duly
39 executed application for such participation with the retirement system
40 of which such person is a member, provided that he or she is a New York
41 city eligible member in active service on the date such application is
42 filed. Any election pursuant to this paragraph to be a participant in
43 the age fifty-five retirement program shall be irrevocable.

44 5. Each person (i) other than a person who is deemed pursuant to para-
45 graph eight of this subdivision to be employed for the purposes of para-
46 graph one or two of this subdivision in a New York city eligible posi-
47 tion on the enactment date of the age fifty-five retirement program, or
48 other than a person who, on such enactment date, is a discontinued
49 member not in active service who is entitled to a deferred vested bene-
50 fit at normal retirement age, (ii) who becomes a New York city eligible
51 member in active service after the enactment date of the age fifty-five
52 retirement program and (iii) who, as such an eligible member or other-
53 wise, becomes subject to the provisions of this article after the enact-
54 ment date of the age fifty-five retirement program shall become a
55 participant in the age fifty-five retirement program on the date he or
56 she becomes a New York city eligible member in active service.

1 6. Where any participant in the age fifty-five retirement program
2 shall cease to hold a New York city eligible position, he or she shall
3 cease to be such a participant and, during any period in which such
4 person is not a New York city eligible member, he or she shall not be a
5 participant in the age fifty-five retirement program.

6 7. Where any participant in the age fifty-five retirement program
7 terminates service in a New York city eligible position and returns to
8 service in a New York city eligible position at a later date and again
9 becomes a New York city eligible member, he or she shall again become
10 such a participant upon becoming a New York city eligible member.

11 8. For the limited purposes only of determining eligibility to elect
12 to become a participant in the age fifty-five retirement program pursu-
13 ant to paragraph one or two of this subdivision, a person shall be
14 deemed to be employed in a New York city eligible position on the enact-
15 ment date of the age fifty-five retirement program if, on such enactment
16 date, such person is: (i) in active service in a New York city eligible
17 position; (ii) on a leave of absence without pay from a New York city
18 eligible position approved by his or her public employer, and such
19 person returns to active service in a New York city eligible position
20 after such enactment date and within five years after beginning such
21 unpaid leave of absence; or (iii) on suspension without pay from a New
22 York city eligible position, and such person is reinstated from such
23 suspension to active service in such an eligible position after such
24 enactment date by his or her public employer.

25 9. Notwithstanding any other provision of law to the contrary, and
26 except as provided in paragraph five of this subdivision, any person who
27 is eligible to elect to become a participant in the age fifty-five
28 retirement program pursuant to paragraph one, two or four of this subdivi-
29 vision for the full one hundred eighty-day period provided for in such
30 applicable paragraph, and who fails to timely file a duly executed
31 application for such participation with the appropriate retirement
32 system, shall not thereafter be eligible to become a participant in such
33 program.

34 c. Service retirement. 1. A twenty-five-year participant in the age
35 fifty-five retirement program:

36 (i) who has completed twenty-five or more years of credited service;

37 (ii) who has attained age fifty-five;

38 (iii) who, subject to the provisions of paragraph nine of subdivision
39 e of this section, has paid, before the effective date of retirement,
40 all additional member contributions and interest (if any) required by
41 paragraphs one, four and five of subdivision e of this section;

42 (iv) who files with the retirement system of which he or she is a
43 member an application for service retirement setting forth at what time
44 he or she desires to be retired; and

45 (v) who shall be a participant in the age fifty-five retirement
46 program in active service at the time so specified for his or her
47 retirement; shall be retired pursuant to the provisions of this para-
48 graph affording early service retirement, provided, however, that no
49 such participant who otherwise meets the retirement eligibility require-
50 ments of this paragraph shall be permitted to retire pursuant to this
51 paragraph prior to June thirtieth, two thousand eight.

52 2. A twenty-seven-year participant in the age fifty-five retirement
53 program:

54 (i) who has completed twenty-seven or more years of credited service;

55 (ii) who has attained age fifty-five;

1 (iii) who, subject to the provisions of paragraph nine of subdivision
2 e of this section, has paid, before the effective date of retirement,
3 all additional member contributions and interest (if any) required by
4 paragraphs one, four and five of subdivision e of this section;

5 (iv) who files with the retirement system of which he or she is a
6 member an application for service retirement setting forth at what time
7 he or she desires to be retired; and

8 (v) who shall be a participant in the age fifty-five retirement
9 program in active service at the time so specified for his or her
10 retirement; shall be retired pursuant to the provisions of this para-
11 graph affording early service retirement.

12 3. Notwithstanding any other provision of law to the contrary, and
13 subject to the provisions of paragraph nine of subdivision e of this
14 section, the early service retirement benefit for a participant in the
15 age fifty-five retirement program who retires pursuant to either para-
16 graph one or two of this subdivision shall be a retirement allowance
17 equal to one-fiftieth of final average salary times years of credited
18 service not in excess of thirty years. Credited service in excess of
19 thirty years shall provide an additional retirement allowance equal to
20 three-two hundredths of the final average salary for each year of cred-
21 ited service in excess of thirty years.

22 d. Vesting. 1. (i) A twenty-five-year participant in the age fifty-
23 five retirement program:

24 (A) who, on or after June thirtieth, two thousand eight, as such a
25 participant in such retirement program, discontinues service as a teach-
26 er (as defined in subdivision seven of section 13-501 of the administra-
27 tive code) or discontinues education service (as defined in paragraph
28 fourteen of subdivision a of this section), other than by death or
29 retirement;

30 (B) who, prior to such discontinuance, completed twenty-five or more
31 years of credited service;

32 (C) who, subject to the provisions of paragraph ten of subdivision e
33 of this section, has paid, prior to such discontinuance, all additional
34 member contributions and interest (if any) required by paragraphs one,
35 four and five of subdivision e of this section; and

36 (D) who does not withdraw in whole or in part his or her accumulated
37 member contributions pursuant to section six hundred thirteen of this
38 article unless such participant thereafter returns to public service and
39 repays the amounts so withdrawn, together with interest, pursuant to
40 such section six hundred thirteen; shall be entitled to receive a
41 deferred vested benefit as provided in this paragraph.

42 (ii) (A) Upon such discontinuance under the conditions and in compli-
43 ance with the provisions of subparagraph (i) of this paragraph, such
44 deferred vested benefit shall vest automatically.

45 (B) Such vested benefit shall become payable on the earliest date on
46 which such discontinued member could have retired for service if such
47 discontinuance had not occurred.

48 (iii) Subject to the provisions of paragraph ten of subdivision e of
49 this section, such deferred benefit shall be a retirement allowance
50 computed in accordance with the applicable provisions of paragraph three
51 of subdivision c of this section.

52 2. (i) A twenty-seven-year participant in the age fifty-five retire-
53 ment program:

54 (A) who, as such a participant in such retirement program, discontin-
55 ues service as a teacher (as defined in subdivision seven of section
56 13-501 of the administrative code) or discontinues education service (as

1 defined in paragraph fourteen of subdivision a of this section), other
2 than by death or retirement; and

3 (B) who, prior to such discontinuance, completed twenty-seven or more
4 years of credited service; and

5 (C) who, subject to the provisions of paragraph ten of subdivision e
6 of this section, has paid, prior to such discontinuance, all additional
7 member contributions and interest (if any) required by paragraphs one,
8 four and five of subdivision e of this section; and

9 (D) who does not withdraw in whole or in part his or her accumulated
10 member contributions pursuant to section six hundred thirteen of this
11 article unless such participant thereafter returns to public service and
12 repays the amounts so withdrawn, together with interest, pursuant to
13 such section six hundred thirteen; shall be entitled to receive a
14 deferred vested benefit as provided in this paragraph.

15 (ii) (A) Upon such discontinuance under the conditions and in compli-
16 ance with the provisions of subparagraph (i) of this paragraph, such
17 deferred vested benefit shall vest automatically.

18 (B) Such vested benefit shall become payable on the earliest date on
19 which such discontinued member could have retired for service if such
20 discontinuance had not occurred.

21 (iii) Subject to the provisions of paragraph ten of subdivision e of
22 this section, such deferred benefit shall be a retirement allowance
23 computed in accordance with the applicable provisions of paragraph three
24 of subdivision c of this section.

25 e. Additional member contributions. 1. In addition to the member
26 contributions required by section six hundred thirteen of this article,
27 each participant in the age fifty-five retirement program shall contrib-
28 ute (subject to the applicable provisions of subdivision d of section
29 six hundred thirteen of this article) an additional percentage of his or
30 her compensation to the retirement system of which he or she is a member
31 in accordance with the following applicable provisions:

32 (i) each twenty-five-year participant in the age fifty-five retirement
33 program shall contribute an additional one and eighty-five one-hun-
34 dredths percent of his or her compensation earned from all credited
35 service rendered on and after the starting date of the age fifty-five
36 retirement program

37 (A) while such person is a participant in such program; and

38 (B) before such person becomes such a participant pursuant to para-
39 graph one or two of subdivision b of this section (whether or not
40 rendered in a New York city eligible position); and

41 (C) after such person ceases to be a participant, but before he or she
42 again becomes such a participant pursuant to paragraph seven of subdivi-
43 sion b of this section (whether or not rendered in a New York city
44 eligible position); and

45 (ii) each twenty-seven-year participant in the age fifty-five retire-
46 ment program shall contribute an additional one and eighty-five one-hun-
47 dredths percent of his or her compensation earned from all credited
48 service rendered

49 (A) while such person is a participant in such program; and

50 (B) before such person becomes such a participant pursuant to para-
51 graph four or five of subdivision b of this section (whether or not
52 rendered in a New York city eligible position, and whether rendered
53 before or after the starting date of the age fifty-five retirement
54 program); and

55 (C) after such person ceases to be a participant, but before he or she
56 again becomes such a participant pursuant to paragraph seven of subdivi-

1 sion b of this section (whether or not rendered in a New York city
2 eligible position).

3 2. A twenty-five-year participant in the age fifty-five retirement
4 program (as defined in paragraph eleven of subdivision a of this
5 section) shall contribute additional member contributions until the
6 later of (i) June twenty-ninth, two thousand eight, or (ii) the date on
7 which he or she has completed twenty-five years of credited service. A
8 twenty-seven-year participant in the age fifty-five retirement program
9 shall contribute additional member contributions only until he or she
10 has completed twenty-seven years of credited service.

11 3. (i) Commencing with the first full payroll period after each person
12 becomes a participant in the age fifty-five retirement program, addi-
13 tional member contributions at the rate specified in paragraph one of
14 this subdivision shall be deducted (subject to the applicable provisions
15 of subdivision d of section six hundred thirteen of this article) from
16 the compensation of such participant on each and every payroll of such
17 participant for each and every payroll period for which he or she is
18 such a participant.

19 (ii) (A) Those portions of the additional member contributions required
20 by paragraph one of this subdivision which are attributable to credited
21 service rendered on and after the starting date of the age fifty-five
22 retirement program, and prior to the actual commencement of deductions
23 from compensation pursuant to subparagraph (i) of this paragraph, by a
24 person who becomes a participant pursuant to paragraph one of subdivi-
25 sion b of this section, shall be paid by deductions from the compen-
26 sation of such participant pursuant to and in accordance with the
27 provisions of item (B) of this subparagraph.

28 (B) Commencing with the payroll period in which deductions of addi-
29 tional member contributions from such participant's compensation are
30 begun pursuant to subparagraph (i) of this paragraph, in addition to
31 such deductions required by subparagraph (i) of this paragraph, there
32 shall be another deduction of additional member contributions made from
33 the compensation of such participant at one-third the rate at which
34 deductions are being made pursuant to subparagraph (i) of this paragraph
35 (subject to the applicable provisions of subdivision d of section six
36 hundred thirteen of this article) on each and every payroll period until
37 the total amount of unpaid additional member contributions described in
38 item (A) of this subparagraph, if any, has been paid by deductions from
39 compensation pursuant to this subparagraph, provided, however, that
40 deductions pursuant to this item shall be made only during the period
41 while such person is a participant after first becoming a participant
42 pursuant to paragraph one of subdivision b of this section and before
43 ceasing to be such a participant.

44 4. (i) Each participant in the age fifty-five retirement program shall
45 be charged with a contribution deficiency consisting of the total amount
46 of additional member contributions such person is required to make
47 pursuant to paragraph one of this subdivision which is not deducted from
48 his or her compensation pursuant to paragraph three of this subdivision,
49 if any, together with interest thereon, compounded annually, and
50 computed in accordance with the provisions of subparagraphs (ii) and
51 (iii) of this paragraph.

52 (ii) (A) Subject to the provisions of subparagraph (iii) of this para-
53 graph, the interest required to be paid on the amount specified in
54 subparagraph (i) of this paragraph shall accrue from the end of each of
55 the payroll periods for which such amount would have been deducted from
56 compensation if he or she had been a participant at the beginning of

1 that payroll period and such deduction had been required for such
2 payroll period, until such amount is paid to the retirement system.

3 (B) The rate of interest to be applied to such amount during the peri-
4 od for which interest accrues on that amount shall be equal to the rate
5 or rates of interest required by law to be used during that same period
6 to credit interest on the accumulated deductions of retirement system
7 members.

8 (iii) Except as otherwise provided in paragraph five of this subdivi-
9 sion, no interest shall be due on any unpaid additional member contrib-
10 utions which are not attributable to a period prior to the first full
11 payroll period referred to in paragraph three of this subdivision.

12 5. (i) (A) Should any person who, pursuant to paragraph twelve of this
13 subdivision, has received a refund of the employee portion of his or her
14 additional member contributions (as established in accordance with item
15 (B) of subparagraph (ii) of paragraph six of this subdivision), includ-
16 ing any interest paid on such employee portion, again become a partic-
17 ipant in the age fifty-five retirement program pursuant to paragraph
18 seven of subdivision b of this section, an appropriate amount shall be
19 included in such participant's contribution deficiency (including inter-
20 est thereon as calculated pursuant to subparagraph (ii) of this para-
21 graph) for any credited service for which such person received a refund
22 of such employee portion of additional member contributions (including
23 any amount of an unpaid loan balance deemed to have been returned to
24 such person pursuant to paragraph fourteen of this subdivision), as if
25 such employee portion of additional member contributions never had been
26 paid.

27 (B) Any person who has his or her membership in one participating
28 retirement system terminated without transferring such membership
29 directly from such participating retirement system to the other partic-
30 ipating retirement system, who has an unpaid balance of a loan of the
31 employee portion of his or her additional member contributions pursuant
32 to paragraph thirteen of this subdivision at the time of the termination
33 of such membership, who, pursuant to paragraph seven of subdivision b of
34 this section, thereafter again becomes a participant in the age fifty-
35 five retirement program as a member of either participating retirement
36 system without having received a refund of the employee portion of his
37 or her additional member contributions pursuant to paragraph twelve of
38 this subdivision, shall have an appropriate amount included in such
39 participant's contribution deficiency (including interest thereon as
40 calculated in subparagraph (ii) of this paragraph) for any credited
41 service for which such person borrowed and did not repay such employee
42 portion of additional member contributions, as if such employee portion
43 of additional member contributions never had been paid.

44 (ii) (A) Interest on the employee portion of a participant's additional
45 member contributions included in such participant's contribution defi-
46 ciency pursuant to subparagraph (i) of this paragraph shall be calcu-
47 lated as if such employee portion of additional member contributions
48 never had been paid by such participant, and such interest shall accrue
49 from the end of the payroll period to which an amount of such employee
50 portion of additional member contributions is attributable, until such
51 amount is paid to the retirement system.

52 (B) The rate of interest to be applied to each such amount during the
53 period for which interest accrues on that amount shall be five percent
54 per annum, compounded annually.

55 6. (i) All additional member contributions required by this subdivi-
56 sion (and any interest paid thereon) which are received by the retire-

1 ment system of which the participant is a member shall be paid into its
2 contingent reserve fund and shall not for any purpose be deemed to be
3 member contributions or accumulated contributions of a member under
4 section six hundred thirteen of this article or otherwise while he or
5 she is a participant in the age fifty-five retirement program or other-
6 wise.

7 (ii) All additional member contributions required for any period of
8 credited service pursuant to paragraph one of this subdivision (and any
9 interest paid thereon pursuant to paragraph four of this subdivision)
10 which, pursuant to subparagraph (i) of this paragraph, are paid by a
11 participant (subject to the applicable provisions of subdivision d of
12 section six hundred thirteen of this article) into the contingent
13 reserve fund of the retirement system of which such participant is a
14 member (other than repayments of loans of additional member contrib-
15 utions pursuant to paragraph thirteen of this subdivision or amounts
16 paid in satisfaction of a contribution deficiency calculated in accord-
17 ance with paragraph five of this subdivision) shall be divided in the
18 following manner:

19 (A) one-half of such additional member contributions (and any such
20 interest paid thereon) shall be the employer contribution portion of
21 such additional member contributions; and

22 (B) one-half of such additional member contributions (and any such
23 interest paid thereon) shall be the employee portion of such additional
24 member contributions, and shall be credited to the employee additional
25 contributions account which shall be established for such participant
26 within the contingent reserve fund of such retirement system.

27 (iii) No person, while he or she is a participant or otherwise, shall
28 at any time be permitted:

29 (A) to borrow, pursuant to paragraph thirteen of this subdivision or
30 any other provision, any of the employer contribution portion of his or
31 her additional member contributions (as established in accordance with
32 item (A) of subparagraph (ii) of this paragraph, including any interest
33 paid thereon) which has been paid into the contingent reserve fund of
34 the retirement system; or

35 (B) to receive a refund of any of such employer contribution portion
36 pursuant to paragraph twelve of this subdivision or any other provision.

37 (iv) None of the employer contribution portion of a participant's
38 additional member contributions (including any interest paid thereon)
39 shall for any purpose:

40 (A) be deemed to be part of the employee portion of additional member
41 contributions paid by a participant; or

42 (B) be credited to the employee additional contributions account
43 established for such participant in the contingent reserve fund of the
44 retirement system.

45 (v) All repayments of loans of the employee portion of additional
46 member contributions pursuant to paragraph thirteen of this subdivision
47 and all payments of the employee portion of additional member contrib-
48 utions in satisfaction of a contribution deficiency calculated in
49 accordance with paragraph five of this subdivision which are paid by a
50 participant to the contingent reserve fund of a participating retirement
51 system (and any interest paid thereon) shall be part of the employee
52 portion of such participant's additional member contributions and shall
53 be credited to the employee additional contributions account established
54 for such participant in the contingent reserve fund of such retirement
55 system.

1 7. Where a person who was a participant in the age fifty-five retire-
2 ment program as a member of one participating retirement system becomes
3 such a participant as a member of the other participating retirement
4 system:

5 (i) the employer contribution portion of the additional member
6 contributions paid by such person to such first retirement system pursu-
7 ant to this subdivision (including any interest paid thereon) that is
8 attributable to any period of credited service obtained in such second
9 retirement system by purchase or transfer, which previously was credited
10 in such first retirement system, shall (only for purposes of this subdivi-
11 vision, and not for purposes of determining required employer contrib-
12 utions to such second retirement system) be deemed to have been paid to
13 such second retirement system rather than to such first retirement
14 system; and

15 (ii) the employee portion of the additional member contributions paid
16 by such person to such first retirement system pursuant to this subdivi-
17 sion (including any interest paid thereon) which remains credited to the
18 employee additional contributions account established for such person in
19 the contingent reserve fund of such first retirement system that is
20 attributable to any period of credited service obtained in such second
21 retirement system by purchase or transfer, which previously was credited
22 in such first retirement system, shall (only for purposes of this subdivi-
23 vision, and not for purposes of determining required employer contrib-
24 utions to such second retirement system) be deemed to have been paid to
25 such second retirement system rather than to such first retirement
26 system, and shall be credited to the employee additional contributions
27 account established for such participant in the contingent reserve fund
28 of such second retirement system.

29 8. A person who was a participant in the age fifty-five retirement
30 program as a member of one participating retirement system, who becomes
31 such a participant as a member of the other participating retirement
32 system and who thereafter transfers his or her membership in such first
33 retirement system directly to such second retirement system as such a
34 participant shall be deemed to have the same unpaid balance of a loan of
35 the employee portion of additional member contributions pursuant to
36 paragraph thirteen of this subdivision (including accrued interest) as
37 he or she had in such first retirement system at the time of such trans-
38 fer of membership to the second retirement system.

39 9. Where a participant who is otherwise eligible for service retire-
40 ment pursuant to subdivision c of this section did not, prior to the
41 effective date of retirement, pay the entire amount of a contribution
42 deficiency chargeable to him or her pursuant to paragraphs four and five
43 of this subdivision, or repay the entire amount of a loan of the employ-
44 ee portion of his or her additional member contributions pursuant to
45 paragraph thirteen of this subdivision (including accrued interest on
46 such loan), that participant, nevertheless, shall be eligible to retire
47 pursuant to subdivision c of this section, provided, however, that where
48 such participant is not entitled to a refund of the employee portion of
49 additional member contributions pursuant to subparagraph (iii) of para-
50 graph twelve of this subdivision, such participant's service retirement
51 benefit calculated pursuant to paragraph three of such subdivision c
52 shall be reduced by a life annuity (calculated in accordance with the
53 method set forth in subdivision h of section six hundred thirteen-a of
54 this article) which is actuarially equivalent to:

1 (i) the amount of any unpaid contribution deficiency chargeable to
2 such member pursuant to paragraphs four and five of this subdivision;
3 plus

4 (ii) the amount of any unpaid balance of a loan of the employee
5 portion of his or her additional member contributions pursuant to para-
6 graph thirteen of this subdivision (including accrued interest on such
7 loan).

8 10. Where a participant in the age fifty-five retirement program who
9 is otherwise eligible for a vested right to a deferred benefit pursuant
10 to subdivision d of this section did not, prior to the date of discon-
11 tinuance of service, pay the entire amount of a contribution deficiency
12 chargeable to him or her pursuant to paragraphs four and five of this
13 subdivision, or repay the entire amount of a loan of the employee
14 portion of his or her additional member contributions pursuant to para-
15 graph thirteen of this subdivision (including accrued interest on such
16 loan), that participant, nevertheless, shall be eligible for a vested
17 right to a deferred benefit pursuant to subdivision d of this section,
18 provided, however, that the deferred vested benefit calculated pursuant
19 to the otherwise applicable provisions of such subdivision d shall be
20 reduced by a life annuity (calculated in accordance with the method set
21 forth in subdivision h of section six hundred thirteen-a of this arti-
22 cle) which is actuarially equivalent to:

23 (i) the amount of any unpaid contribution deficiency chargeable to
24 such member pursuant to paragraphs four and five of this subdivision;
25 plus

26 (ii) the amount of any unpaid balance of a loan of the employee
27 portion of his or her additional member contributions pursuant to para-
28 graph thirteen of this subdivision (including accrued interest on such
29 loan).

30 11. The retirement board of TRS and the retirement board of BERS may,
31 consistent with the provisions of this subdivision, promulgate regu-
32 lations for the payment of additional member contributions required by
33 this subdivision, and any interest thereon, by participants in the age
34 fifty-five retirement program (including the deduction of such contrib-
35 utions, and any interest thereon, from the participants' compensation).

36 12. (i) Subject to the provisions of paragraph fourteen of this subdivi-
37 vision, a participant in the age fifty-five retirement program who
38 retires for disability pursuant to section six hundred five of this
39 article shall be entitled, upon such retirement, to a refund of the
40 employee portion of his or her additional member contributions paid
41 pursuant to this subdivision (including any interest on such employee
42 portion paid to the retirement system) which remains credited to the
43 employee additional contributions account established for such person in
44 the contingent reserve fund of the retirement system of which he or she
45 is a member at the time of such retirement for disability, together with
46 interest thereon at the rate of five percent per annum, compounded annu-
47 ally.

48 (ii) Subject to the provisions of paragraph fourteen of this subdivi-
49 sion, upon the death of a participant in the age fifty-five retirement
50 program, there shall be paid to such person as he or she has nominated
51 or shall nominate to receive his or her accumulated member contributions
52 by written designation duly executed and filed with the retirement
53 system during the lifetime of such participant, or, to his or her estate
54 if no such person is nominated, the employee portion of his or her addi-
55 tional member contributions paid pursuant to this subdivision (including
56 any interest on such employee portion paid to the retirement system)

1 which remains credited to the employee additional contributions account
2 established for such person in the contingent reserve fund of the
3 retirement system of which he or she is a member at the time of his or
4 her death, together with interest thereon at the rate of five percent
5 per annum, compounded annually.

6 (iii) Subject to the provisions of paragraph fourteen of this subdivi-
7 sion, a person:

8 (A) who is or was a participant in the age fifty-five retirement
9 program;

10 (B) who retires for service as a member of TRS or BERS pursuant to the
11 applicable service retirement provisions of this article;

12 (C) who is in active service on the effective date of retirement;

13 (D) who is at least sixty-two years of age on the effective date of
14 retirement; and

15 (E) who was in active service for a total of at least six months out
16 of each of the two twelve-month periods immediately preceding his or her
17 retirement for service, shall, upon such retirement for service, be
18 entitled to a refund of the employee portion of his or her additional
19 member contributions paid pursuant to this subdivision (including any
20 interest on such employee portion paid to the retirement system) which
21 remains credited to the employee additional contributions account estab-
22 lished for such person in the contingent reserve fund of the retirement
23 system of which he or she is a member at the time of such retirement for
24 service, together with interest thereon at the rate of five percent per
25 annum, compounded annually.

26 (iv) Subject to the provisions of paragraph fourteen of this subdivi-
27 sion, a person who ceases to be a participant in the age fifty-five
28 retirement program as a member of a participating retirement system
29 because he or she ceases to hold a New York city eligible position, who
30 thereafter is employed in another position in public employment which is
31 not a New York city eligible position, but which entitles such person to
32 membership in another public retirement system which is maintained in
33 whole or in part by the city or state of New York, and who thereafter
34 transfers his or her membership in such participating retirement system
35 directly to such second public retirement system, shall be permitted to
36 withdraw the employee portion of his or her additional member contrib-
37 utions paid pursuant to this subdivision (including any interest on such
38 employee portion paid to the retirement system) which remains credited
39 to the employee additional contributions account established for such
40 person in the contingent reserve fund of such participating retirement
41 system, together with interest thereon at the rate of five percent per
42 annum, compounded annually.

43 (v) Subject to the provisions of paragraph fourteen of this subdivi-
44 sion, any person who withdraws as a participant in the age fifty-five
45 retirement program by filing a valid request for such withdrawal pursu-
46 ant to subparagraph (ii) of paragraph three of subdivision b of this
47 section shall, upon such withdrawal, be entitled to a refund of the
48 employee portion of his or her additional member contributions paid
49 pursuant to this subdivision (including any interest on such employee
50 portion paid to the retirement system) which remains credited to the
51 employee additional contributions account established for such person in
52 the contingent reserve fund of the retirement system of which he or she
53 is a member at the time of such withdrawal as a participant, together
54 with interest thereon at the rate of five percent per annum, compounded
55 annually.

1 (vi) Subject to the provisions of paragraph fourteen of this subdivi-
2 sion, a participant in the age fifty-five retirement program who has
3 been terminated from employment in a New York city eligible position for
4 economic reasons by his or her public employer shall be entitled, upon
5 such termination, to withdraw the employee portion of his or her addi-
6 tional member contributions paid pursuant to this subdivision (including
7 any interest on such employee portion paid to the retirement system)
8 which remains credited to the employee additional contributions account
9 established for such person in the contingent reserve fund of the
10 retirement system of which he or she is a member at the time of such
11 termination from employment, together with interest thereon at the rate
12 of five percent per annum, compounded annually.

13 (vii) Notwithstanding any other provision of law to the contrary:

14 (A) no person shall be permitted to withdraw from the retirement
15 system any additional member contributions paid pursuant to this subdivi-
16 vision or any interest paid thereon, except pursuant to and in accord-
17 ance with the preceding subparagraphs of this paragraph;

18 (B) no person, while he or she is a participant in the age fifty-five
19 retirement program, shall be permitted to withdraw any such additional
20 member contributions or any interest paid thereon pursuant to any of the
21 preceding subparagraphs of this paragraph or otherwise; and

22 (C) no person, while he or she is a participant or otherwise, shall at
23 any time be permitted to withdraw any of the employer contribution
24 portion of his or her additional member contributions, including any
25 interest paid thereon (as established in accordance with item (A) of
26 subparagraph (ii) of paragraph six of this subdivision), pursuant to any
27 of the preceding subparagraphs of this paragraph or otherwise.

28 13. A participant in the age fifty-five retirement program shall be
29 permitted to borrow from the employee portion of his or her additional
30 member contributions (as established in accordance with item (B) of
31 subparagraph (ii) of paragraph six of this subdivision, including any
32 interest paid thereon) which is credited to the employee additional
33 contributions account established for such participant in the contingent
34 reserve fund of the retirement system of which he or she is a member.
35 The borrowing from such employee portion of additional member contrib-
36 utions pursuant to this paragraph shall be governed by the rights, privi-
37 leges, obligations and procedures set forth in the applicable
38 provisions of section six hundred thirteen-a of this article (for TRS
39 members) or section six hundred thirteen-b of this article (for BERS
40 members) which govern the borrowing of member contributions made pursu-
41 ant to section six hundred thirteen of this article. The retirement
42 board of TRS and the retirement board of BERS may, consistent with the
43 provisions of this subdivision and the applicable provisions of section
44 six hundred thirteen-a of this article (for TRS) or section six hundred
45 thirteen-b of this article (for BERS) as made applicable to this subdivi-
46 vision, promulgate regulations governing the borrowing of such employee
47 portion of additional member contributions, provided, however, that no
48 person, while he or she is a participant or otherwise, shall at any time
49 be permitted to borrow, pursuant to this paragraph or any other
50 provision, any of the employer contribution portion of his or her addi-
51 tional member contributions, including any interest paid thereon (as
52 established in accordance with item (A) of subparagraph (ii) of para-
53 graph six of this subdivision).

54 14. Whenever a person has an unpaid balance of a loan of the employee
55 portion of his or her additional member contributions pursuant to para-
56 graph thirteen of this subdivision at the time he or she becomes enti-

1 tled to a refund of the employee portion of his or her additional member
2 contributions pursuant to paragraph twelve of this subdivision, the
3 amount of such unpaid loan balance (including accrued interest) shall be
4 deemed to have been returned to such member, and the refund of such
5 employee portion shall be the net amount of such employee portion,
6 together with interest thereon in accordance with the provisions of
7 paragraph eleven of this subdivision.

8 § 6. Subdivision d of section 613 of the retirement and social securi-
9 ty law is amended by adding a new paragraph 11 to read as follows:

10 11. (i) Notwithstanding any other provision of law to the contrary,
11 each participating employer shall, in the case of a member who is a
12 participant in the age fifty-five retirement program (as defined in
13 paragraph seven of subdivision a of section six hundred four-i of this
14 article), pick up and pay to the retirement system of which such partic-
15 ipant is a member all additional member contributions which otherwise
16 would be required to be deducted from such member's compensation pursu-
17 ant to paragraph three of subdivision e of such section six hundred
18 four-i.

19 (ii) An amount equal to the amount of additional member contributions
20 picked up pursuant to this paragraph shall be deducted by such employer
21 from the compensation of such member (as such compensation would be in
22 the absence of a pick up program applicable to him or her hereunder) and
23 shall not be paid to such member.

24 (iii) The additional member contributions picked up pursuant to this
25 paragraph for any such member shall be paid by such employer in lieu of
26 an equal amount of additional member contributions otherwise required to
27 be paid by such member under the applicable provisions of subdivision e
28 of section six hundred four-i of this article, and shall be deemed to be
29 and treated as employer contributions pursuant to section 414(h) of the
30 Internal Revenue Code.

31 (iv) For the purpose of determining the retirement system rights,
32 benefits and privileges of any member whose additional member contrib-
33 utions are picked up pursuant to this paragraph, such picked up addi-
34 tional member contributions shall be deemed to be and treated as part of
35 such member's additional member contributions under the provisions of
36 subdivision e of section six hundred four-i of the article.

37 (v) With the exception of federal income tax treatment, the additional
38 member contributions picked up pursuant to subparagraph (i) of this
39 paragraph shall for all other purposes, including computation of retire-
40 ment benefits and contributions by employers and employees, be deemed
41 employee salary. Nothing contained in this paragraph shall be construed
42 as superseding the provisions of section four hundred thirty-one of this
43 chapter or any similar provision of law which limits the salary base for
44 computing retirement benefits payable by a public retirement system.

45 § 7. Section 13-521.1 of the administrative code of the city of New
46 York is amended by adding a new subdivision a-1 to read as follows:

47 a-1. Notwithstanding any other provision of law to the contrary, the
48 employer responsible for pick up shall, in the case of a member who is a
49 participant in the age fifty-five retirement program (as defined in
50 paragraph ten of subdivision a of section four hundred forty-five-i of
51 the retirement and social security law), pick up and pay to the retire-
52 ment system all additional member contributions which otherwise would be
53 required to be deducted from such member's compensation pursuant to
54 paragraph three of subdivision d of section four hundred forty-five-i of
55 the retirement and social security law, and shall effect such pick up on
56 each and every payroll of such participant for each and every payroll

1 period with respect to which such paragraph three of subdivision d of
2 section four hundred forty-five-i of the retirement and social security
3 law otherwise would require such deductions.

4 § 8. Paragraph 1 of subdivision c of section 13-521.1 of the adminis-
5 trative code of the city of New York, as added by chapter 681 of the
6 laws of 1992, is amended to read as follows:

7 (1) The member contributions and additional member contributions
8 picked up pursuant to this section for any Tier I member or Tier II
9 member shall be paid by the employer responsible for pick up in lieu of
10 an equal amount of the member contributions and additional member
11 contributions otherwise required to be paid by such member under the
12 provisions of this chapter or the retirement and social security law,
13 and shall be deemed to be and treated as employer contributions pursuant
14 to subsection h of section four hundred fourteen of the United States
15 internal revenue code, as amended, for the purposes, under federal law,
16 for which such subsection h so classified such picked up contributions.
17 Subject to the provisions of subdivision b of this section, for all
18 other purposes, including but not limited to:

19 (i) the obligation of such member to pay New York state and New York
20 city income and/or wages or earnings taxes and the withholding of such
21 taxes; and

22 (ii) the determination of the amount of such member's Tier I or Tier
23 II member contributions eligible for pick up by the employer or addi-
24 tional member contributions required to be picked up pursuant to subdivi-
25 vision a-one of this section; and

26 (iii) the determination of the amount of any retirement allowance or
27 other retirement system benefit payable to or on account of such member
28 or any other retirement system right, benefit or privilege of such
29 member;

30 the amount of the member contributions and additional member contrib-
31 utions picked up pursuant to this section shall be deemed to be a part
32 of the employee salary of such member and such member's gross salary (as
33 it would be in the absence of a pick up program applicable to him or her
34 hereunder) shall not be deemed to be changed by such member's partic-
35 ipation in such program.

36 § 9. Subdivisions d and e of section 13-521.1 of the administrative
37 code of the city of New York, as added by chapter 681 of the laws of
38 1992, are amended to read as follows:

39 d. (1) For the purpose of determining the retirement system rights,
40 benefits and privileges of any Tier I member or Tier II member whose
41 Tier I or Tier II member contributions eligible for pick up by the
42 employer are picked up pursuant to this section (including the procure-
43 ment of loans by any such member), such picked up member contributions,
44 subject to the provisions of subparagraph [~~four~~ **five**] of this paragraph,
45 shall be deemed to be and treated (i) as member contributions made by
46 such member pursuant to law and (ii) as a part of such member's accumu-
47 lated deductions.

48 (2) For the purpose of determining the retirement system rights, bene-
49 fits and privileges of any member who is a participant in the age
50 fifty-five retirement program (as defined in paragraph ten of subdivi-
51 sion a of section four hundred forty-five-i of the retirement and social
52 security law), the additional member contributions of such participant
53 picked up pursuant to subdivision a-one of this section shall be deemed
54 to be and treated as a part of such member's additional member contrib-
55 utions under subdivision d of section four hundred forty-five-i of the
56 retirement and social security law.

1 (3) Interest on contributions picked up for any Tier I or Tier II
 2 member pursuant to this section (other than additional member contribu-
 3 tions picked up pursuant to subdivision a-one of this section) shall
 4 accrue in favor of the member and be payable to the retirement system at
 5 the same rate, for the same time periods, in the same manner and under
 6 the same circumstances as interest would be required to accrue in favor
 7 of the member and be payable to the retirement system on such contribu-
 8 tions if they were made by such member in the absence of a pick up
 9 program applicable to such member under the provisions of this section.

10 [~~(3)~~] (4) Where member contributions of any Tier I member or Tier II
 11 member are picked up and paid into the annuity savings fund pursuant to
 12 this section, such picked up contributions shall be credited to a sepa-
 13 rate account within the individual account of such member in such fund,
 14 so that a separate record of the amount of such picked up contributions
 15 is maintained.

16 [~~(4)~~] (5) For the purposes of determining the retirement system
 17 rights, benefits and privileges of any Tier I member or Tier II member
 18 who is [~~a~~] a participant in a variable annuity program of the retirement
 19 system, his or her picked up member contributions shall, to the extent
 20 and in the proportions appropriate pursuant to his or her election to
 21 participate in such program, be deemed to be and treated as a part of
 22 his or her accumulated deductions and/or credits in his or her account
 23 in the variable annuity savings fund. A separate record shall be kept
 24 showing any such variable annuity savings fund account credits attribut-
 25 able to any such picked up contributions.

26 [~~(5)~~] (6) Nothing contained in this subdivision [~~d~~] shall be construed
 27 as granting member contributions or additional member contributions
 28 picked up under this section any status, under federal law, other than
 29 as employer contributions, pursuant to subsection h of section four
 30 hundred fourteen of the United States internal revenue code, for the
 31 federal purposes for which such subsection h so classifies such picked
 32 up contributions.

33 e. No contributor whose member contributions or additional member
 34 contributions are required to be picked up pursuant to this section
 35 shall have any right to elect that such pick up, with accompanying
 36 deduction from the compensation of such contributor as prescribed by
 37 subdivision b of this section, shall not be effectuated.

38 § 10. Subdivision 19 of section 2575 of the education law is amended
 39 by adding a new paragraph (c-2) to read as follows:

40 (c-2) Notwithstanding any other provision of law to the contrary, the
 41 employer responsible for pick up shall, in the case of a member who is a
 42 participant in the age fifty-five retirement program (as defined in
 43 paragraph ten of subdivision a of section four hundred forty-five-i of
 44 the retirement and social security law), pick up and pay to the retire-
 45 ment system all additional member contributions which otherwise would be
 46 required to be deducted from such member's compensation pursuant to
 47 paragraph three of subdivision d of section four hundred forty-five-i of
 48 the retirement and social security law, and shall effect such pick up on
 49 each and every payroll of such participant for each and every payroll
 50 period with respect to which such paragraph three otherwise would
 51 require such deductions.

52 § 11. Item (ii) of subparagraph 1 of paragraph (e) of subdivision 19
 53 of section 2575 of the education law, as amended by chapter 96 of the
 54 laws of 1995, is amended to read as follows:

55 (ii) the determination of the amount of such member's Tier I or Tier
 56 II member contributions eligible for pick up by the employer or addi-

1 tional member contributions required to be picked up pursuant to para-
2 graph [~~(e-one)~~] c-one or c-two of this subdivision; and

3 § 12. Paragraph (f) of subdivision 19 of section 2575 of the education
4 law is amended by adding a new subparagraph 2-a to read as follows:

5 (2-a) For the purpose of determining the retirement system rights,
6 benefits and privileges of any member who is a participant in the age
7 fifty-five retirement program (as defined in paragraph ten of subdivi-
8 sion a of section four hundred forty-five-i of the retirement and social
9 security law), the additional member contributions of such participant
10 picked up pursuant to paragraph c-two of this subdivision shall be
11 deemed to be and treated as a part of such member's additional member
12 contributions under subdivision d of section four hundred forty-five-i
13 of the retirement and social security law.

14 § 13. Subparagraph 3 of paragraph (f) of subdivision 19 of section
15 2575 of the education law, as amended by chapter 96 of the laws of 1995,
16 is amended to read as follows:

17 (3) Interest on contributions picked up for any Tier I member or Tier
18 II member pursuant to this subdivision (other than additional member
19 contributions picked up pursuant to paragraph [~~(e-one)~~] c-one or c-two
20 of this subdivision) shall accrue in favor of the member and be payable
21 to the retirement system at the same rate, for the same time periods, in
22 the same manner and under the same circumstances as interest would be
23 required to accrue in favor of the member and be payable to the retire-
24 ment system on such contributions if they were made by such member in
25 the absence of a pick up program applicable to such member under the
26 provisions of this section.

27 § 14. Nothing contained in sections six, seven, eight, nine, ten,
28 eleven, twelve and thirteen of this act shall be construed to create any
29 contractual right with respect to members to whom such section applies.
30 The provisions of such sections are intended to afford members the
31 advantages of certain benefits contained in the internal revenue code,
32 and the effectiveness and existence of such sections and benefits they
33 confer are completely contingent thereon.

34 § 15. This act shall take effect immediately, provided, however, that:

35 (a) the amendments to sections 603 and 613 of the retirement and
36 social security law made by sections three, three-a, four and six of
37 this act, and the provisions of section five of this act adding section
38 604-i to the retirement and social security law shall not affect the
39 expiration of and shall expire on the same date as article 15 of such
40 law, pursuant to section 615 of the retirement and social security law;

41 (b) the amendments to subdivision a of section 603 of the retirement
42 and social security law made by section three of this act shall be
43 subject to the expiration and reversion of such subdivision pursuant to
44 section 13 of chapter 682 of the laws of 2003, as amended, when upon
45 such date the provisions of section three-a of this act shall take
46 effect;

47 (c) the provisions of sections six, seven, eight, nine, ten, eleven,
48 twelve and thirteen of this act shall remain in force and effect only so
49 long as, pursuant to federal law, contributions picked up under such
50 sections are not includible as gross income of a member for federal
51 income tax purposes until distributed or made available to the member;

52 (d) the amendments to section 13-521.1 of the administrative code of
53 the city of New York made by sections seven, eight and nine of this act
54 and the amendments made to subdivision 19 of section 2575 of the educa-
55 tion law made by sections ten, eleven, twelve and thirteen of this act

1 shall not affect the expiration of such provisions as provided for in
 2 chapter 681 of the laws of 1992, as amended; and
 3 (e) the amendments to subdivision d of section 613 of the retirement
 4 and social security law made by section six of this act shall not affect
 5 the expiration of such subdivision and shall be deemed to expire there-
 6 with.

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

Exclusion of Various UFT Titles - BERS

The proposed legislation, if enacted, would amend the benefit provisions contained in the Administrative Code of the City of New York ("ACNY") and the New York State Retirement and Social Security Law ("RSSL") applicable to certain Tier II and Tier IV members of the NYCTRS and BERS to create a new Age 55 Retirement Program to permit unreduced Early Service Retirement from as early as age 55 (with less than 30 years of credited service for NYCTRS members).

The proposed legislation lists those Eligible Job Titles in BERS which would be permitted to participate in this new Program. Most of these Job Titles appear to be represented for collective bargaining purposes by the United Federation of Teachers ("UFT").

However, there are BERS members employed in Job Titles represented by the UFT whose Job Titles are not included on the list of Job Titles in the proposed legislation (e.g., Laboratory Specialist and Technician, School Psychologist etc.).

In addition, one of the criteria for establishing which Job Titles in the proposed legislation should cover BERS members was that they represent education service only with the New York City Board of Education ("BOE") or the New York City School Construction Authority ("SCA").

Yet, in the proposed legislation certain Job Titles are included based on service only for the BOE and would be excluded if service were with the SCA.

It is not clear if there are BERS members who work in education service for other than the BOE or the SCA and who may be in Job Titles represented by the UFT but who are not covered by the proposed legislation.

There were several Job Titles listed in the proposed legislation for which the OA had no data. The Actuary is concerned that certain BERS members may be inadvertently excluded.

In addition, certain Job Titles listed for BERS in the proposed legislation, are represented in collective bargaining by both the UFT and District Council #37 ("DC37"). Some of the OA data indicated that some of the BERS members were being shown in the wrong Plan. The Actuary has not had enough time to determine if this is just an error in coding or if there are other issues.

For purposes of this Fiscal Note, the Actuary has assumed that the Job Titles mentioned in the draft document would be included as being eligible for the Age 55 Retirement Program only if the members in such titles are currently participating in the BERS Basic Tier II or Tier IV Plans.

Problems with Chapter 96/95 Program Participants.

The proposed legislation does not appear to exclude a member of NYCTRS or BERS based on the plan in which he currently participates.

If a member of BERS who was a participant in one of the Chapter 96 of the Laws of 1995 ("Chapter 96/95") Early Service Retirement Programs were to enter into an Eligible Job Title that mandated immediate participation into the Age 55 Retirement Program, that member would owe Additional Member Contributions ("AMC") for all years of credited service

including those years prior to participation date in the Age 55 Retirement Program.

Since the proposed legislation does not anticipate that new entrants may have paid AMC while a Chapter 96/95 Program participant, the proposed legislation would require such members to pay AMC again for certain credited service that had already been paid to the prior Chapter 96/95 Programs.

Also, upon the transfer of members of the New York City Employees' Retirement System ("NYCERS") who participate in Chapter 96/95 Programs to BERS, the entire AMC account balance would be transferred to BERS consisting of 50% employer money and 50% employee money. In addition, such allocation of AMC amounts for existing BERS participants in the Chapter 96/95 Programs is the same.

Since the AMC contribution requirement in the new Age 55 Retirement Program is 1.85% of pay and the prior Chapter 96/95 Program was greater, when such participant becomes eligible to join the Program would that permit the participant an opportunity to receive the portion of such prior AMC deposited in excess of 1.85% of pay as a refund?

Inequities in Coverage

One of the primary motivations of the new legislation was to permit certain members of NYCTRS and BERS to retire early for service with unreduced benefits at age 55 and 25 years of credited service as their counterparts who already participate in one of the Chapter 96/95 Programs in NYCERS and in various BERS Job Titles.

While the proposed legislation goes a long way toward resolving these issues, there are certain groups in NYCTRS and BERS who are not eligible for the new Age 55 Retirement Program.

Among the groups **not** eligible are:

NYCTRS

"College Participants" covered in ACNY 13-563, and Transferred Contributor members.

BERS

Substitute teachers,

Members in Eligible Job Titles except such members who do not work for the BOE or the SCA (e.g., a nurse who is a BERS member who works for the Health and Hospitals Corporation), and

Job Titles in BERS other than substitute teacher titles who are excluded (as noted above).

Precluding Mandated Participants from Opting-Out

Under the proposed legislation, for those BERS and NYCTRS members who are eligible to elect to participate in the proposed Age 55 Retirement Program, these members have 180 days to voluntarily elect to participate from enactment date or from the date when first eligible. In addition, for such members who do elect to participate, there is a 365-day window period within which they can elect to opt-out of the Program and receive a refund of 50% of the AMC contributed to the Program.

New eligible members after enactment date are mandated into the new Program and are required to pay back AMC for all prior credited service. These members are not permitted any opportunity to opt-out of the Program in the event their hire date, to measure credited service, does not allow them to benefit from this Program (i.e., a new member hired on and after attainment of age 35 cannot benefit from this new Program).

On average, over the last five years, a significant percentage (i.e., 60% plus) of all new entrants into NYCTRS would not benefit from this new Program. It is not clear if this pattern of entry ages in NYCTRS will continue in the future or change.

The Actuary encourages the proponents of the proposed legislation to reconcile these outstanding questions and try to promote consistency within existing and proposed law.

FISCAL NOTE: PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Administrative Code of the City of New York ("ACNY") Section 13-521.1, New York State Education Law Section 2575.19 and New York State Retirement and Social Security Law ("RSSL") Sections 442.a, 603a, and 603.i and add RSSL Sections 445-i, 604-i and 613.d.11 to permit certain employees who are Tier II and Tier IV members of the New York City Teachers' Retirement System ("NYCTRS") or the New York City Board of Education Retirement System ("BERS") to participate in an Age Fifty-Five Retirement Program (referred to hereafter as the "Age 55 Program").

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

MEMBERS ELIGIBLE TO JOIN THE AGE 55 PROGRAM: Those Tier II and Tier IV members of NYCTRS and BERS eligible to participate in the proposed Age 55 Program are those employees in the following Job Titles (collectively: "Eligible Members"):

Eligible Members of NYCTRS

Employees included in Job Titles that are defined as "Teacher" as shown in ACNY Section 13-501.7(a) and

Employees included in Job Titles listed in Chapter 997 of the Laws of 1983.

Specifically excluded are any NYCTRS members considered as "College Participants" as defined in ACNY Section 13-563 or as "Transferred Contributor" members.

Eligible Members of BERS

The following positions in education service as a paid official or employee of the Board of Education of the City of New York ("BOE") or the New York City School Construction Authority, namely:

Head Nurse (including BOE),
 Supervisor of Nurses,
 Staff Nurse,
 Registered Nurse (only BOE),
 Public Health Nurse,
 Pediatric Nurse Associate,
 Supervising Therapist,
 Senior Occupational Therapist (including BOE),
 Occupational Therapist (including BOE),
 Senior Physical Therapist (including BOE),
 Physical Therapist (including BOE),
 Substitute Vocational Assistant,
 Non-Annualized Adult Education Teacher,
 Non-Annualized Adult Education Assistant Coordinator,
 Non-Annualized Adult Education Coordinator,
 Director of Drug and Alcohol Programs,
 Assistant Director of Drug and Alcohol Programs,
 Sign Language Interpreter,
 Teacher of Military Science,
 Army, Navy, Air Force, Aerospace, Marine Corps, or Coast Guard Instructor (including Senior),
 Youth Development Specialist,
 Education Administrator (represented by UFT),
 Education Officer (represented by UFT),
 Associate Education Officer (represented by UFT),

Education Analyst (represented by UFT) and Associate Education Analyst (represented by UFT). UFT stands for the United Federation of Teachers.

Entry into the Age 55 Program is elective for those current Tier II and Tier IV NYCTRS and BERS Eligible Members who elect-in within 180 days of the Effective Date and for those employees in Eligible Job Titles prior to the Effective Date who become Eligible Members after the Effective Date, who elect-in within 180 days of becoming Eligible Members (such elect-in participants are denoted "25-Year Participants"). Those Tier IV employees who are not in Eligible Job Titles prior to the Effective Date as well as those employees hired after the Effective Date who become Eligible Members after the Effective Date are mandated (such mandated-in participants are denoted "27-Year Participants") into the proposed Age 55 Program (collectively the Age 55 Program participants are referred to hereafter as "Covered Participants").

IMPACT ON BENEFITS PAYABLE: Tier II and Tier IV Eligible Members of NYCTRS and BERS are currently participants in one of the Basic Plans.

NYCTRS Tier II Basic Plan members are currently eligible to retire either under Plan C or Plan D while Tier II BERS Basic Plan members are currently eligible to retire under the Modified Career Pension Plan ("Modified CPP Plan") and the Modified Fifty-Five-Year-Increased-Service-Fraction Plan ("Modified ISF Plan").

Under Plan C, Tier II NYCTRS members can receive at the completion of 25 years of CPP qualifying service an unreduced pension payable at age 62 (or a reduced pension at age 55) equal to 50% of 3-Year Final Average Salary ("FAS-3") plus 1.7% of FAS-3 per year of CPP qualifying service in excess of 20 years (subsequent to June 30, 1970).

Under the Modified CPP Plan, Tier II BERS members can receive at the completion of 25 years of CPP qualifying service an unreduced pension generally payable at age 62 (or a reduced pension at age 55) equal to 55% of FAS-3 plus 1.7% of FAS-3 per year of CPP qualifying service in excess of 25 years (subsequent to June 30, 1968).

In addition for such Plan C and Modified CPP Plan members, the actuarial equivalent of any reserve for Increased-Take-Home-Pay ("ITHP") and any accumulations of member contributions in excess of those required at 20 years for NYCTRS member (and 25 years for BERS members) are paid in the form of an annuity based upon age at service retirement.

Under Plan D and the Modified ISF Plan, Tier II NYCTRS and BERS members receive an unreduced pension at age 62 (or a reduced pension at age 55) equal to 1.53% of FAS-3 per year of credited service after June 30, 1970 for NYCTRS members (or after June 30, 1968 for BERS members) plus the actuarial equivalent of the entire ITHP and member contribution accumulation balance payable in the form of an annuity based upon age at service retirement.

Certain Tier II and Tier IV members of BERS participate in the BERS Twenty-Five Year Early Retirement Program ("BERS 55/25 Program") or the BERS Age Fifty-Seven Retirement Program ("BERS 57/5 Program") (collectively referred to as the "Chapter 96/95 Retirement Programs").

While such Chapter 96/95 Retirement Programs are generally not available to Eligible Members, the participants of such Chapter 96/95 Programs who change their job title could become eligible to elect or become mandated into the Age 55 Retirement Program.

Tier IV NYCTRS and BERS members in the Tier IV Basic Plan receive a benefit equal to either: for total credited service less than 20 years, 1-2/3% of FAS per year of credited service or for total credited service in excess of 20 years, 40% of FAS-3 plus 2.0% of FAS-3 per year of cred-

ited service in excess of 20 years but less than 30 years plus 1.5% of FAS-3 per year of service in excess of 30 years commencing at age 62 (or on a reduced basis from age 55).

Tier II and Tier IV NYCTRS members also can retire for service with an unreduced retirement benefit upon completion of 30 years of credited service (of which 25 are considered qualifying service for Tier II members) and attainment of age 55. The retirement allowance is equal to the same formula benefit as computed under Plan C for Tier II members and under the Basic Plan for Tier IV members.

For Tier II NYCTRS and BERS members, deferred vested and deferred retirement benefits are based upon completion of years of credited service as follows:

Deferred Vested Benefits

At least 5 years of credited service at termination of employment: a deferred vested benefit equal to Plan D or the Modified ISF Plan pension computed at termination of employment, payable at age 62 or on a reduced basis from age 55.

Deferred Retirement Benefits

At least 20 years of Career Pension Plan qualifying service, less than 30 years of credited service and attained age 55: a deferred benefit equal to Plan C or the Modified CPP Plan pension payable on a reduced basis on the date would have completed 25 years of qualifying service or payable on an unreduced basis from age 62, if earlier.

For Tier IV NYCTRS and BERS Basic Plan members, deferred vested benefits are based upon completed years of credited service as follows:

In the Basic Plan, at least 5 years of credited service at termination of employment: A deferred vested benefit is payable at age 62 equal to 1-2/3% of FAS-3 per year of credited services up to 20 years. If credited service is in excess of 20 years, 40% of FAS-3 plus 2% of FAS-3 per year for the first 10 years of credited service in excess of 20 years plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

Tier IV NYCTRS, with at least 30 years of credited service at termination of employment: A deferred vested benefit is payable at age 55 equal to: 60% of FAS-3 plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

In lieu of benefits payable under the current law, it is the understanding of the Actuary that this proposed legislation would provide the following unreduced Early Service Retirement Benefits for Covered Participants of the Age 55 Program:

A Tier II member of NYCTRS or BERS on or after the Effective Date who elects to participate in the Age 55 Program (i.e., a 25-Year Participant) would be eligible to retire after attainment of age 55 and completion of 25 years of credited service on and after June 30, 2008 with an annual benefit equal to the same formula benefit as is currently available in the respective Tier II Plan C or Modified CPP Plan but unreduced for commencement before age 62.

A Tier IV member of NYCTRS or BERS on or after the Effective Date who elects to participate in the Age 55 Program (i.e., a 25-Year Participant) would be eligible to retire after attainment of age 55 and completion of 25 years of credited service on and after June 30, 2008 with an annual benefit equal to 50% of FAS-3 plus 2.0% of FAS-3 per year of credited service in excess of 25 years (maximum of 5 years) plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

A Tier IV member of NYCTRS or BERS after the Effective Date who is mandated to participate in the Age 55 Program (i.e., a 27-Year Participant) would be eligible to retire after attainment of age 55 and

completion of 27 years of credited service with an annual benefit equal to 54% of FAS-3 plus 2.0% of FAS-3 per year of credited service in excess of 27 years (maximum of 3 years) plus 1.5% of FAS-3 per year of credited service in excess of 30 years.

A Covered Participant would be eligible for the following deferred vested benefits (in lieu of the deferred vested benefit under the Basic Tier II and Tier IV Plans) provided the Covered Participant has paid all member contributions (including additional member contributions required under this proposed legislation) owned:

For Tier II and Tier IV 25-Year Participants, there are no vested benefit provisions.

For Tier IV 27-Year Participants with at least 27 years of credited service at termination of employment: A deferred vested benefit equal to 2.0% of FAS-3 per year of credited service up to 30 years plus 1.5% of FAS-3 per year of credited service in excess of 30 years, payable at the date member would have attained age 55.

IMPACT ON MEMBER CONTRIBUTIONS: Under current law all Tier II and Tier IV Eligible Members are required to make Basic Member Contributions ("BMC") at a fixed rate of salary.

For Tier II Plan C NYCTRS members such required BMC are made for 20 years of service.

For Tier II Modified CPP Plan BERS members such required BMC are made for 25 years of service.

For Tier IV members BMC are continued until the first date after October 1, 2000 when such members have completed 10 years of membership on 10 years of credited service, whichever comes first.

Those Tier II and Tier IV members of BERS who participate in the Chapter 96/95 Retirement Programs are required to make certain Additional Member Contributions ("AMC") at a rate of 1.85% of salary. These AMC are required to be paid until the earlier of:

- (i) Eligibility to retire under a Chapter 96/95 Retirement Program, or
- (ii) Completion of 25 years of credited service for Tier II participants/30 years for Tier IV participants.

Under the proposed Age 55 Program, there would be no change to the rate of BMC.

Comparable to the AMC of the Chapter 96/95 Programs, the Age 55 Retirement Program requires New Additional member Contributions ("NAMC") at a rate of 1.85% of pay. Such NAMC for 25-Year Participants would be made commencing from the Effective Date or, for those not eligible on the Effective Date, from the date of participation and for each payroll period after the Effective Date/participation date. For 27-Year Participants, NAMC would commence from the date of participation; however, NAMC would be owed with respect to all credited service rendered prior to date of participation in the Age 55 Program.

NAMC in the Age 55 Program for 25-Year Participants are payable until the later of: completion of 25 years of credited service or June 29, 2008 (27 years of credited service for 27-Year Participants).

With respect to the Age 55 Program, 50% of the NAMC paid are considered employer contributions and the other 50% of NAMC are considered employee contributions.

Withdrawal for any reason by a Covered Participant with less than 5 years of credited service would entitle the Covered Participant to a refund of BMC and 50% of the NAMC.

Upon death or disability, regardless of cause prior to retirement, 50% of the NAMC would be refunded.

Upon service retirement on or after age 62, 50% of the NAMC would be refunded.

As stated above, if a 27-Year Participant has at least 27 years of credited service and is under age 55 at withdrawal, an unreduced vested benefit would be payable commencing at age 55.

However, if the Covered Participant withdraws all AMC, if any, and NAMC, then it is the Actuary's understanding that only a basic Tier IV vested benefit would be payable at age 62.

A Covered Participant would be permitted to borrow from the employee portion of his NAMC.

If a refund/loan of participant contributions were elected that would generate a deficiency in the participant's contribution account, then such participant would, nonetheless, be eligible for an early service retirement benefit or a deferred vested benefit under the provisions of the proposed Age 55 Retirement Program, but with a reduction equal to the actuarial equivalent of the participant's contribution deficiency.

FINANCIAL IMPACT - OVERVIEW: If enacted into law, the ultimate employer cost of this proposed legislation would be determined by the excess of additional benefits paid by NYCTRS and BERS over the cumulative change in future required NAMC deposited by Age 55 Program participants.

This ultimate employer cost will depend upon the number of eligible members who elect to become 25-Year Participants and the number of mandated 27-Year Participants.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: Based on the current, potential group of Covered Participants and based on the actuarial assumptions and methods described herein, the enactment of this proposed legislation would change the Actuarial Present Value ("APV") of Benefits ("APVB"), the APV of future NAMC and the APV of future employer costs as of June 30, 2006 for NYCTRS and BERS as follows:

Estimated Financial Impact to Provide for an Age 55 Retirement Program for Certain Members of NYCTRS and BERS*

(\$ in Millions)

Retirement System	Additional APVB	Additional Employer APV of Future Costs**	Estimated First Year Additional Employer Costs*#
NYCTRS	\$347.5	\$310.1	\$ 99.2
BERS	<u>7.2</u>	<u>4.9</u>	<u>1.4</u>
Total	\$354.7	\$315.0	\$100.6

* Based on the Actuary's actuarial assumptions and methods in the June 30, 2006 (Lag) actuarial valuations and the other actuarial assumptions and methods as noted herein. Such other assumptions include the utilization of a set of unisex probabilities of accelerated retirement in the first three years of eligibility for those members who benefit actuarially under the Age 55 Program.

**Equals increase in APVB less increase in APV of future NAMC.

*#Estimated Additional Employer Costs are determined based on the funded status of NYCTRS and BERS in the June 30, 2006 (Lag) actuarial valuations and represent the best estimates of the initial annual financial cost of the proposed legislation if enacted in the 2008 Legislative Session after June 30, 2007 and prior to June 20, 2008. The actual impact on employer contributions would begin in Fiscal Year 2009.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER COSTS: With respect to the current potential group of Covered Participants and based upon the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase annual employer costs to NYCTRS by approximately \$99.2 million per year and to BERS by approximately \$1.4 million per year.

It should be noted that under the funding method used by the Actuary, a portion of the increase in annual employer cost is attributable to the reduction in funding period for participants retiring earlier. The portion of such increase in annual employer cost with respect to NYCTRS is approximately \$69.6 million and with respect to BERS is approximately \$0.8 million.

Over time it is expected that as more new entrants become participants of the Age 55 Program the employer costs will reduce and eventually the NAMC will be able to fully support the Program based on the provisions of the proposed legislation.

FINANCIAL IMPACT - ADDITIONAL EMPLOYER CONTRIBUTIONS TO NYCTRS - FISCAL YEARS 2009 AND LATER: For most legislation enacted during the current Legislative Session after June 30, 2007 and before June 30, 2008, annual employer contributions to NYCTRS would generally increase beginning Fiscal Year 2008. However, since the impact of this proposed legislation is dependent upon the actual number of members who elect to join the Age 55 Program, the Actuary prefers to determine employer contributions based on those members who actually become participants as of June 30, 2008. Based on the expected number of Covered Participants as of June 30, 2008, it is estimated that employer contributions to NYCTRS would increase in Fiscal Year 2009 by approximately \$99.2 million and by a comparable percentage of payroll thereafter.

FINANCIAL IMPACT - ADDITIONAL EMPLOYER CONTRIBUTIONS TO BERS - FISCAL YEARS 2009 AND LATER: For most legislation enacted during the current Legislative Session after June 30, 2007 and before June 30, 2008, annual employer contributions to BERS would generally increase beginning Fiscal Year 2008. However, since the impact of this proposed legislation is depended upon the actual number of members who elect to join the Age 55 Program, the Actuary prefers to determine employer contributions based on those members who actually become participants as of June 30, 2008. Based on the expected number of Covered Participants as of June 30, 2008, it is estimated that employer contributions to BERS would increase in Fiscal Year 2009 by approximately \$1.4 million and by a comparable percentage of payroll thereafter.

OTHER COSTS: Not measured in this Fiscal Note are additional administrative costs or the impact of additional post-retirement medical and other health care insurance costs.

CENSUS DATA: The census data used for estimates of APVB, the net APV of future BMC and NAMC and employer costs presented herein are those Covered Participants who are eligible for and who could potentially benefit from this proposed legislation. The data consists of 436 Tier II Basic Plan members of NYCTRS with salaries of approximately \$40.6 million and 10,661 Tier IV Basic Plan members of NYCTRS with salaries of approximately \$900.7 million and 333 Tier IV Basic Plan members of BERS with salaries of approximately \$18.5 million included in the June 30, 2006 (Lag) actuarial valuations of NYCTRS and BERS.

This compares with a total of 2,035 Tier II Basic Plan members of NYCTRS with salaries of approximately \$194.7 million and 103,369 Tier IV Basic Plan members of NYCTRS with salaries of approximately \$6,358.7 million and 839 Tier IV Basic Plan members of BERS with salaries of

approximately \$48.7 million BERS who were included in the June 30, 2006 (Lag) actuarial valuations of NYCTRS and BERS.

In order to develop a better estimate of those potentially eligible for the Age 55 Program, the active memberships as of June 30, 2006 in NYCTRS and BERS were adjusted for those members who left active status **for retirement** during the Fiscal Year ending June 30, 2007.

Where data in the valuation may have indicated that certain BERS Eligible Members were Chapter 96/95 participants, it was assumed that such coding was an error and such members were excluded.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB, APV of future NAMC, employer costs and employer contributions have generally been calculated using the actuarial assumptions and methods in effect for NYCTRS and BERS as of June 30, 2006.

To determine the impact of the proposed legislation, a subgroup of Tier II and Tier IV Eligible Members was developed on the basis of who would benefit actuarially.

For each member, the net APV of future employer costs (i.e., the APVB less the APV of future BMC and NAMC) was developed under the current Plan and under the proposed Age 55 Program. If such net APV measured for the Age 55 Program was greater than the net APV measured for the member's current benefits, the member was deemed to benefit actuarially.

In developing the APV of future employer costs with respect to the proposed Age 55 Program benefits, those actuarially-benefitting members were valued under the proposed Age 55 Program utilizing the Actuary's estimated probabilities of expected accelerated retirement.

The assumed probabilities of accelerated retirements below age 62 are 40% in the first year of eligibility, 30% in the second year and 20% thereafter. These are somewhat lesser than the probabilities used under the Chapter 96/95 Programs of 60%, 40% and 20% respectively, but are significantly greater than those used for NYCTRS of 12%, 10% and 10% for males and 10%, 8% and 8% for females for the first, second and third year of eligibility for unreduced retirement.

The assumed probabilities at age 62 and above are the same as those used under the current assumptions for male participants, so there is a slight increase in the probabilities used for females.

As mentioned earlier, retirements that occurred through June 30, 2007 were excluded from the calculations. Therefore, no retirements were assumed for the year ending June 30, 2007 (Fiscal Year 2007). Also, for those members who are eligible to retire during Fiscal Year 2008 with a reduced retirement allowance but would be eligible to retire on or after June 30, 2008 with an unreduced benefit by electing the Program, no reduced early retirements are assumed to occur during Fiscal Year 2008 since these members would likely defer retirement in order to qualify for an unreduced benefit.

The probabilities for unreduced service retirement for BERS members under the Age 55 Program were assumed to equal those used for NYCTRS.

Note: No estimate has been made of the financial impact of future, new entrants who would be mandated into the Age 55 Program or if a current or future BERS Chapter 96/95 participant were to become an Eligible Member and would either elect or be mandated into the Age 55 Program.

Employer contributions have been estimated assuming the additional APVB are financed through future normal contributions.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2008 Legislative Session. It is Fiscal Note 2008-03, dated January 8, 2008, prepared by the Chief Actuary for the New York City Teachers' Retirement System and New York City Board of Education Retirement System.

STATE OF NEW YORK

S. 6650 - A. 9942

IN SENATE

(Prefiled)

January 9, 2008

Introduced by Sens. FARLEY, ALESİ, DeFRANCISCO, FLANAGAN, FUSCHILLO, O. JOHNSON, LARKIN, LAVALLE, LEIBELL, LIBOUS, MAZIARZ, MORAHAN, PADAVAN, RATH, SALAND, SEWARD, SKELOS, VOLKER, WRIGHT -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend chapter 729 of the laws of 1994 relating to affecting the health insurance benefits and contributions of retired employees of school districts and certain boards, in relation to the effectiveness of such provisions

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

1 Section 1. Section 1 of chapter 729 of the laws of 1994 relating to
2 affecting the health insurance benefits and contributions of retired
3 employees of school districts and certain boards, as amended by chapter
4 22 of the laws of 2007, is amended to read as follows:

5 Section 1. From on and after June 30, 1994 until May 15, [~~2008~~] **2009**,
6 a school district, board of cooperative educational services, vocational
7 education and extension board or a school district as enumerated in
8 section 1 of chapter 566 of the laws of 1967, as amended, shall be
9 prohibited from diminishing the health insurance benefits provided to
10 retirees and their dependents or the contributions such board or
11 district makes for such health insurance coverage below the level of
12 such benefits or contributions made on behalf of such retirees and their
13 dependents by such district or board unless a corresponding diminution
14 of benefits or contributions is effected from the present level during
15 this period by such district or board from the corresponding group of
16 active employees for such retirees.

17 § 2. This act shall take effect May 15, 2008; provided, however, if
18 this act shall become a law after such date it shall take effect imme-
19 diately and shall be deemed to have been in full force and effect on and
20 after May 15, 2008.

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

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SECTION IV

VETOED LEGISLATION AFFECTING OTHER NEW YORK PUBLIC RETIREMENT SYSTEMS



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TO THE SENATE:

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

Senate Bill Number 8142, entitled:

"AN ACT to amend the education law, in relation to service credit in the New York state teachers' retirement system"

NOT APPROVED

This bill would entitle members of the Professional, Scientific and Technical Services (PS&T) Unit who are in the New York State Teachers' Retirement System (TRS) to use up to 200 sick days for credit towards their pensions. These individuals are primarily employees of the New York State Schools for the Blind and the Deaf, although a very limited number of State Education Department employees are also covered. The benefit at issue is enjoyed by all other members of the PS&T unit, and virtually all State employees in the New York State Employees' Retirement System (ERS).

This legislation has a long and complicated history. At various points in time, this benefit has been the subject of discussions between the State and the unit's employee representative, and consideration has been given to bargaining over this benefit, enacting it through legislation (as in a bill vetoed by Governor Pataki in 2005), or transferring the employees at issue to ERS. My view is that, prior to any legislative action, such a benefit should be the subject of an agreement between the employer and employee representative. Indeed, I approved legislation earlier this year which authorized this kind of pension credit benefit for employees of the New York Liquidation Bureau where the Bureau had entered into a side agreement with the relevant union, in which it assented to the legislation. See Chapter 271 of the Laws of 2008.

There is no such agreement in this case. To the contrary, pursuant to collective bargaining last year, the employer and PS&T employee representative entered into a side letter directing further study of this issue. No such study has yet been completed. Under these circumstances, I believe that authorizing this benefit via legislation would constitute an end run around the collective bargaining process. I would take a very different view of this bill if I were presented with evidence that the legislation was submitted pursuant to an employer-union agreement.

Finally, as no other employees in TRS have this benefit, concerns have been raised that this will be a precedent for other groups. While the cost of granting the credits at issue to these employees is (according to the fiscal note) "negligible," this would no longer be the case if others in TRS (such as certain employees of the State University of New York) could claim the same benefit. These precedential concerns would not arise in the case of a bargained-for benefit, since the existence of such a bargain would be the crucial variable distinguishing those entitled to similar legislation from those who were not. Where - as here - enactment is sought outside the bargaining process, such a boundary is far more difficult to delineate.

The bill is disapproved.

(signed) DAVID A. PATERSON

STATE OF NEW YORK

S.8142 - A.10644

IN SENATE

May 2, 2008

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

AN ACT to amend the education law, in relation to service credit in the New York state teachers' retirement system

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

1 Section 1. Section 509 of the education law is amended by adding a new
2 subdivision 13 to read as follows:

3 13. a. In addition to any other service credit to which he or she is
4 entitled, a member subject to this article or to article fourteen or
5 fifteen of the retirement and social security law who meets the require-
6 ments set forth in paragraph b of this subdivision shall be granted one
7 day of additional service credit for each day of accumulated unused sick
8 leave which he or she has at time of retirement for service, but such
9 credit shall not (1) exceed two hundred days; (2) be considered in meet-
10 ing any service or age requirements prescribed in this chapter; and (3)
11 be considered in computing final average salary.

12 b. Such service retirement credit shall be granted only to members of
13 the New York state teachers' retirement system in the employ of the
14 state education department in the collective negotiating unit estab-
15 lished by article fourteen of the civil service law designated the
16 professional, scientific and technical services unit who, prior to
17 retirement, were subject to a plan established by law, rule, regulation,
18 written order or written policy that provided for the regular earning
19 and accumulation of sick leave.

20 § 2. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after June 30, 2008.

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

This bill would allow certain eligible members of the New York State Teachers' Retirement System employed in the State Education Department who retire on or after July 1, 2008 to receive service credit for up to 200 days of unused accumulated sick leave. Such additional credit is to be used in the calculation of retirement benefits, but not for meeting any service or age requirements or in the computation of final average salary.

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

The source of this estimate is Fiscal Note 2008-33 dated March 28, 2008 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2008 Legislative Session.

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

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