

STATE OF NEW YORK

5911

2021-2022 Regular Sessions

IN ASSEMBLY

March 2, 2021

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

AN ACT to amend the retirement and social security law and the education law, in relation to imposing a cap on the amount of contributions paid by employers

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

1 Section 1. Section 17 of the retirement and social security law, as
2 amended by chapter 33 of the laws of 1986, subdivision a as amended by
3 chapter 62 of the laws of 1989, subdivision c as amended by chapter 260
4 of the laws of 2004, is amended to read as follows:

5 § 17. Annual appropriation by participating employers. a. On or before
6 the fifteenth day of November, nineteen hundred eighty-nine and of each
7 succeeding calendar year, the comptroller shall determine the amount
8 which each participating employer is required to pay to the retirement
9 system to discharge its obligations thereto for the fiscal year of the
10 retirement system which ends on March thirty-first of nineteen hundred
11 ninety and of each succeeding calendar year on account of its employees
12 who are members of this system. The comptroller shall submit to the
13 fiscal officer of each such employer a statement of the amount so payable.
14

15 This amount shall consist of the amount deemed necessary to provide
16 for payment in full of (i) all estimated obligations of each participating
17 employer for the current fiscal year of the retirement systems and
18 (ii) any additional obligation, plus interest on such amount, for fiscal
19 years preceding the current fiscal year. Such amount shall, however, be
20 subject to the limitation set forth in subdivision f of this section. If
21 as a result of the amount determined to be paid for any fiscal year, a
22 participating employer overpaid its actual obligation to the retirement
23 system for that year, the amount to be determined by the comptroller for
24 the next succeeding November fifteenth shall reflect the amount of the

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

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1 overpayment, plus interest as defined in section sixteen of this [~~arti-~~
2 ~~cle~~] title on such amount, as a reduction in the amount otherwise
3 required to be paid by such participating employer.

4 b. Each participating employer annually shall appropriate a sum suffi-
5 cient to pay such amount, subject to the limitation set forth in subdivi-
6 vision f of this section. In the event the comptroller's statement is
7 not received before annual appropriations are made by such employer, a
8 sum estimated by the comptroller to be sufficient for such purpose shall
9 be included with such annual appropriations.

10 c. Payment of the amount specified in the comptroller's statement,
11 subject to the limitation set forth in subdivision f of this section,
12 shall be made by a participating employer within seventy-eight days
13 after the receipt of such statement; provided, however, that in no case
14 shall any participating employer be required to make this payment before
15 February first of the calendar year next succeeding the calendar year in
16 which such statement is received. The comptroller is authorized to
17 provide for and accept pre-payment.

18 d. If payment of the [~~full amount~~] employer's portion of such obli-
19 gations is not made by the date required by subdivision c of this
20 section, interest at a rate determined in accordance with the provisions
21 of section sixteen of this [~~article~~] title shall commence to run against
22 the unpaid balance thereof on the first day after the date required by
23 said subdivision c.

24 e. The comptroller shall have full power and authority to bring suit
25 in the supreme court against any participating employer to recover any
26 sum for which the employer is responsible, payment of which is not made
27 as herein required. While any such sum owed by the employer shall remain
28 due and unpaid [~~he~~] the comptroller may refuse to audit any claim for
29 funds due to such employer from the state.

30 f. (1) Of the amount determined by the comptroller pursuant to subdivi-
31 vision a of this section, an employer shall not be required to pay more
32 than the prior year's actuarial required contribution plus the lesser
33 of: two percent or the percentage set forth in paragraph four of this
34 subdivision.

35 (2) Any difference between the amount computed by the comptroller
36 pursuant to subdivision a of this section and the maximum amount
37 required to be paid by the employer pursuant to paragraph one of this
38 subdivision shall be appropriated to the retirement system out of moneys
39 in the general fund of the state.

40 (3) The aforementioned appropriated moneys shall be paid by the state
41 on or before the first of February. The state shall not have the option
42 to amortize the payment required in this subdivision as provided in
43 section nineteen-a of this title.

44 (4) The percentage referred to in paragraph one of this subdivision
45 shall be determined annually by reference to the consumer price index
46 (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100),
47 published by the United States bureau of labor statistics, for each
48 applicable calendar year. Said percentage shall equal the annual
49 inflation, as determined from the increase in the consumer price index
50 in the one year period ending the thirty-first of March of the current
51 year's actuarial, required contribution. Said percentage shall then be
52 rounded up to the next higher one-tenth of one percent.

53 (5) For purposes of this subdivision, "actuarial required contrib-
54 ution" means the amount computed by the comptroller prior to the deter-
55 mination of the amount eligible for amortization, if any, as set forth
56 in section nineteen-a of this title.

(6) For purposes of this subdivision, the base year for the initial calculation of limited employer contributions pursuant to paragraph one of this subdivision shall be the amount paid by the employer in the fiscal year ending the thirty-first of March, two thousand twenty-one. The employer participation cap imposed by this subdivision shall commence with employer contributions made in the fiscal year ending the thirty-first of March, two thousand twenty-two.

(7) The provisions of this subdivision shall not apply in cities with a population of one million or more.

§ 2. Section 317 of the retirement and social security law, as amended by chapter 33 of the laws of 1986, subdivision a as amended by chapter 62 of the laws of 1989, and subdivision c as amended by chapter 260 of the laws of 2004, is amended to read as follows:

§ 317. Annual appropriation by participating employers. a. On or before the fifteenth day of November, nineteen hundred eighty-nine and of each succeeding year, the comptroller shall determine the amount which each participating employer is required to pay to the police and fire retirement system to discharge its obligations thereto for the fiscal year of the retirement system which ends on March thirty-first of nineteen hundred ninety and of each succeeding calendar year on account of its employees who are members of this system. The comptroller shall submit to the fiscal officer of each ~~[of]~~ such employer a statement of the amount so payable.

This amount shall consist of the amount deemed necessary to provide for payment in full of (i) all estimated obligations of each participating employer for the current fiscal year of the retirement systems and (ii) any additional obligation, plus interest on such amount, for fiscal years preceding the current fiscal year. Such amount shall, however, be subject to the limitation set forth in subdivision f of this section. If as a result of the amount determined to be paid for any fiscal year, a participating employer overpaid its actual obligation to the retirement system for that year, the amount to be determined by the comptroller for the next succeeding November fifteenth shall reflect the amount of the overpayment, plus interest as defined in section three hundred sixteen of this ~~[article]~~ title on such amount, as a reduction in the amount otherwise required to be paid by such participating employer.

b. Each participating employer annually shall appropriate a sum sufficient to pay such amount, subject to the limitation set forth in subdivision f of this section. In the event the comptroller's statement is not received before annual appropriations are made by such employer, a sum estimated by the comptroller to be sufficient for such purpose shall be included with such annual appropriations.

c. Payment of the amount specified in the comptroller's statement, subject to the limitation set forth in subdivision f of this section, shall be made by a participating employer within seventy-eight days after the receipt of such statement; provided, however, that in no case shall any participating employer be required to make this payment before February first of the calendar year next succeeding the calendar year in which such statement is received. The comptroller is authorized to provide for and accept pre-payment.

d. If payment of the ~~[full amount]~~ employer's portion of such obligations is not made by the date required by subdivision c of this section, interest at a rate determined in accordance with the provisions of section three hundred sixteen of this ~~[article]~~ title shall commence to run against the unpaid balance thereof on the first day after the date required by said subdivision c.

e. The comptroller shall have full power and authority to bring suit in the supreme court against any participating employer to recover any sum for which the employer is responsible, payment of which is not made as herein required. While any such sum owed by the employer shall remain due and unpaid ~~[he]~~ the comptroller may refuse to audit any claim for funds due to such employer from the state.

f. (1) Of the amount determined by the comptroller pursuant to subdivision a of this section, an employer shall not be required to pay more than the prior year's actuarial required contribution plus the lesser of: two percent or the percentage set forth in paragraph four of this subdivision.

(2) Any difference between the amount computed by the comptroller pursuant to subdivision a of this section and the maximum amount required to be paid by the employer pursuant to paragraph one of this subdivision shall be appropriated to the retirement system out of moneys in the general fund of the state.

(3) The aforementioned appropriated moneys shall be paid by the state on or before the first of February. The state shall not have the option to amortize the payment required in this subdivision as provided in section three hundred nineteen-a of this title.

(4) The percentage referred to in paragraph one of this subdivision shall be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal the annual inflation, as determined from the increase in the consumer price index in the one year period ending the thirty-first of March of the current year's actuarial, required contribution. Said percentage shall then be rounded up to the next higher one-tenth of one percent.

(5) For the purposes of this subdivision, "actuarial required contribution" means the amount computed by the comptroller prior to the determination of the amount eligible for amortization, if any, as set forth in section three hundred nineteen-a of this title.

(6) For purposes of this subdivision, the base year for the initial calculation of limited employer contributions pursuant to paragraph one of this subdivision shall be the amount paid by the employer in the fiscal year ending the thirty-first of March, two thousand twenty-one. The employer participation cap imposed by this subdivision shall commence with employer contributions made in the fiscal year ending the thirty-first of March, two thousand twenty-two.

(7) The provisions of this subdivision shall not apply in cities with a population of one million or more.

§ 3. Subdivision 2 of section 521 of the education law, paragraph a as amended by chapter 553 of the laws of 1997, paragraph b as amended by chapter 871 of the laws of 1963, paragraphs f and g as added by chapter 538 of the laws of 1984, paragraph h as amended by chapter 830 of the laws of 1992, paragraphs i, j, k, l, and m as added by chapter 175 of the laws of 1990, and paragraph n as added by chapter 482 of the laws of 1996, is amended and a new subdivision 4 is added to read as follows:

2. The collection of employers' contributions shall be made as follows:

a. Upon the basis of each actuarial determination and appraisal provided herein, the retirement board shall annually prepare and certify to the commissioner ~~[of education]~~ a statement of the total amount necessary to be paid by all employers for the ensuing fiscal year to the pension accumulation and expense funds as provided under subdivision two

1 of section five hundred seventeen and under section five hundred nine-
2 teen of this article. Upon the basis of the rate of contribution for
3 supplemental retirement allowances, determined in accordance with
4 section five hundred thirty-two of this article, the retirement board
5 shall certify to the commissioner [~~of education~~] a statement of the
6 total amount necessary to be paid by all employers for the ensuing
7 fiscal year to the supplemental retirement allowance fund. Said certif-
8 ication shall include interest on amounts necessary to repay advances
9 made to the supplemental retirement allowance fund pursuant to subdivi-
10 sion f of section five hundred thirty-two of this article computed from
11 the date of such advances at the rate determined in accordance with
12 paragraph f of this subdivision.

13 b. The commissioner [~~of education~~] shall include in the certificate
14 which he files with the state comptroller showing the amount of state
15 funds apportioned to the school districts within each county for the
16 support of common schools, a statement showing the amount to be contrib-
17 uted by each employer in each of such counties as required under this
18 article.

19 The amount to be contributed by each employer except those who operate
20 local district pension systems, shall be such percentage of the total
21 compensation or salaries of all teachers in his employ who are members
22 of the retirement system as the aggregate amount of the normal and defi-
23 ciency contributions for the year shall bear to the total compensation
24 or salaries paid by all employers, except those who operate local
25 district pension systems, to all teachers who are members of the retire-
26 ment system; provided, however, that the amount remitted by such employ-
27 er shall be subject to the contribution limits established in subdivi-
28 sion four of this section.

29 c. The comptroller shall issue his warrant to the custodian of such
30 fund directing such custodian to credit to the pension accumulation fund
31 and expense fund respectively, from the appropriation for the support of
32 common schools the amounts required to be made as contributions to such
33 funds by the employers as shown by the certificate of the commissioner
34 [~~of education~~] filed with him as directed in paragraph b of this subdivi-
35 sion, but subject to the contribution limit established pursuant to
36 subdivision four of this section.

37 d. The comptroller, in issuing his warrant to the custodian for
38 payment to each county treasurer of that portion of the moneys appor-
39 tioned for the support of common schools, shall deduct therefrom an
40 amount equal to the amount required to be contributed by employers of
41 such county, as shown by the certificate of the commissioner [~~of educa-~~
42 ~~tion~~] of this state filed with the comptroller as required by paragraph
43 b of this subdivision, but subject to the contribution limit established
44 pursuant to subdivision four of this section.

45 e. In order to meet the financial requirements of this article,
46 employers who obtain funds directly by taxation are hereby authorized
47 and directed to levy annually such additional taxes as are required to
48 provide the [~~funds deducted from the amounts apportioned to such employ-~~
49 ~~ers from the appropriation of the state for the support of the common~~
50 ~~schools]~~ employer's contribution amount as determined pursuant to subdivi-
51 sion four of this section.

52 f. Employers whose payments from the moneys apportioned from the state
53 for the support of common schools are insufficient to pay the employer's
54 portion of the amount due and owing the system, or who do not receive
55 such payments, shall pay the system each year the amount of contrib-
56 utions due and owing from the employer, subject to the contribution

1 limit established pursuant to subdivision four of this section, pursuant
2 to this article within thirty days from the date a bill is mailed by the
3 system. Interest, at a rate equal to the average yield payable on
4 fifty-two week United States treasury bills on June thirtieth immediate-
5 ly preceding the day the bill is mailed by the system, shall accrue on
6 the employer's portion of the outstanding amount due and owing commencing
7 with the thirty-first day after the bill is mailed.

8 g. Whenever the system determines the contributions made by an employ-
9 er are less than the percentage of total compensation or salaries of
10 members of the system in the employ of such employer, as required by
11 this article, such employer shall pay the system such deficiency within
12 thirty days from the date a bill is mailed by the system, provided such
13 deficiency amount does not cause the employer to pay more than the maxi-
14 mum required contribution amount calculated pursuant to subdivision four
15 of this section. Interest, at a rate equal to the average yield payable
16 on fifty-two week United States treasury bills on June thirtieth imme-
17 diately preceding the day before the bill is mailed by the system, shall
18 accrue on the employer's portion of the outstanding amount due and owing
19 commencing with the thirty-first day after the bill is mailed.

20 h. Notwithstanding any provision of law to the contrary, commencing
21 with the payments made in the fiscal year beginning July first, nineteen
22 hundred ninety, and each fiscal year thereafter, the employer contrib-
23 utions due and payable as determined pursuant to the provisions of this
24 article and the employee contributions due and payable pursuant to this
25 article and articles fourteen and fifteen of the retirement and social
26 security law, on account of compensation paid in the fiscal year imme-
27 diately preceding, and those employer contributions due and payable in
28 each fiscal year pursuant to chapter six hundred sixty-five of the laws
29 of nineteen hundred eighty-four shall be made to the retirement system
30 and collected in the manner set forth in this section each fiscal year
31 in three payments, each equal to thirty-three and one-third percent of
32 the total amount due for such fiscal year. Such payments shall be paid
33 on September fifteenth, October fifteenth, and November fifteenth of
34 each fiscal year. If a participating employer underpaid its obligation
35 to the retirement system, such underpayment as determined by the retire-
36 ment system shall be deducted from the amounts apportioned to such
37 employer from the appropriation of the state for the support of the
38 common schools due and payable the next April fifteenth. Employers whose
39 payments from such appropriation are insufficient to pay the amount due
40 and owing the system, or who do not receive such payments, shall be
41 billed by the system for such underpayment and shall pay the system the
42 amount due within thirty days from the date a bill is mailed by the
43 system. The amount of any employer overpayment of its obligation to the
44 retirement system, as determined by such system shall be a credit to the
45 employer and shall reduce by an equal amount thereof the initial payment
46 to be made by such employer to such system on the next succeeding
47 September fifteenth.

48 i. Notwithstanding any provision of law to the contrary, the employer
49 and employee contributions due and payable in the nineteen hundred
50 eighty-nine--ninety fiscal year on account of compensation paid in the
51 nineteen hundred eighty-eight--eighty-nine fiscal year which were paid
52 prior to April first, nineteen hundred ninety shall be deemed (to the
53 extent such amount is sufficient) to have consisted of all the employee
54 contributions due and payable pursuant to this article and articles
55 fourteen and fifteen of the retirement and social security law in the
56 nineteen hundred eighty-nine--ninety fiscal year and those employer

1 contributions due and payable in such fiscal year pursuant to chapter
2 six hundred sixty-five of the laws of nineteen hundred eighty-four; and
3 the remaining employer contributions so paid shall be applied evenly to
4 the payments due and payable on September fifteenth, nineteen hundred
5 ninety, October fifteenth, nineteen hundred ninety and November
6 fifteenth, nineteen hundred ninety and the employer contributions
7 amounting to eight hundred seventy-three million seven hundred eleven
8 thousand six hundred fifteen dollars (\$873,711,615), due and payable
9 pursuant to the provisions of this section in the nineteen hundred
10 eighty-nine--ninety fiscal year on account of compensation paid in nine-
11 teen hundred eighty-eight--eighty-nine fiscal year, except those employ-
12 er contributions due and payable in such fiscal year pursuant to chapter
13 six hundred sixty-five of the laws of nineteen hundred eighty-four,
14 shall be deferred and payment shall be made to the retirement system in
15 fifteen equal annual payments of ninety-eight million five hundred thir-
16 ty-seven thousand five hundred seven dollars (\$98,537,507) on October
17 fifteenth, commencing on October fifteenth, nineteen hundred ninety.
18 Such payments are calculated at an interest rate of eight percent per
19 annum. Provided, however, the retirement board is directed to permit the
20 pre-payment of the amounts outstanding under this paragraph. The retire-
21 ment board shall: (1) On or before September first, nineteen hundred
22 ninety, in addition to the amount due for the current fiscal year bill-
23 ing and for the payment of the amortized annual installment, furnish the
24 total amount due and be authorized to accept pre-payment in full of said
25 amount by October fifteenth, nineteen hundred ninety. (2) On or before
26 each September first thereafter, in addition to the amount due for the
27 current fiscal year billing and for the payment of the annual amortized
28 installment, furnish the total amount still outstanding and be author-
29 ized to accept the pre-payment of any portion of the balance remaining
30 to be paid by October fifteenth of that year.

31 j. Prior to June first, nineteen hundred ninety, the valuation rate of
32 interest adopted by the retirement board on April twenty-seventh, nine-
33 teen hundred eighty-nine, may be retroactively revised to eight percent
34 by the retirement board, as recommended by the actuary, as if adopted at
35 the April twenty-seventh, nineteen hundred eighty-nine board meeting,
36 and the employer contribution rate, adopted by the retirement board at
37 the April twenty-seventh, nineteen hundred eighty-nine board meeting,
38 revised by the retirement board at the July twenty-seventh, nineteen
39 hundred eighty-nine board meeting, may be retroactively amended by the
40 retirement board as if adopted at the July twenty-seventh, nineteen
41 hundred eighty-nine board meeting and applied to contributions paid in
42 the nineteen hundred ninety--ninety-one fiscal year. Notwithstanding any
43 provision of law to the contrary, the actions of the retirement board
44 pursuant to the provisions of this paragraph shall be deemed reasonable,
45 prudent and proper. No member of the retirement board, officer, or
46 employee of the New York state teachers' retirement system shall incur
47 or suffer any liability whatsoever by reason of any actions pursuant to
48 this paragraph, and such system shall save harmless and indemnify all
49 members of the retirement board, its officers and employees from finan-
50 cial loss arising out of any claim, demand, suit, action or judgment as
51 a result of the actions taken pursuant to this paragraph provided that
52 such person shall, within five days after the date on which he is served
53 with any summons, complaint, process, notice, demand, claim or pleading,
54 deliver the original or a true copy thereof to the legal advisor of such
55 system. Upon such delivery, the legal advisor of such system may assume
56 control of the representation of such person in connection with such

1 claim, demand, suit, action or proceeding. Such person shall cooperate
2 fully with the legal advisor of the system or any other person desig-
3 nated to assume such defense in respect of such representation or
4 defense.

5 k. The retirement board is authorized to adopt procedures and/or to
6 promulgate rules and regulations as it deems necessary to adjust and
7 reconcile any payments from employers to actual amounts due whether such
8 payments were received prior or subsequent to the effective date of
9 ~~[the]~~ chapter one hundred seventy-five of the laws of nineteen hundred
10 ninety ~~[which added this paragraph to this section]~~.

11 l. The provisions of paragraphs h and i of this subdivision shall
12 constitute a contract and the rights of the New York state teachers'
13 retirement system thereunder shall not be impaired in any way whatsoev-
14 er.

15 m. In addition to any other payment or collection procedure provided
16 by this article, if the amounts credited from the appropriation for the
17 support of common schools are insufficient to fully cover the amounts to
18 be contributed by the employers, subject to the employer's contribution
19 limit established pursuant to subdivision four of this section, the
20 retirement board is authorized to certify the unpaid amount of the
21 employer's contribution to the state comptroller, and the state comp-
22 troller shall, to the extent not otherwise prohibited by law, withhold
23 such amount from any succeeding payment from any other form of state aid
24 provided to the employer. If any employer fails to pay the amounts
25 required to be contributed pursuant to this section, the retirement
26 system shall be entitled to reasonable attorney fees and other expenses
27 incurred to collect such amounts due and owing. Fees shall be determined
28 pursuant to prevailing market rates for the kind and quality of the
29 services furnished.

30 n. Notwithstanding any other provision of law to the contrary, the
31 board of education or trustees of a school district which is a partic-
32 ipating employer, which has elected to make payments of the employer
33 contributions due and payable to the retirement system pursuant to para-
34 graph i of this subdivision in amortized annual installments, and which
35 has determined to make pre-payment of the total amount of such contrib-
36 utions outstanding in accordance with said paragraph i, may adopt a bond
37 resolution authorizing the refinancing of such debt by the issuance of
38 bonds in the amount of such pre-payment without conducting a vote on a
39 tax to be collected in installments, provided that such refinancing will
40 result in savings to the school district, as certified by the state
41 comptroller, and provided further that the issuance of such obligations
42 otherwise complies with the requirements of the local finance law and
43 this chapter.

44 4. a. Notwithstanding the provisions of this section, an employer
45 shall not be required to contribute more than the prior plan year's
46 actuarial required contribution plus the lesser of: two percent or the
47 percentage set forth in paragraph d of this subdivision.

48 b. Any difference between the amount contained in the warrant issued
49 by the comptroller pursuant to subdivision two of this section and the
50 maximum amount required to be paid by the employer pursuant to this
51 subdivision shall be appropriated to the retirement system out of moneys
52 in the general fund of the state.

53 c. The moneys appropriated by the state from the general fund in
54 accordance with this subdivision shall be paid by the state to the
55 retirement system on or before the fifteenth of November in the fiscal

1 year in which the moneys are due and payable by the participating
2 employer.

3 d. The percentage referred to in paragraph a of this subdivision
4 shall be determined annually by reference to the consumer price index
5 (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100),
6 published by the United States bureau of labor statistics, for each
7 applicable calendar year. Said percentage shall equal the annual
8 inflation, as determined from the increase in the consumer price index
9 in the one year period ending the thirtieth of June of the current
10 year's actuarial required contribution. Said percentage shall then be
11 rounded up to the next higher one-tenth of one percent.

12 e. For purposes of this subdivision, "actuarial required contribution"
13 means the amount computed by the actuary, as set forth in section five
14 hundred seventeen of this article.

15 f. For purposes of this subdivision, the base year for the initial
16 calculation of limited employer contributions pursuant to paragraph a of
17 this subdivision shall be the amount paid by the employer in the plan
18 year ending the thirtieth of June, two thousand twenty-one. The employer
19 contribution cap imposed by this subdivision shall commence with employ-
20 er contributions due in the plan year ending the thirtieth of June, two
21 thousand twenty-two.

22 § 4. This act shall take effect immediately and shall apply to employ-
23 er contributions made commencing in the employer's fiscal year ending
24 2022.

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

This bill (legislative bill draft 03509-03-1) would amend Section 521 of the Education Law to limit the amount of year over year increase in employer contributions required to be made to the New York State Teachers' Retirement System (NYSTRS) by participating employers. Participating employers of NYSTRS would be required to contribute no more than the prior year's actuarial required contribution amount increased by the lesser of two percent, or a percentage based upon the one-year increase in the Consumer Price Index (CPI). The difference between the current actuarial required contribution and this limited contribution would be paid by the State of New York out of the General Fund of the state. The employer contribution cap imposed under this bill would commence with employer contributions made in the fiscal year ending June 30, 2022.

As long as the actuarial required employer contribution continues to be paid in full and on time to the Retirement System every year, there would be no cost to the employers of members of NYSTRS if this bill is enacted. This bill would make the State of New York into a contributing partner to NYSTRS.

The actuarial required Employer Contribution Rate (ECR) is determined each year based on an actuarial valuation of System assets and liabilities, and is dependent upon a number of actuarial assumptions, member demographic data, and investment returns. The rate of increase in this required contribution rate can be expected to bear very little relationship to the rate of inflation. An employer's contribution amount is equal to this ECR multiplied by the employer's covered payroll. Therefore, a payment from the State can be triggered not only by an increase in the ECR, but also by increases in an individual employer's payroll. The required contribution from the State could be expected to vary substantially year to year due to changes in the required ECR and changes in employers' payroll amounts.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement

System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements, and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2021-14 dated February 19, 2021 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2021 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

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

This bill would limit the year-to-year increase in the dollar amount of the annual employer contributions to be made by participating employers of the New York State and Local Employees' Retirement System (NYSLERS), the New York State and Local Police and Fire Retirement System (NYSLPFRS), and the New York State Teachers' Retirement System (NYSTRS). Such dollar increase in the actuarially determined contributions would be limited to the lesser of 2% and the increase in the Consumer Price Index (CPI-U), as determined by the United States Department of Labor. The difference between the actuarially determined contributions and the limited contributions would be paid by the State of New York on behalf of the participating employers. This change shall first apply to contributions made during the fiscal year ending in the year 2022.

Insofar as this bill affects the NYSLERS, if this legislation is enacted during the 2021 legislative session, it is estimated that there would be an additional contribution of approximately \$520 million payable by the State of New York on behalf of the participating employers of NYSLERS for the fiscal year ending March 21, 2022.

Insofar as this bill affects the NYSLPFRS, if this legislation is enacted during the 2021 legislative session, it is estimated that there would be an additional contribution of approximately \$228 million payable by the State on New York on behalf of the participating employers of NYSLPFRS for the fiscal year ending March 21, 2022.

In both NYSLERS and NYSLPFRS, there could be additional costs borne by the State of New York on behalf of participating employers with payroll increases that are significantly greater than that System's salary increase assumptions or participating employers that adopt significant plan improvements. In future years, the additional contribution borne by the State of New York would depend on each year's actuarially determined contributions, increases in employer payroll, and the CPI-U.

There would be no cost to NYSLERS nor NYSLPFRS.

Summary of relevant resources:

Membership data as of March 31, 2020 was used in measuring the impact of the proposed change, the same data used in the April 1, 2020 actuarial valuation. Distributions and other statistics can be found in the 2020 Report of the Actuary and the 2020 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes, Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2020 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated January 13, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-34, prepared by the Actuary for the New York State and Local Retirement System.