S T A T E O F N E W Y O R K

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S E N A T E - A S S E M B L Y

February 22, 2010

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

IN ASSEMBLY -- Introduced by M. of A. PEOPLES-STOKES, AUBRY, BENJAMIN, BING, CASTRO, GIBSON, JACOBS, JAFFEE, JOHN, ROSENTHAL, SKARTADOS -- Multi-Sponsored by -- M. of A. COOK, CRESPO, DelMONTE, GLICK, GOTTFRIED, HEASTIE, KOON, MENG, SCARBOROUGH -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, the education law, the workers' compensation law and the state finance law, in relation to a strategy to increase participation by emerging investment managers and other minority and women-owned business enterprises involved in providing asset management services, financial services or other professional services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "New York state emerging investment manager and MWBE financial institution strategy".

S 2. Legislative findings. The legislature hereby finds and declares that:

1. Article 15-A of the executive law was the beginning of the process to reform state contracting requirements in order to expand prime contract and subcontract opportunities for minority and women-owned business enterprises. However, since article 15-A of the executive law only extended to procurements by certain state agencies and excluded certain services, such as financial services, the fundamental problems of artificial barriers to state contracting opportunities for minority and women-owned business enterprises have either: (a) persisted in areas not covered by such article, or (b) been addressed in piecemeal ways through programs that are not mandated by law.

2. Studies have shown that while the state of New York has 8 percent of all women-owned business enterprises and 11 percent of all minority-

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

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owned business enterprises in the United States, minority and women-owned business enterprises only received 5.2 percent of expenditures on state contracts in 2006. In comparison to the state of New York where minorities comprised 40 percent of the population, the state of Florida had a minority population of 38 percent and its MWBE state contracting expenditures were approximately 25 percent; the state of Illinois had a minority population of 34 percent and its MWBE state contracting expenditures were approximately 22 percent; and the state of Maryland had a minority population of 41 percent and its MWBE state contracting expenditures were approximately 21 percent. Such data demonstrates that despite having one of the largest minority populations and supporting a twenty-two year effort to increase opportunities for minority and women-owned business enterprises, the state of New York has dramatically failed to match other states in state contracting expenditures with minority and women-owned business enterprises.

3. The state of New York has historically held a competitive advantage as the center of the worldwide financial services industry. In addition, financial service firms in the state of New York have historically been key providers of employment opportunities for New York residents and critical generators of tax revenue both for the state of New York and its local governments. The state of New York should establish a goal, under New York state law, that minority and women-owned business enterprises in such industries are not hindered by arbitrary barriers to entry, so that such business enterprises may receive their fair share of contract opportunities. Contracting opportunities for minority and women-owned business enterprises in asset management and financial services are not covered under article 15-A of the executive law. Furthermore, the New York state common retirement fund, the New York state teachers' retirement system and the New York insurance fund, among other agencies or funds serving as aggregators of pooled assets created under the laws of the state of new York, are not bound by article 15-A of the executive law. Many studies have shown that, as it relates to asset management, diversification of asset management contracts through hiring smaller asset managers, including managers that are minority and women-owned business enterprises, creates greater investment portfolio diversity and improves investment returns. Increasing the pool of financial services firms, by eliminating barriers to entry for financial service firms that are minority and women-owned business enterprises, creates more competition and improves pricing for financial services procured by New York state entities.

4. In addition, studies have shown that increasing state contracting opportunities and increasing capital access to underserved regions and to underserved groups, such as minority and women-owned business enterprises, increases employment opportunities for members of such groups and/or individuals who live in such regions.

5. It is in the best interests of the state of New York to adopt the New York state emerging investment manager and MWBE financial services strategy, in order to: (a) expressly allow for the diversification of investments permitted under the retirement and social security law, the education law and the insurance law, to include emerging investment managers and MWBE financial institutions, (b) expand the MWBE contracting goals to the retirement and social security law, the education law and the insurance law, and (c) support existing economic development efforts by adopting an emerging investment manager strategy that motivates investments in underserved regions of the state of New York as set forth in this act.

S 3. Section 13 of the retirement and social security law is amended by adding two new subdivisions l and m to read as follows:

L. THE FUNDS OF THE RETIREMENT SYSTEM MAY BE INVESTED WITH EMERGING INVESTMENT MANAGERS AND WITH MWBE FINANCIAL INSTITUTIONS UPON SUCH TERMS AND CONDITIONS AS THE COMPTROLLER DEEMS TO BE IN THE BEST INTERESTS OF THE RETIREMENT SYSTEM.

M. THE FUNDS OF THE RETIREMENT SYSTEM MAY BE INVESTED IN EQUITY AND DEBT SECURITIES OF MWBE BUSINESSES UPON SUCH TERMS AND CONDITIONS AS THE COMPTROLLER DEEMS TO BE IN THE BEST INTERESTS OF THE RETIREMENT SYSTEM.

S 4. Section 176 of the retirement and social security law is amended by adding three new subdivisions 4, 5 and 6 to read as follows:

4. THE TERM "EMERGING INVESTMENT MANAGER" SHALL MEAN:

(A) AN ASSET MANAGER IN ANY OF THE FOLLOWING ASSET CLASSES: PUBLIC EQUITY OR FIXED INCOME SECURITIES, HEDGE FUNDS, FUND OF HEDGE FUNDS, PRIVATE EQUITY (INCLUDING VENTURE CAPITAL), FUND OF PRIVATE EQUITY FUNDS, REAL ESTATE INVESTMENT FUNDS OR REITS, THAT ARE: (I) A MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE, AS SUCH TERM IS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW, WITH A SIGNIFICANT PRESENCE IN NEW YORK STATE, AND (II) A REGISTERED INVESTMENT ADVISOR OR EXEMPT FROM SUCH REGISTRATION; AND

(B) WITH ASSETS UNDER MANAGEMENT OF TWO BILLION DOLLARS OR LESS, EXCEPT THAT MANAGERS OF PUBLIC EQUITY OR FIXED INCOME SECURITIES MAY HAVE ASSETS UNDER MANAGEMENT OF TEN BILLION DOLLARS OR LESS, MANAGERS OF PRIVATE EQUITY FUNDS OR FUNDS MAY HAVE ASSETS UNDER MANAGEMENT OF ONE BILLION DOLLARS OR LESS, VENTURE CAPITAL FUNDS MAY HAVE ASSETS UNDER MANAGEMENT OF FIVE HUNDRED MILLION DOLLARS OR LESS, REAL ESTATE INVESTMENT FIRMS MAY HAVE ASSETS UNDER MANAGEMENT OF ONE BILLION DOLLARS OR LESS, AND REITS MAY HAVE ASSETS UNDER MANAGEMENT OF FIVE HUNDRED MILLION DOLLARS OR LESS.

5. THE TERM "MWBE FINANCIAL INSTITUTION" SHALL MEAN:

(A) AS IT RELATES TO BROKERAGE SERVICES, A REGISTERED BROKER DEALER THAT IS A "MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE", AS SUCH TERM IS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW, THAT HAS TWENTY-FIVE MILLION DOLLARS OR LESS IN ANNUAL COMMISSIONS AND FIFTY MILLION DOLLARS OR LESS IN NET EQUITY CAPITAL, AS SUCH TERM IS DEFINED BY THE FINANCIAL INDUSTRY REGULATORY AUTHORITY; AND

(B) AS IT RELATES TO ANY OTHER FINANCIAL SERVICES, A MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE THAT PROVIDES BANKING, FINANCIAL ADVISORY, INSURANCE, FINANCIAL RESEARCH, VALUATION OR OTHER FINANCIAL SERVICES.

6. THE TERM "MWBE BUSINESSES" SHALL MEAN MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES, AS SUCH TERM IS DEFINED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW.

S 5. The retirement and social security law is amended by adding a new section 423-c to read as follows:

S 423-C. EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY. 1. SUBJECT TO THE FIDUCIARY DUTIES OF THE OFFICE OF THE COMPTROLLER AND SUCH OTHER INVESTMENT LIMITATIONS PRESCRIBED BY THIS CHAPTER, THE COMPTROLLER SHALL ESTABLISH AN EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY WITH THE FOLLOWING GOALS:

(A) INVESTING NOT LESS THAN FIFTEEN PERCENT OF EXTERNALLY MANAGED ASSETS OF THE COMMON RETIREMENT FUND WITH EMERGING INVESTMENT MANAGERS;

(B) CONDUCTING TRADES OF PUBLIC EQUITY AND FIXED INCOME SECURITIES PRODUCING NOT LESS THAN THIRTY-FIVE PERCENT OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH PUBLIC EQUITY RELATED COMMISSIONS AND NOT LESS THAN TWENTY-FIVE PERCENT

OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH FIXED INCOME RELATED COMMISSIONS;

(C) ALLOCATING INVESTMENTS OF ASSETS OF THE COMMON RETIREMENT FUND EITHER THROUGH DIRECT INVESTMENTS OR INDIRECTLY THROUGH SPECIAL PROGRAMS INVOLVING EMERGING INVESTMENT MANAGERS IN EQUITY AND DEBT SECURITIES OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES; AND

(D) INCREASING EXPENDITURES ON CONTRACTS FOR ACCOUNTING, BANKING, FINANCIAL ADVISORY, INSURANCE, LEGAL, RESEARCH, VALUATION AND OTHER PROFESSIONAL AND FINANCIAL SERVICES WITH MWBE FINANCIAL INSTITUTIONS AND MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK STATE THAT ARE PROFESSIONAL SERVICE FIRMS. THE COMPTROLLER SHALL ESTABLISH AND IMPLEMENT SUCH STRATEGY PURSUANT TO THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION.

2. ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMPTROLLER SHALL DEVELOP AND IMPLEMENT A PLAN TO ACHIEVE THE GOALS SET FORTH IN SUBDIVISION ONE OF THIS SECTION, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING GOALS:

(A) A PUBLIC RELATIONS CAMPAIGN TO ADVERTISE THE CREATION OF AND CONTINUED EXISTENCE OF THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY;

(B) ANNUAL REPORTING REGARDING: (I) INVESTMENTS WITH EMERGING INVESTMENT MANAGERS, COMMISSIONS WITH MWBE FINANCIAL INSTITUTIONS, AND ANNUAL NON-COMMISSION EXPENDITURES (EXCLUDING INVESTMENT ALLOCATIONS) WITH OTHER MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL PRESENCE IN NEW YORK STATE THAT PROVIDE FINANCIAL SERVICES OR OTHER PROFESSIONAL SERVICES TO THE COMMON RETIREMENT FUND AS A PERCENTAGE OF TOTAL INVESTMENTS, COMMISSIONS OR EXPENDITURES, AS APPLICABLE, FOR SUCH SERVICES BY THE COMMON RETIREMENT FUND, AND (II) EFFORTS UNDERTAKEN DURING SUCH PERIOD TO SUPPORT THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY; AND

(C) A REGIME OF COORDINATION WITH THE DIVISION OF MINORITY AND WOMEN-OWNED BUSINESS DEVELOPMENT TO IDENTIFY QUALIFIED EMERGING INVESTMENT MANAGERS AND MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK STATE THAT PROVIDE PROFESSIONAL SERVICES TO CREATE A DATABASE OF SUCH ENTITIES AND TO HAVE AN ANNUAL CONFERENCE TO PROMOTE THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY.

S 6. Subdivision 18 of section 508 of the education law, as added by chapter 779 of the laws of 1982, is amended to read as follows:

18. Notwithstanding any other provision of this section, the retirement board shall have the power to delegate to one or more investment managers, INCLUDING, WITHOUT LIMITATION, EMERGING INVESTMENT MANAGERS AND MWBE FINANCIAL INSTITUTIONS, AS DEFINED IN SECTION ONE HUNDRED SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW, its authority to invest moneys belonging to the retirement system. The term "investment managers" as used in this subdivision shall include but not be limited to independent contractors selected by the retirement board.

S 7. Subdivision 19 of section 508 of the education law is renumbered subdivision 21 and two new subdivisions 19 and 20 are added to read as follows:

19. THE FUNDS OF THE RETIREMENT SYSTEM MAY BE INVESTED WITH EMERGING INVESTMENT MANAGERS AND WITH MWBE FINANCIAL INSTITUTIONS UPON SUCH TERMS AND CONDITIONS AS THE RETIREMENT BOARD DEEMS TO BE IN THE BEST INTERESTS OF THE RETIREMENT SYSTEM.

20. THE FUNDS OF THE RETIREMENT SYSTEM MAY BE INVESTED IN EQUITY AND DEBT SECURITIES OF MWBE BUSINESSES, AS DEFINED IN SECTION ONE HUNDRED

SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW, UPON SUCH TERMS AND CONDITIONS AS THE RETIREMENT BOARD DEEMS TO BE IN THE BEST INTERESTS OF THE RETIREMENT SYSTEM.

S 8. The education law is amended by adding a new section 508-a to read as follows:

S 508-A. NEW YORK STATE TEACHERS' EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY. 1. SUBJECT TO THE FIDUCIARY DUTIES OF THE RETIREMENT BOARD AND SUCH OTHER INVESTMENT LIMITATIONS PRESCRIBED BY THIS CHAPTER, THE RETIREMENT BOARD SHALL ESTABLISH AN EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY WITH THE FOLLOWING GOALS:

(A) INVESTING NOT LESS THAN FIFTEEN PERCENT OF EXTERNALLY MANAGED ASSETS OF THE RETIREMENT SYSTEM WITH EMERGING INVESTMENT MANAGERS;

(B) CONDUCTING TRADES OF PUBLIC EQUITY AND FIXED INCOME SECURITIES PRODUCING NOT LESS THAN THIRTY-FIVE PERCENT OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH PUBLIC EQUITY RELATED COMMISSIONS AND NOT LESS THAN TWENTY-FIVE PERCENT OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH FIXED INCOME RELATED COMMISSIONS;

(C) ALLOCATING INVESTMENTS OF ASSETS OF THE RETIREMENT SYSTEM EITHER THROUGH DIRECT INVESTMENTS OR INDIRECTLY THROUGH SPECIAL PROGRAMS INVOLVING EMERGING INVESTMENT MANAGERS IN EQUITY AND DEBT SECURITIES OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES; AND

(D) INCREASING EXPENDITURES ON CONTRACTS FOR ACCOUNTING, BANKING, FINANCIAL ADVISORY, INSURANCE, LEGAL, RESEARCH, VALUATION AND OTHER PROFESSIONAL AND FINANCIAL SERVICES WITH MWBE FINANCIAL INSTITUTIONS AND MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK STATE THAT ARE PROFESSIONAL SERVICE FIRMS.

AS USED IN THIS SECTION, THE TERMS: "EMERGING INVESTMENT MANAGER" AND "MWBE FINANCIAL INSTITUTIONS" SHALL HAVE THE SAME MEANINGS SPECIFIED IN SECTION ONE HUNDRED SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND "MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE" SHALL HAVE THE SAME MEANING SPECIFIED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW. THE RETIREMENT BOARD SHALL ESTABLISH AND IMPLEMENT SUCH STRATEGY PURSUANT TO THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION.

2. ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE RETIREMENT BOARD SHALL DEVELOP AND IMPLEMENT A PLAN TO ACHIEVE THE GOALS SET FORTH IN SUBDIVISION ONE OF THIS SECTION, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING GOALS:

(A) A PUBLIC RELATIONS CAMPAIGN TO ADVERTISE THE CREATION OF AND CONTINUED EXISTENCE OF THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY;

(B) ANNUAL REPORTING REGARDING: (I) INVESTMENTS WITH EMERGING INVESTMENT MANAGERS, COMMISSIONS WITH MWBE FINANCIAL INSTITUTIONS, AND ANNUAL NON-COMMISSION EXPENDITURES (EXCLUDING INVESTMENT ALLOCATIONS) WITH OTHER MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL PRESENCE IN NEW YORK STATE THAT PROVIDE FINANCIAL SERVICES OR OTHER PROFESSIONAL SERVICES TO THE COMMON RETIREMENT FUND AS A PERCENTAGE OF TOTAL INVESTMENTS, COMMISSIONS OR EXPENDITURES, AS APPLICABLE, FOR SUCH SERVICES BY THE COMMON RETIREMENT FUND, AND (II) EFFORTS UNDERTAKEN DURING SUCH PERIOD TO SUPPORT THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY; AND

(C) A REGIME OF COORDINATION WITH THE DIVISION OF MINORITY AND WOMEN-OWNED BUSINESS DEVELOPMENT TO IDENTIFY QUALIFIED EMERGING INVESTMENT MANAGERS AND MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK

STATE THAT PROVIDE PROFESSIONAL SERVICES TO CREATE A DATABASE OF SUCH ENTITIES AND TO HAVE AN ANNUAL CONFERENCE TO PROMOTE THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY.

S 9. The workers' compensation law is amended by adding a new section 87-i to read as follows:

S 87-I. NEW YORK STATE TEACHERS' EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY. 1. SUBJECT TO THE FIDUCIARY DUTIES OF THE COMMISSIONERS AND SUCH OTHER INVESTMENT LIMITATIONS PRESCRIBED BY THIS CHAPTER, THE COMMISSIONERS SHALL ESTABLISH AN EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY WITH THE FOLLOWING GOALS:

A. INVESTING NOT LESS THAN FIFTEEN PERCENT OF EXTERNALLY MANAGED ASSETS OF THE STATE INSURANCE FUND WITH EMERGING INVESTMENT MANAGERS;

B. CONDUCTING TRADES OF PUBLIC EQUITY AND FIXED INCOME SECURITIES PRODUCING NOT LESS THAN THIRTY-FIVE PERCENT OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH PUBLIC EQUITY RELATED COMMISSIONS AND NOT LESS THAN TWENTY-FIVE PERCENT OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH FIXED INCOME RELATED COMMISSIONS;

C. ALLOCATING INVESTMENTS OF ASSETS OF THE STATE INSURANCE FUND EITHER THROUGH DIRECT INVESTMENTS OR INDIRECTLY THROUGH SPECIAL PROGRAMS INVOLVING EMERGING INVESTMENT MANAGERS IN EQUITY AND DEBT SECURITIES OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES; AND

D. INCREASING EXPENDITURES ON CONTRACTS FOR ACCOUNTING, BANKING, FINANCIAL ADVISORY, INSURANCE, LEGAL, RESEARCH, VALUATION AND OTHER PROFESSIONAL AND FINANCIAL SERVICES WITH MWBE FINANCIAL INSTITUTIONS AND MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK STATE THAT ARE PROFESSIONAL SERVICE FIRMS.

AS USED IN THIS SECTION, THE TERMS: "EMERGING INVESTMENT MANAGER" AND "MWBE FINANCIAL INSTITUTIONS" SHALL HAVE THE SAME MEANINGS SPECIFIED IN SECTION ONE HUNDRED SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND "MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE" SHALL HAVE THE SAME MEANING SPECIFIED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW. THE COMMISSIONERS SHALL ESTABLISH AND IMPLEMENT SUCH STRATEGY PURSUANT TO THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION.

2. ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONERS SHALL DEVELOP AND IMPLEMENT A PLAN TO ACHIEVE THE GOALS SET FORTH IN SUBDIVISION ONE OF THIS SECTION, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING GOALS:

A. A PUBLIC RELATIONS CAMPAIGN TO ADVERTISE THE CREATION OF AND CONTINUED EXISTENCE OF THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY;

B. ANNUAL REPORTING REGARDING: (I) INVESTMENTS WITH EMERGING INVESTMENT MANAGERS, COMMISSIONS WITH MWBE FINANCIAL INSTITUTIONS, AND ANNUAL NON-COMMISSION EXPENDITURES (EXCLUDING INVESTMENT ALLOCATIONS) WITH OTHER MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL PRESENCE IN NEW YORK STATE THAT PROVIDE FINANCIAL SERVICES OR OTHER PROFESSIONAL SERVICES TO THE STATE INSURANCE FUND AS A PERCENTAGE OF TOTAL INVESTMENTS, COMMISSIONS OR EXPENDITURES, AS APPLICABLE, FOR SUCH SERVICES BY THE STATE INSURANCE FUND, AND (II) EFFORTS UNDERTAKEN DURING SUCH PERIOD TO SUPPORT THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY; AND

C. A REGIME OF COORDINATION WITH THE DIVISION OF MINORITY AND WOMEN-OWNED BUSINESS DEVELOPMENT TO IDENTIFY QUALIFIED EMERGING INVESTMENT MANAGERS AND MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK

STATE THAT PROVIDE PROFESSIONAL SERVICES TO CREATE A DATABASE OF SUCH ENTITIES AND TO HAVE AN ANNUAL CONFERENCE TO PROMOTE THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY.

S 10. Paragraphs c, d, e and f of subdivision 2 of section 5 of the state finance law are relettered paragraphs d, e, f and g and a new paragraph c is added to read as follows:

C. (I) SUBJECT TO FIDUCIARY DUTIES OF THE DEFERRED COMPENSATION BOARD AND SUCH OTHER INVESTMENT LIMITATIONS PRESCRIBED BY THIS CHAPTER, SUCH BOARD SHALL ESTABLISH AN EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY WITH THE FOLLOWING GOALS:

(A) INVESTING NOT LESS THAN FIFTEEN PERCENT OF EXTERNALLY MANAGED ASSETS OF THE DEFERRED COMPENSATION PLANS WITH EMERGING INVESTMENT MANAGERS;

(B) CONDUCTING TRADES OF PUBLIC EQUITY AND FIXED INCOME SECURITIES PRODUCING NOT LESS THAN THIRTY-FIVE PERCENT OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH PUBLIC EQUITY RELATED COMMISSIONS AND NOT LESS THAN TWENTY-FIVE PERCENT OF COMMISSIONS IN EACH FISCAL YEAR DIRECTED TO MWBE FINANCIAL INSTITUTIONS IN CONNECTION WITH FIXED INCOME RELATED COMMISSIONS;

(C) ALLOCATING INVESTMENTS OF ASSETS OF THE DEFERRED COMPENSATION PLANS EITHER THROUGH DIRECT INVESTMENTS OR INDIRECTLY THROUGH SPECIAL PROGRAMS INVOLVING EMERGING INVESTMENT MANAGERS IN EQUITY AND DEBT SECURITIES OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES; AND

(D) INCREASING EXPENDITURES ON CONTRACTS FOR ACCOUNTING, BANKING, FINANCIAL ADVISORY, INSURANCE, LEGAL, RESEARCH, VALUATION AND OTHER PROFESSIONAL AND FINANCIAL SERVICES WITH MWBE FINANCIAL INSTITUTIONS AND MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK STATE THAT ARE PROFESSIONAL SERVICE FIRMS.

AS USED IN THIS SECTION, THE TERMS: "EMERGING INVESTMENT MANAGER" AND "MWBE FINANCIAL INSTITUTIONS" SHALL HAVE THE SAME MEANINGS SPECIFIED IN SECTION ONE HUNDRED SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND "MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE" SHALL HAVE THE SAME MEANING SPECIFIED IN ARTICLE FIFTEEN-A OF THE EXECUTIVE LAW. THE DEFERRED COMPENSATION BOARD SHALL ESTABLISH AND IMPLEMENT SUCH STRATEGY PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(II) ONE YEAR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, THE DEFERRED COMPENSATION BOARD SHALL DEVELOP AND IMPLEMENT A PLAN TO ACHIEVE THE GOALS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING GOALS:

(A) A PUBLIC RELATIONS CAMPAIGN TO ADVERTISE THE CREATION OF AND CONTINUED EXISTENCE OF THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY;

(B) ANNUAL REPORTING REGARDING: (1) INVESTMENTS WITH EMERGING INVESTMENT MANAGERS, COMMISSIONS WITH MWBE FINANCIAL INSTITUTIONS, AND ANNUAL NON-COMMISSION EXPENDITURES (EXCLUDING INVESTMENT ALLOCATIONS) WITH OTHER MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL PRESENCE IN NEW YORK STATE THAT PROVIDE FINANCIAL SERVICES OR OTHER PROFESSIONAL SERVICES TO THE DEFERRED COMPENSATION PLANS AS A PERCENTAGE OF TOTAL INVESTMENTS, COMMISSIONS OR EXPENDITURES, AS APPLICABLE, FOR SUCH SERVICES BY THE DEFERRED COMPENSATION PLANS, AND (2) EFFORTS UNDERTAKEN DURING SUCH PERIOD TO SUPPORT THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY; AND

(C) A REGIME OF COORDINATION WITH THE DIVISION OF MINORITY AND WOMEN-OWNED BUSINESS DEVELOPMENT TO IDENTIFY QUALIFIED EMERGING INVESTMENT MANAGERS AND MWBE FINANCIAL INSTITUTIONS AND OTHER MINORITY AND

WOMEN-OWNED BUSINESS ENTERPRISES WITH A PRINCIPAL LOCATION IN NEW YORK STATE THAT PROVIDE PROFESSIONAL SERVICES TO CREATE A DATABASE OF SUCH ENTITIES AND TO HAVE AN ANNUAL CONFERENCE TO PROMOTE THE EMERGING INVESTMENT MANAGER AND MWBE FINANCIAL INSTITUTION STRATEGY.

S 11. The provisions of this act are severable, and if any part or provision hereof, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this act or the application of any such remaining provisions to any person or circumstance, but shall be confined in its operation to the provision, person or circumstance directly involved in the controversy in which such judgment shall have been rendered.

S 12. This act shall take effect on the ninetieth day after it shall have become a law.