

1367

2009-2010 Regular Sessions

I N S E N A T E

January 29, 2009

Introduced by Sen. O. JOHNSON -- read twice and ordered printed, and
when printed to be committed to the Committee on Education

AN ACT to amend the education law, the military law, the retirement and
social security law and the real property tax law, in relation to
extending the date of the end of service in World War II until Decem-
ber 31, 1946

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

1 Section 1. The opening paragraph of subdivision 6 of section 503 of
2 the education law, as amended by chapter 616 of the laws of 1995, is
3 amended to read as follows:
4 Credit for service in war after world war I, which shall mean military
5 service during the period commencing the first day of July, nineteen
6 hundred forty, and terminating the thirtieth day of June, nineteen
7 hundred forty-seven, or during the period commencing the twenty-seventh
8 day of June, nineteen hundred fifty, and terminating the thirty-first
9 day of January, nineteen hundred fifty-five, or during both such peri-
10 ods, as a member of the armed forces of the United States, of any person
11 who has been honorably discharged or released under honorable circum-
12 stances from such service, or service by one who was employed by the War
13 Shipping Administration or Office of Defense Transportation or their
14 agents as a merchant seaman documented by the United States Coast Guard
15 or Department of Commerce, or as a civil servant employed by the United
16 States Army Transport Service (later redesignated as the United States
17 Army Transportation Corps, Water Division) or the Naval Transportation
18 Service; and who served satisfactorily as a crew member during the peri-
19 od of armed conflict, December seventh, nineteen hundred forty-one, to
20 [August fifteenth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five]
21 FORTY-SIX, aboard merchant vessels in oceangoing, i.e., foreign, inter-
22 coastal, or coastwise service as such terms are defined under federal
23 law (46 USCA 10301 & 10501) and further to include "near foreign"

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

LBD06097-01-9

1 voyages between the United States and Canada, Mexico, or the West Indies
2 via ocean routes, or public vessels in oceangoing service or foreign
3 waters and who has received a Certificate of Release or Discharge from
4 Active Duty and a discharge certificate, or an Honorable Service
5 Certificate/Report of Casualty, from the Department of Defense or who
6 served as a United States civilian employed by the American Field
7 Service and served overseas under United States Armies and United States
8 Army Groups in world war II during the period of armed conflict, Decem-
9 ber seventh, nineteen hundred forty-one through [May eighth] DECEMBER
10 THIRTY-FIRST, nineteen hundred [forty-five] FORTY-SIX, and who was
11 discharged or released therefrom under honorable conditions, or who
12 served as a United States civilian Flight Crew and Aviation Ground
13 Support Employee of Pan American World Airways or one of its subsid-
14 iaries or its affiliates and served overseas as a result of Pan Ameri-
15 can's contract with Air Transport Command or Naval Air Transport Service
16 during the period of armed conflict, December fourteenth, nineteen
17 hundred forty-one through August fourteenth, nineteen hundred forty-
18 five, and who was discharged or released therefrom under honorable
19 conditions, and who was a teacher in the public schools of this state at
20 the time of his entrance into the armed forces of the United States,
21 provided no compensation was received under the provisions of section
22 two hundred forty-two of the military law, and who returned to public
23 school teaching following discharge or completion of advanced education
24 provided under servicemen's readjustment act of nineteen hundred forty-
25 four, or who following such discharge or release entered into a service
26 which would qualify him pursuant to section forty-three of the retire-
27 ment and social security law to transfer his membership in the New York
28 state teachers' retirement system, shall be provided as follows, any
29 provisions of section two hundred forty-three of the military law to the
30 contrary notwithstanding.

31 S. 2. Paragraph (b) of subdivision 1 of section 243 of the military
32 law, as amended by chapter 248 of the laws of 2001, is amended to read
33 as follows:

34 (b) The term "military duty" shall mean military service in the mili-
35 tary, naval, aviation or marine service of the United States subsequent
36 to July first, nineteen hundred forty, or service under the selective
37 training and service act of nineteen hundred forty, or the national
38 guard and reserve officers mobilization act of nineteen hundred forty,
39 or any other act of congress supplementary or amendatory thereto, or any
40 similar act of congress hereafter enacted and irrespective of the fact
41 that such service was entered upon following a voluntary enlistment
42 therefor or was required under one of the foregoing acts of congress, or
43 service with the United States public health service as a commissioned
44 officer, or service with the American Red Cross while with the armed
45 forces of the United States on foreign service, or service with the
46 special services section of the armed forces of the United States on
47 foreign service, or service in the merchant marine which shall consist
48 of service as an officer or member of the crew on or in connection with
49 a vessel documented under the laws of the United States or a vessel
50 owned by, chartered to, or operated by or for the account or use of the
51 government of the United States, or service by one who was employed by
52 the War Shipping Administration or Office of Defense Transportation or
53 their agents as a merchant seaman documented by the United States Coast
54 Guard or Department of Commerce, or as a civil servant employed by the
55 United States Army Transport Service (later redesignated as the United
56 States Army Transportation Corps, Water Division) or the Naval Transpor-

1 tation Service; and who served satisfactorily as a crew member during
2 the period of armed conflict, December seventh, nineteen hundred forty-
3 one, to [August fifteenth] DECEMBER THIRTY-FIRST, nineteen hundred
4 [forty-five] FORTY-SIX, aboard merchant vessels in oceangoing, i.e.,
5 foreign, intercoastal, or coastwise service as such terms are defined
6 under federal law (46 USCA 10301 & 10501) and further to include "near
7 foreign" voyages between the United States and Canada, Mexico, or the
8 West Indies via ocean routes, or public vessels in oceangoing service or
9 foreign waters and who has received a Certificate of Release or
10 Discharge from Active Duty and a discharge certificate, or an Honorable
11 Service Certificate/Report of Casualty, from the Department of Defense,
12 or who served as a United States civilian employed by the American Field
13 Service and served overseas under United States Armies and United States
14 Army Groups in world war II during the period of armed conflict, Decem-
15 ber seventh, nineteen hundred forty-one through [May eighth] DECEMBER
16 THIRTY-FIRST, nineteen hundred [forty-five] FORTY-SIX, and who was
17 discharged or released therefrom under honorable conditions, or who
18 served as a United States civilian Flight Crew and Aviation Ground
19 Support Employee of Pan American World Airways or one of its subsid-
20 iaries or its affiliates and served overseas as a result of Pan Ameri-
21 can's contract with Air Transport Command or Naval Air Transport Service
22 during the period of armed conflict, December fourteenth, nineteen
23 hundred forty-one through August fourteenth, nineteen hundred forty-
24 five, and who was discharged or released therefrom under honorable
25 conditions; or service in police duty on behalf of the United States
26 government in a foreign country, if such person is a police officer, as
27 defined by section 1.20 of the criminal procedure law, and if such
28 police officer obtained the prior consent of his or her public employer
29 to absent himself or herself from his or her position to engage in the
30 performance of such service; or as an enrollee in the United States
31 maritime service on active duty and, to such extent as may be prescribed
32 by or under the laws of the United States, any period awaiting assign-
33 ment to such service and any period of education or training for such
34 service in any school or institution under the jurisdiction of the
35 United States government, but shall not include temporary and intermit-
36 tent gratuitous service in any reserve or auxiliary force. It shall
37 include time spent in reporting for and returning from military duty and
38 shall be deemed to commence when the public employee leaves his position
39 and to end when he is reinstated to his position, provided such rein-
40 statement is within ninety days after the termination of military duty,
41 as hereinafter defined. Notwithstanding the foregoing provisions of
42 this paragraph, the term "military duty" shall not include any of the
43 foregoing services entered upon voluntarily on or after January first,
44 nineteen hundred forty-seven and before June twenty-fifth, nineteen
45 hundred fifty; and, on or after July first, nineteen hundred seventy,
46 the term "military duty" shall not include any voluntary service in
47 excess of four years performed after that date, or the total of any
48 voluntary services, additional or otherwise, in excess of four years
49 performed after that date, shall not exceed five years, if the service
50 in excess of four years is at the request and for the convenience of the
51 federal government, except if such voluntary service is performed during
52 a period of war, or national emergency declared by the president.
53 S 3. Subdivision 31 of section 2 of the retirement and social security
54 law, as amended by chapter 616 of the laws of 1995, is amended to read
55 as follows:

1 31. "Service in world war II." (1) Military service during the period
2 commencing July first, nineteen hundred forty, and terminating December
3 thirty-first, nineteen hundred forty-six, as a member of the armed forces
4 of the United States, or service by one who was employed by the War
5 Shipping Administration or Office of Defense Transportation or their
6 agents as a merchant seaman documented by the United States Coast Guard
7 or Department of Commerce, or as a civil servant employed by the United
8 States Army Transport Service (later redesignated as the United States
9 Army Transportation Corps, Water Division) or the Naval Transportation
10 Service; and who served satisfactorily as a crew member during the period
11 of armed conflict, December seventh, nineteen hundred forty-one, to
12 [August fifteenth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five]
13 FORTY-SIX, aboard merchant vessels in oceangoing, i.e., foreign, inter-
14 coastal, or coastwise service as such terms are defined under federal
15 law (46 USCA 10301 & 10501) and further to include "near foreign"
16 voyages between the United States and Canada, Mexico, or the West Indies
17 via ocean routes, or public vessels in oceangoing service or foreign
18 waters and who has received a Certificate of Release or Discharge from
19 Active Duty and a discharge certificate, or an Honorable Service
20 Certificate/Report of Casualty, from the Department of Defense, or
21 service by one who served as a United States civilian employed by the
22 American Field Service and served overseas under United States Armies
23 and United States Army Groups in world war II during the period of armed
24 conflict, December seventh, nineteen hundred forty-one through [May
25 eighth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five] FORTY-SIX,
26 and who was discharged or released therefrom under honorable conditions,
27 or service by one who served as a United States civilian Flight Crew and
28 Aviation Ground Support Employee of Pan American World Airways or one of
29 its subsidiaries or its affiliates and served overseas as a result of
30 Pan American's contract with Air Transport Command or Naval Air Transport
31 Service during the period of armed conflict, December fourteenth,
32 nineteen hundred forty-one through August fourteenth, nineteen hundred
33 forty-five, and who was discharged or released therefrom under honorable
34 conditions or of any person who:
35 a. Has been honorably discharged or released therefrom under honorable
36 circumstances, and
37 b. Was a resident of this state at the time of his entrance into such
38 armed forces, or, if not a resident of this state at that time, was then
39 or thereafter became an employee of a participating employer created by
40 and deriving its powers from an agreement between this state and any
41 other state and was a resident of such other state at the time of his
42 entrance into such armed forces, and
43 c. Was either a member of the retirement system and an employee of the
44 state or of a participating employer at the time he entered such armed
45 forces or became such employee and such member while in such armed forces
46 on or before July first, nineteen hundred forty-eight, or became such
47 employee while in such armed forces and subsequently became such member
48 on or before July first, nineteen hundred forty-eight, or was an employee
49 of an employer which was not a participating employer at the time he
50 entered such armed forces but which elected to become a participating
51 employer while he was absent on military duty, or was an employee of the
52 state or of a participating employer or was a teacher as defined in
53 article eleven of the education law at the time of his entrance into the
54 armed forces and became a member of the retirement system subsequent to
55 separation or discharge from the armed services, and

1 d. Returned to the employment of the state or a participating employ-
2 er, within one year following discharge or release or completion of
3 advanced education provided under the servicemen's readjustment act of
4 nineteen hundred forty-four, certified on a world war II military
5 service certificate, and allowable as provided in section forty-one of
6 this article. Such service shall not include any periods during which
7 civil compensation was received by the member under the provisions of
8 section two hundred forty-two of the military law, or section six of
9 chapter six hundred eight of the laws of nineteen hundred fifty-two; or
10 (2) Military service, not in excess of three years and not otherwise
11 creditable under paragraph one hereof, rendered on active duty in the
12 armed forces of the United States during the period commencing July
13 first, nineteen hundred forty, and terminating December thirty-first,
14 nineteen hundred forty-six, or service by one who was employed by the
15 War Shipping Administration or Office of Defense Transportation or their
16 agents as a merchant seaman documented by the United States Coast Guard
17 or Department of Commerce, or as a civil servant employed by the United
18 States Army Transport Service (later redesignated as the United States
19 Army Transportation Corps, Water Division) or the Naval Transportation
20 Service; and who served satisfactorily as a crew member during the peri-
21 od of armed conflict, December seventh, nineteen hundred forty-one, to
22 [August fifteenth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five]
23 FORTY-SIX, aboard merchant vessels in oceangoing, i.e., foreign, inter-
24 coastal, or coastwise service as such terms are defined under federal
25 law (46 USCA 10301 & 10501) and further to include "near foreign"
26 voyages between the United States and Canada, Mexico, or the West Indies
27 via ocean routes, or public vessels in oceangoing service or foreign
28 waters and who has received a Certificate of Release or Discharge from
29 Active Duty and a discharge certificate, or an Honorable Service
30 Certificate/Report of Casualty, from the Department of Defense, or
31 service by one who served as a United States civilian employed by the
32 American Field Service and served overseas under United States Armies
33 and United States Army Groups in world war II during the period of armed
34 conflict, December seventh, nineteen hundred forty-one through [May
35 eighth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five] FORTY-SIX,
36 and who was discharged or released therefrom under honorable conditions,
37 or service by one who served as a United States civilian Flight Crew and
38 Aviation Ground Support Employee of Pan American World Airways or one of
39 its subsidiaries or its affiliates and served overseas as a result of
40 Pan American's contract with Air Transport Command or Naval Air Trans-
41 port Service during the period of armed conflict, December fourteenth,
42 nineteen hundred forty-one through August fourteenth, nineteen hundred
43 forty-five, and who was discharged or released therefrom under honorable
44 conditions, by a person who was a resident of New York state at the time
45 of entry into such service and at the time of being discharged therefrom
46 under honorable circumstances, or, if not a resident of this state at
47 such times was then or thereafter became an employee of a participating
48 employer created by and deriving its powers from an agreement between
49 this state and any other state, and was a resident of such other state
50 at the time of entry into and discharge from such service, and who makes
51 the payments required by subdivision k of section forty-one of this
52 article.

53 However, no military service shall be creditable under this paragraph
54 two in the case of a member under an existing plan permitting retirement
55 upon twenty years of creditable service who is receiving a federal
56 pension (other than for disability) based upon a minimum of twenty years

1 of full time active military service in the armed forces of the United
2 States nor shall any military service be creditable in the case of a
3 member under any other plan who is receiving a military pension (other
4 than for disability) for military service in the armed forces of the
5 United States.

6 S 4. Subdivision 31 of section 302 of the retirement and social secu-
7 rity law, as amended by chapter 616 of the laws of 1995, is amended to
8 read as follows:

9 31. "Service in world war II." (1) Military service during the period
10 commencing July first, nineteen hundred forty, and terminating December
11 thirty-first, nineteen hundred forty-six, as a member of the armed forc-
12 es of the United States, or service by one who was employed by the War
13 Shipping Administration or Office of Defense Transportation or their
14 agents as a merchant seaman documented by the United States Coast Guard
15 or Department of Commerce, or as a civil servant employed by the United
16 States Army Transport Service (later redesignated as the United States
17 Army Transportation Corps, Water Division) or the Naval Transportation
18 Service; and who served satisfactorily as a crew member during the peri-
19 od of armed conflict, December seventh, nineteen hundred forty-one, to
20 [August fifteenth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five]
21 FORTY-SIX, aboard merchant vessels in oceangoing, i.e., foreign, inter-
22 coastal, or coastwise service as such terms are defined under federal
23 law (46 USCA 10301 & 10501) and further to include "near foreign"
24 voyages between the United States and Canada, Mexico, or the West Indies
25 via ocean routes, or public vessels in oceangoing service or foreign
26 waters and who has received a Certificate of Release or Discharge from
27 Active Duty and a discharge certificate, or an Honorable Service
28 Certificate/Report of Casualty, from the Department of Defense, or
29 service by one who served as a United States civilian employed by the
30 American Field Service and served overseas under United States Armies
31 and United States Army Groups in world war II during the period of armed
32 conflict, December seventh, nineteen hundred forty-one through [May
33 eighth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five] FORTY-SIX,
34 and who was discharged or released therefrom under honorable conditions,
35 or service by one who served as a United States civilian Flight Crew and
36 Aviation Ground Support Employee of Pan American World Airways or one of
37 its subsidiaries or its affiliates and served overseas as a result of
38 Pan American's contract with Air Transport Command or Naval Air Trans-
39 port Service during the period of armed conflict, December fourteenth,
40 nineteen hundred forty-one through August fourteenth, nineteen hundred
41 forty-five, and who was discharged or released therefrom under honorable
42 conditions, or of any person who:

43 a. Has been honorably discharged or released therefrom under honorable
44 circumstances, and

45 b. Was a resident of this state at the time of his entrance into such
46 armed forces, or, if not a resident of this state at that time, was then
47 or thereafter became an employee of a participating employer created by
48 and deriving its powers from an agreement between this state and any
49 other state and was a resident of such other state at the time of his
50 entrance into such armed forces, and

51 c. Was either a member of the New York state and local employees'
52 retirement system and an employee of the state or of a participating
53 employer of such system at the time he entered such armed forces or
54 became such employee and such member while in such armed forces on or
55 before July first, nineteen hundred forty-eight, or became such employee
56 while in such armed forces and subsequently became such member on or

1 before July first, nineteen hundred forty-eight, or was an employee of
2 an employer which was not a participating employer at the time he
3 entered such armed forces but which elected to become a participating
4 employer while he was absent on military duty, or was an employee of the
5 state or of a participating employer or was a teacher as defined in
6 article eleven of the education law at the time of his entrance into the
7 armed forces and became a member of the policemen's and firemen's
8 retirement system subsequent to separation or discharge from the armed
9 services, and

10 d. Returned to the employment of the state or a participating employ-
11 er, within one year following discharge or release or completion of
12 advanced education provided under the servicemen's readjustment act of
13 nineteen hundred forty-four, certified on a world war II military
14 service certificate, and allowable as provided in section forty-one of
15 this article. Such service shall not include any periods during which
16 civil compensation was received by the member under the provisions of
17 section two hundred forty-two of the military law, or section six of
18 chapter six hundred eight of the laws of nineteen hundred fifty-two; or

19 (2) Military service, not in excess of three years and not otherwise
20 creditable under paragraph one hereof, rendered on active duty in the
21 armed forces of the United States during the period commencing July
22 first, nineteen hundred forty, and terminating December thirty-first,
23 nineteen hundred forty-six, or service by one who was employed by the
24 War Shipping Administration or Office of Defense Transportation or their
25 agents as a merchant seaman documented by the United States Coast Guard
26 or Department of Commerce, or as a civil servant employed by the United
27 States Army Transport Service (later redesignated as the United States
28 Army Transportation Corps, Water Division) or the Naval Transportation
29 Service; and who served satisfactorily as a crew member during the peri-
30 od of armed conflict, December seventh, nineteen hundred forty-one, to
31 [August fifteenth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five]
32 FORTY-SIX, aboard merchant vessels in oceangoing, i.e., foreign, inter-
33 coastal, or coastwise service as such terms are defined under federal
34 law (46 USCA 10301 & 10501) and further to include "near foreign"
35 voyages between the United States and Canada, Mexico, or the West Indies
36 via ocean routes, or public vessels in oceangoing service or foreign
37 waters and who has received a Certificate of Release or Discharge from
38 Active Duty and a discharge certificate, or an Honorable Service
39 Certificate/Report of Casualty, from the Department of Defense, or
40 service by one who served as a United States civilian employed by the
41 American Field Service and served overseas under United States Armies
42 and United States Army Groups in world war II during the period of armed
43 conflict, December seventh, nineteen hundred forty-one through [May
44 eighth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five] FORTY-SIX,
45 and who was discharged or released therefrom under honorable conditions,
46 or service by one who served as a United States civilian Flight Crew and
47 Aviation Ground Support Employee of Pan American World Airways or one of
48 its subsidiaries or its affiliates and served overseas as a result of
49 Pan American's contract with Air Transport Command or Naval Air Trans-
50 port Service during the period of armed conflict, December fourteenth,
51 nineteen hundred forty-one through August fourteenth, nineteen hundred
52 forty-five, and who was discharged or released therefrom under honorable
53 conditions, or by a person who was a resident of New York state at the
54 time of entry into such service and at the time of being discharged
55 therefrom under honorable circumstances, or, if not a resident of this
56 state at such times was then or thereafter became an employee of a

1 participating employer created by and deriving its powers from an agree-
2 ment between this state and any other state, and was a resident of such
3 other state at the time of entry into and discharge from such service,
4 and who makes the payments required by subdivision k of section three
5 hundred forty-one of this chapter.

6 However, no military service shall be creditable under this paragraph
7 two in the case of a member under an existing plan permitting retirement
8 upon twenty years of creditable service who is receiving a federal
9 pension (other than for disability) based upon a minimum of twenty years
10 of military service in the armed forces of the United States nor shall
11 such military service be creditable in the case of a member under any
12 other plan who is receiving a military pension (other than for disabili-
13 ty) for such service.

14 S 5. Paragraph (a) of subdivision 4-a of section 458 of the real prop-
15 erty tax law, as amended by chapter 616 of the laws of 1995, is amended
16 to read as follows:

17 (a) by a person who was employed by the War Shipping Administration or
18 Office of Defense Transportation or their agents as a merchant seaman
19 documented by the United States Coast Guard or Department of Commerce,
20 or as a civil servant employed by the United States Army Transport
21 Service (later redesignated as the United States Army Transportation
22 Corps, Water Division) or the Naval Transportation Service; and who
23 served satisfactorily as a crew member during the period of armed
24 conflict, December seventh, nineteen hundred forty-one, to [August
25 fifteenth] DECEMBER THIRTY-FIRST, nineteen hundred [forty-five]
26 FORTY-SIX, aboard merchant vessels in oceangoing, i.e., foreign, inter-
27 coastal, or coastwise service as such terms are defined under federal
28 law (46 USCA 10301 & 10501) and further to include "near foreign"
29 voyages between the United States and Canada, Mexico, or the West Indies
30 via ocean routes, or public vessels in oceangoing service or foreign
31 waters and who has received a Certificate of Release or Discharge from
32 Active Duty and a discharge certificate, or an Honorable Service
33 Certificate/Report of Casualty, from the department of defense;

34 S 6. Subparagraph (ii) of paragraph (e) of subdivision 1 of section
35 458-a of the real property tax law, as amended by chapter 384 of the
36 laws of 2008, is amended to read as follows:

37 (ii) who was employed by the War Shipping Administration or Office of
38 Defense Transportation or their agents as a merchant seaman documented
39 by the United States Coast Guard or Department of Commerce, or as a
40 civil servant employed by the United States Army Transport Service
41 (later redesignated as the United States Army Transportation Corps,
42 Water Division) or the Naval Transportation Service; and who served
43 satisfactorily as a crew member during the period of armed conflict,
44 December seventh, nineteen hundred forty-one, to [August fifteenth]
45 DECEMBER THIRTY-FIRST, nineteen hundred [forty-five] FORTY-SIX, aboard
46 merchant vessels in oceangoing, i.e., foreign, intercoastal, or coast-
47 wise service as such terms are defined under federal law (46 USCA 10301
48 & 10501) and further to include "near foreign" voyages between the
49 United States and Canada, Mexico, or the West Indies via ocean routes,
50 or public vessels in oceangoing service or foreign waters and who has
51 received a Certificate of Release or Discharge from Active Duty and a
52 discharge certificate, or an Honorable Service Certificate/Report of
53 Casualty, from the department of defense,

54 S 7. This act shall take effect immediately.