

S. 26

A. 26

Twentieth Extraordinary Session

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

December 2, 2009

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IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Silver, Abbate, Arroyo, Clark, Destito, Englebright, Fields, Galef, Hooper, Kellner, Morelle, Paulin, Peoples-Stokes, Sweeney, Thiele, Zebrowski) -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the retirement and social security law, in relation to establishing police and fire retirement provisions; to amend the retirement and social security law and chapter 625 of the laws of 1975, amending the retirement and social security law relating to the extension of temporary rights and benefits, in relation to making the coordinated-escalator retirement plan and the coordinated retirement plan permanent; to amend the civil service law, in relation to extending the expiration of public arbitration of disputes between public employers and employee organizations (Part A); to amend the retirement and social security law and the general municipal law, in relation to persons joining a public retirement system on or after January 1, 2010; and 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 eliminating the expiration of the provisions thereof (Part B); 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 new entrants to the New York city teachers' retirement system and the New York city board of education retirement system (Part C)

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

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

LBD12149-15-9

1 Section 1. This act enacts into law legislation relating to retirement  
2 for newly hired employees. Each component is wholly contained within a  
3 Part identified as Parts A through C. The effective date for each  
4 particular provision contained within such Part is set forth in the last  
5 section of such Part. Any provision in any section contained within a  
6 Part, including the effective date of the Part, which makes reference to  
7 a section "of this act", when used in connection with that particular  
8 component, shall be deemed to mean and refer to the corresponding  
9 section of the Part in which it is found. Section three of this act  
10 sets forth the general effective date of this act.

11 PART A

12 Section 1. The retirement and social security law is amended by adding  
13 a new article 22 to read as follows:

14 ARTICLE 22

15 POLICE AND FIRE RETIREMENT PROVISIONS

16 SECTION 1200. DEFINITIONS.

17 1201. APPLICABILITY.

18 1202. VESTING.

19 1203. OVERTIME.

20 1204. MEMBER CONTRIBUTIONS.

21 1205. RECALCULATION OF BENEFITS.

22 1206. CONFLICTING PROVISIONS.

23 S 1200. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE THE TERMS:

24 A. "MEMBER" SHALL MEAN A PERSON WHO IS EMPLOYED AS A POLICE OFFICER OR  
25 FIREFIGHTER BY ANY EMPLOYER WHO FIRST JOINS THE RETIREMENT SYSTEM ON OR  
26 AFTER JANUARY FIRST, TWO THOUSAND TEN.

27 B. "RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL POLICE  
28 AND FIRE RETIREMENT SYSTEM.

29 S 1201. APPLICABILITY. NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
30 CONTRARY, THE PROVISIONS OF THIS ARTICLE SHALL BE APPLICABLE TO ALL  
31 EMPLOYEES IN THE RETIREMENT SYSTEM WHO FIRST JOINED SUCH SYSTEM ON OR  
32 AFTER JANUARY FIRST, TWO THOUSAND TEN.

33 S 1202. VESTING. A. IN ORDER TO QUALIFY FOR A SERVICE RETIREMENT BENE-  
34 FIT, MEMBERS SUBJECT TO THE PROVISIONS OF THIS ARTICLE MUST HAVE A MINI-  
35 MUM OF TEN YEARS OF CREDITABLE SERVICE.

36 B. IN COMPUTING THE YEARS OF TOTAL CREDITABLE SERVICE OF A MEMBER,  
37 FULL CREDIT SHALL BE GIVEN FOR MILITARY SERVICE AS DEFINED IN SUBDIVI-  
38 SIONS TWENTY-NINE-A AND THIRTY OF SECTION THREE HUNDRED TWO OF THIS  
39 CHAPTER.

40 S 1203. OVERTIME. A MEMBER'S FINAL AVERAGE SALARY SHALL BE CALCULATED  
41 IN ACCORDANCE WITH SUCH PROVISIONS OF ARTICLE EIGHT OR ARTICLE ELEVEN OF  
42 THIS CHAPTER AS GOVERN THE MEMBER'S BENEFITS, EXCEPT THAT EARNINGS CLAS-  
43 SIFIED AS OVERTIME COMPENSATION IN AN AMOUNT IN EXCESS OF FIFTEEN  
44 PERCENT OF A MEMBER'S ANNUAL WAGES NOT CLASSIFIED AS OVERTIME COMPEN-  
45 SATION SHALL BE EXCLUDED FROM SUCH CALCULATION. "OVERTIME COMPENSATION"  
46 SHALL MEAN, FOR PURPOSES OF THIS SECTION, COMPENSATION PAID UNDER ANY  
47 LAW OR POLICY UNDER WHICH EMPLOYEES ARE PAID AT A RATE GREATER THAN  
48 THEIR STANDARD RATE FOR ADDITIONAL HOURS WORKED BEYOND THOSE REQUIRED,  
49 INCLUDING COMPENSATION PAID UNDER SECTION ONE HUNDRED THIRTY-FOUR OF THE  
50 CIVIL SERVICE LAW AND SECTION NINETY OF THE GENERAL MUNICIPAL LAW.

51 S 1204. MEMBER CONTRIBUTIONS. MEMBERS WHO ARE SUBJECT TO THE  
52 PROVISIONS OF THIS ARTICLE SHALL CONTRIBUTE THREE PERCENT OF ANNUAL  
53 WAGES TO THE RETIREMENT SYSTEM IN WHICH THEY HAVE MEMBERSHIP. MEMBERS  
54 WHO ARE ENROLLED IN A RETIREMENT PLAN THAT LIMITS THE AMOUNT OF CREDITA-

1 BLE SERVICE A MEMBER CAN ACCRUE SHALL NOT BE REQUIRED TO MAKE CONTRIB-  
2 UTIONS PURSUANT TO THIS SECTION AFTER ACCRUING THE MAXIMUM AMOUNT OF  
3 SERVICE CREDIT ALLOWED BY THE RETIREMENT PLAN IN WHICH THEY ARE  
4 ENROLLED. THE STATE COMPTROLLER SHALL PROMULGATE SUCH REGULATIONS AS MAY  
5 BE NECESSARY AND APPROPRIATE WITH RESPECT TO THE DEDUCTION OF SUCH  
6 CONTRIBUTION FROM MEMBERS' WAGES AND FOR THE MAINTENANCE OF ANY SPECIAL  
7 FUND OR FUNDS WITH RESPECT TO AMOUNTS SO CONTRIBUTED. IN NO WAY SHALL  
8 THE MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SECTION BE USED TO  
9 PROVIDE FOR PENSION INCREASES OR ANNUITIES OF ANY KIND.

10 S 1205. RECALCULATION OF BENEFITS. NOTWITHSTANDING ANY OTHER PROVISION  
11 OF LAW, ANY MEMBER WHO HAS JOINED THE RETIREMENT SYSTEM PURSUANT TO THE  
12 PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER ON OR AFTER JULY FIRST,  
13 TWO THOUSAND NINE MAY ELECT TO HAVE HIS OR HER RETIREMENT BENEFITS  
14 CALCULATED PURSUANT TO THIS ARTICLE BY FILING WITHIN ONE HUNDRED TWENTY  
15 DAYS OF THE EFFECTIVE DATE OF THIS SECTION A REQUEST FOR SUCH CALCU-  
16 LATION WITH THE RETIREMENT SYSTEM IN THE FORM AND MANNER PRESCRIBED BY  
17 THE STATE COMPTROLLER.

18 S 1206. CONFLICTING PROVISIONS. EXCEPT AS OTHERWISE PROVIDED IN THIS  
19 ARTICLE, OR IN CONFLICT THEREWITH, THE PROVISIONS OF ARTICLE ELEVEN OF  
20 THIS CHAPTER, INCLUDING ANY PLAN THAT HAS BEEN ELECTED BY THE EMPLOYER  
21 OR IS OTHERWISE APPLICABLE UNDER ARTICLE EIGHT OF THIS CHAPTER SHALL  
22 GOVERN THE RETIREMENT BENEFITS PROVIDED UNDER THIS ARTICLE. IN THE EVENT  
23 OF ANY CONFLICT BETWEEN THE PROVISIONS OF THIS ARTICLE AND ANY OTHER  
24 PROVISION OF LAW, THIS ARTICLE SHALL GOVERN.

25 S 2. Subdivision c of section 440 of the retirement and social securi-  
26 ty law, as amended by chapter 63 of the laws of 2007, is amended to read  
27 as follows:

28 c. Notwithstanding any other provision of law, the provisions and  
29 limitations of this article shall apply, as may be appropriate, to all  
30 police officers and firefighters who last joined a public retirement  
31 system of the state or a municipality thereof, on or after July first,  
32 nineteen hundred seventy-six, but prior to July first, two thousand  
33 nine, AND ALL EMPLOYEES SUBJECT TO THE PROVISIONS OF ARTICLE TWENTY-TWO  
34 OF THIS CHAPTER; PROVIDED, HOWEVER, THAT IN THE CASE OF A CONFLICT  
35 BETWEEN THE PROVISIONS OF THIS ARTICLE AND ARTICLE TWENTY-TWO OF THIS  
36 CHAPTER, THE PROVISIONS OF ARTICLE TWENTY-TWO SHALL BE CONTROLLING.

37 S 3. Intentionally omitted.

38 S 4. Section 470 of the retirement and social security law, as amended  
39 by chapter 79 of the laws of 2009, is amended to read as follows:

40 S 470. Temporary suspension of retirement negotiations. [Until July  
41 first, two thousand eleven, changes] CHANGES negotiated between any  
42 public employer and public employee, as such terms are defined in  
43 section two hundred one of the civil service law, with respect to any  
44 benefit provided by or to be provided by a public retirement system, or  
45 payments to a fund or insurer to provide an income for retirees or  
46 payment to retirees or their beneficiaries, shall be prohibited. [Ther-  
47 eafter, such changes shall be made only pursuant to negotiations between  
48 public employers and public employees conducted on a coalition basis  
49 pursuant to the provisions of this article; provided, however, any such  
50 changes not requiring approval by act of the legislature may be imple-  
51 mented prior to July first, two thousand eleven, if negotiated as a  
52 result of collective bargaining authorized by section six of chapter six  
53 hundred twenty-five of the laws of nineteen hundred seventy-five.]

54 S 5. Section 480 of the retirement and social security law, as amended  
55 by chapter 79 of the laws of 2009, is amended to read as follows:

1 S 480. Extension of temporary benefits and supplementation programs.

2 a. Every temporary right, privilege or benefit conferred pursuant to  
3 the provisions of a general, special or local law (other than pursuant  
4 to articles fourteen and fifteen of this chapter) for any member of a  
5 public retirement system or pension plan funded by the state or one of  
6 its political subdivisions, which is scheduled to expire or terminate at  
7 any time during nineteen hundred seventy-four, nineteen hundred seven-  
8 ty-five, nineteen hundred seventy-six, nineteen hundred seventy-seven,  
9 nineteen hundred seventy-eight, nineteen hundred seventy-nine, nineteen  
10 hundred eighty, nineteen hundred eighty-one, nineteen hundred eighty-  
11 two, nineteen hundred eighty-three, nineteen hundred eighty-four, nine-  
12 teen hundred eighty-five, nineteen hundred eighty-six, nineteen hundred  
13 eighty-seven, nineteen hundred eighty-eight, nineteen hundred eighty-  
14 nine, nineteen hundred ninety, nineteen hundred ninety-one, nineteen  
15 hundred ninety-two, nineteen hundred ninety-three, nineteen hundred  
16 ninety-four, nineteen hundred ninety-five, nineteen hundred ninety-six,  
17 nineteen hundred ninety-seven, nineteen hundred ninety-eight, nineteen  
18 hundred ninety-nine, two thousand, two thousand one, two thousand two,  
19 two thousand three, two thousand four, two thousand five, two thousand  
20 six, two thousand seven, two thousand eight, two thousand nine, two  
21 thousand ten or two thousand eleven, is hereby extended [until July  
22 first, two thousand eleven], notwithstanding the provisions of such  
23 general, special or local law. Notwithstanding the foregoing, nothing  
24 in this section shall be construed to extend the provisions of article  
25 eighteen of this chapter or to affect any statutory deadlines provided  
26 in such article.

27 b. (i) Any program under which an employer in a public retirement  
28 system funded by the state or one of its political subdivisions assumes  
29 all or part of the contribution which would otherwise be made by its  
30 employees toward retirement, which expires or terminates during nineteen  
31 hundred seventy-four, is hereby extended [until July first, two thousand  
32 eleven], notwithstanding the provisions of any other general, special or  
33 local law, except that commencing with the payroll period the first day  
34 of which is nearest to January first, nineteen hundred seventy-six[, and  
35 until July first, two thousand eleven], the rate of such contribution  
36 assumed by an employer in any of the public retirement systems funded  
37 and maintained by a city, shall be one-half the rate of such contrib-  
38 ution assumed by such employer for the immediately preceding payroll  
39 period except as provided in paragraph (ii) of this subdivision.

40 (ii) Commencing with the first payroll period the first day of which  
41 is subsequent to October first, two thousand [and until July first, two  
42 thousand eleven], the rate of such contribution assumed by an employer  
43 in the New York city police pension fund and in the New York city fire  
44 department pension fund shall be equal to the rate of such contributions  
45 assumed by such employer for the payroll period preceding January first,  
46 nineteen hundred seventy-six.

47 c. All supplemental retirement allowances or supplemental pensions  
48 paid to pensioners or beneficiaries of any retirement system supported  
49 in whole or in part by the state or a political subdivision thereof,  
50 which are scheduled to expire at any time during nineteen hundred seven-  
51 ty-five, nineteen hundred seventy-six, nineteen hundred seventy-seven,  
52 nineteen hundred seventy-eight, nineteen hundred seventy-nine, nineteen  
53 hundred eighty, nineteen hundred eighty-one, nineteen hundred eighty-  
54 two, nineteen hundred eighty-three, nineteen hundred eighty-four, nine-  
55 teen hundred eighty-five, nineteen hundred eighty-six, nineteen hundred  
56 eighty-seven, nineteen hundred eighty-eight, nineteen hundred eighty-

1 nine, nineteen hundred ninety, nineteen hundred ninety-one, nineteen  
2 hundred ninety-two, nineteen hundred ninety-three, nineteen hundred  
3 ninety-four, nineteen hundred ninety-five, nineteen hundred ninety-six,  
4 nineteen hundred ninety-seven, nineteen hundred ninety-eight, nineteen  
5 hundred ninety-nine, two thousand one, two thousand two, two thousand  
6 three, two thousand four, two thousand five, two thousand six, two thou-  
7 sand seven, two thousand eight, two thousand nine, two thousand ten or  
8 two thousand eleven, shall be continued [for an additional year]  
9 notwithstanding any other provision of any general, special or local law  
10 provided, however, that all such supplemental retirement allowances or  
11 supplemental pensions which are scheduled to expire at any time during  
12 two thousand nine shall be continued [for two additional years] notwith-  
13 standing any other provisions of any general, special or local law.

14 S 6. Section 615 of the retirement and social security law, as amended  
15 by chapter 79 of the laws of 2009, is amended to read as follows:

16 S 615. Duration. Notwithstanding any other provisions of this chapter  
17 or of any other law, the provisions of article fourteen of this chapter  
18 shall [expire on June thirtieth, two thousand eleven, but shall] no  
19 longer apply to members to whom this article applies on the date article  
20 fifteen of this chapter becomes effective, provided, however, any member  
21 who has retired pursuant to the provisions of article fourteen of this  
22 chapter before the effective date of this article or any beneficiary of  
23 such a member or a beneficiary of a member who dies before the effective  
24 date of this article and who is entitled to a death benefit pursuant to  
25 article fourteen of this chapter shall receive such benefits pursuant to  
26 the provisions of article fourteen of this chapter, except as provided  
27 pursuant to the provisions of section six hundred seventeen of this  
28 article. [All benefits provided by a public retirement system of the  
29 state shall continue with respect to members to which this article is  
30 applicable only until June thirtieth, two thousand eleven.]

31 S 7. Section 6 of chapter 625 of the laws of 1975, amending the  
32 retirement and social security law relating to the extension of tempo-  
33 rary rights and benefits, as amended by chapter 79 of the laws of 2009,  
34 is amended to read as follows:

35 S 6. Notwithstanding any inconsistent provisions of this act or of any  
36 general, special or local law, on and after July 1, 1975 [and up to and  
37 including June 30, 2011]: (a) a participating employer in the New York  
38 state and local employees' retirement system or the New York state and  
39 local police and fire retirement system and its employees shall continue  
40 to have the right to negotiate with respect to any benefit provided by  
41 or to be provided by such employer to such employees as members of such  
42 system and not requiring approval by act of the legislature; and (b) a  
43 public authority or public benefit corporation which is not a partic-  
44 ipating employer in the New York state and local employees' retirement  
45 system or the New York city employees' retirement system shall continue  
46 to have the right to negotiate with its employees with respect to bene-  
47 fits to be provided by such employer to such employees upon retirement  
48 and not requiring approval by act of the legislature.

49 S 8. Notwithstanding any provision of law to the contrary, nothing in  
50 this act shall limit the eligibility of any member of an employee organ-  
51 ization to join a special retirement plan open to him or her pursuant to  
52 a collectively negotiated agreement with any state or local government  
53 employer, where such agreement is in effect on the effective date of  
54 this act and so long as such agreement remains in effect thereafter;  
55 provided, however, that any such eligibility shall not apply upon termi-  
56 nation of such agreement for employees otherwise subject to the

provisions of article twenty-two of the retirement and social security law.

S 9. Paragraph (d) of subdivision 4 of section 209 of the civil service law, as amended by chapter 28 of the laws of 2009, is amended to read as follows:

(d) The provisions of this subdivision shall expire [thirty-four] THIRTY-SIX years from July first, nineteen hundred seventy-seven, AND HEREAFTER MAY BE RENEWED EVERY FOUR YEARS.

S 9-a. Subdivision c of section 500 of the retirement and social security law, as added by chapter 890 of the laws of 1976, is amended to read as follows:

c. If the comptroller certifies that the contribution rate under this article for any participating employer who is participating on the effective date hereof would be at least one percent higher than the rate which would be applicable to such employer for an employee who is subject to article eleven of this chapter and who was hired prior to July first, nineteen hundred seventy-six, the provisions of this article shall not apply with respect to such participating employer, PROVIDED, HOWEVER THAT MEMBERS WHO FIRST JOIN THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE. In such event, the provisions of article eleven AND ARTICLE TWENTY-TWO OF THIS CHAPTER shall continue to be applicable to such participating employer and its employees, as provided in section four hundred fifty-one of this chapter. If, as a result of actuarial experience, such employer's contribution rate should increase to the extent that it is not at least one percent lower than the contribution rate under this article, then, upon certification of such fact by the comptroller, the provisions of this subdivision shall no longer apply with respect to the employees of such employer who thereafter first join or rejoin a public retirement system.

S 10. This act shall take effect on the thirtieth day after it shall have become a law.

## PART B

Section 1. Subdivision 24 of section 501 of the retirement and social security law, as amended by chapter 891 of the laws of 1976, is amended to read as follows:

24. "Wages" shall mean regular compensation earned by and paid to a member by a public employer, EXCEPT THAT FOR MEMBERS WHO FIRST JOIN THE STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, OVERTIME COMPENSATION PAID IN ANY YEAR IN EXCESS OF THE OVERTIME CEILING, AS DEFINED BY THIS SUBDIVISION, SHALL NOT BE INCLUDED IN THE DEFINITION OF WAGES. "OVERTIME COMPENSATION" SHALL MEAN, FOR PURPOSES OF THIS SECTION, COMPENSATION PAID UNDER ANY LAW OR POLICY UNDER WHICH EMPLOYEES ARE PAID AT A RATE GREATER THAN THEIR STANDARD RATE FOR ADDITIONAL HOURS WORKED BEYOND THOSE REQUIRED, INCLUDING COMPENSATION PAID UNDER SECTION ONE HUNDRED THIRTY-FOUR OF THE CIVIL SERVICE LAW AND SECTION NINETY OF THE GENERAL MUNICIPAL LAW. THE "OVERTIME CEILING" SHALL MEAN FIFTEEN THOUSAND DOLLARS PER ANNUM ON JANUARY FIRST, TWO THOUSAND TEN, AND SHALL BE INCREASED BY THREE PERCENT EACH YEAR THEREAFTER. For the purpose of calculation a member's primary federal social security retirement or disability benefit, wages shall, in any calendar year, be limited to the portion of the member's wages which would be subject to tax under section three thousand one hundred twenty-one of the internal revenue code of nineteen hundred fifty-four,

1 or any predecessor or successor provision relating thereto, if such  
2 member was employed by a private employer.

3 S 2. Subdivisions a and b of section 502 of the retirement and social  
4 security law, as amended by chapter 389 of the laws of 1998, are amended  
5 to read as follows:

6 a. A member who first joins a public retirement system of this state  
7 on or after June thirtieth, nineteen hundred seventy-six shall not be  
8 eligible for service retirement benefits hereunder until such member has  
9 rendered a minimum of five years of creditable service after July first,  
10 nineteen hundred seventy-three, EXCEPT THAT A MEMBER WHO FIRST JOINS THE  
11 NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANU-  
12 ARY FIRST, TWO THOUSAND TEN SHALL NOT BE ELIGIBLE FOR SERVICE RETIREMENT  
13 BENEFITS PURSUANT TO THIS ARTICLE UNTIL SUCH MEMBER HAS RENDERED A MINI-  
14 MUM OF TEN YEARS OF CREDITED SERVICE.

15 b. A member who previously was a member of a public retirement system  
16 of this state shall not be eligible for service retirement benefits  
17 hereunder until such member has rendered a minimum of five years of  
18 service which is creditable pursuant to section five hundred thirteen of  
19 this article. A MEMBER WHO FIRST JOINS THE NEW YORK STATE AND LOCAL  
20 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN  
21 SHALL NOT BE ELIGIBLE FOR SERVICE RETIREMENT BENEFITS PURSUANT TO THIS  
22 ARTICLE UNTIL SUCH MEMBER HAS RENDERED A MINIMUM OF TEN YEARS OF CREDIT-  
23 ED SERVICE.

24 S 3. Subdivision c of section 504 of the retirement and social securi-  
25 ty law, as amended by chapter 174 of the laws of 1989, is amended to  
26 read as follows:

27 c. The early service retirement benefit for general members, except  
28 for general members whose early retirement benefit is specified in  
29 subdivision d of this section, shall be the service retirement benefit  
30 specified in subdivision a or b of this section, as the case may be,  
31 without social security offset, reduced by one-fifteenth for each of the  
32 first two years by which early retirement precedes age sixty-two, plus a  
33 further reduction of: (1) one-thirtieth; OR (2) ONE-TWENTIETH FOR  
34 MEMBERS WHO FIRST JOIN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIRE-  
35 MENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, for each year  
36 by which early retirement precedes age sixty. At age sixty-two, the  
37 benefit shall be reduced by fifty percent of the primary social security  
38 retirement benefit, as provided in section five hundred eleven of this  
39 article.

40 S 4. Subdivision a of section 516 of the retirement and social securi-  
41 ty law, as amended by chapter 389 of the laws of 1998, is amended to  
42 read as follows:

43 a. A member who has five or more years of credited service OR TEN OR  
44 MORE YEARS OF CREDITED SERVICE FOR MEMBERS WHO FIRST JOIN THE NEW YORK  
45 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST,  
46 TWO THOUSAND TEN upon termination of employment shall be entitled to a  
47 deferred vested benefit as provided herein.

48 S 5. Subdivision l of section 601 of the retirement and social securi-  
49 ty law, as added by chapter 414 of the laws of 1983, is amended to read  
50 as follows:

51 1. "Wages" shall mean regular compensation earned by and paid to a  
52 member by a public employer, EXCEPT THAT FOR MEMBERS WHO FIRST JOIN THE  
53 NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK  
54 STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOU-  
55 SAND TEN, OVERTIME COMPENSATION PAID IN ANY YEAR IN EXCESS OF THE OVER-  
56 TIME CEILING, AS DEFINED BY THIS SUBDIVISION, SHALL NOT BE INCLUDED IN

1 THE DEFINITION OF WAGES. "OVERTIME COMPENSATION" SHALL MEAN, FOR  
2 PURPOSES OF THIS SECTION, COMPENSATION PAID UNDER ANY LAW OR POLICY  
3 UNDER WHICH EMPLOYEES ARE PAID AT A RATE GREATER THAN THEIR STANDARD  
4 RATE FOR ADDITIONAL HOURS WORKED BEYOND THOSE REQUIRED, INCLUDING  
5 COMPENSATION PAID UNDER SECTION ONE HUNDRED THIRTY-FOUR OF THE CIVIL  
6 SERVICE LAW AND SECTION NINETY OF THE GENERAL MUNICIPAL LAW. THE "OVER-  
7 TIME CEILING" SHALL MEAN FIFTEEN THOUSAND DOLLARS PER ANNUM ON JANUARY  
8 FIRST, TWO THOUSAND TEN, AND SHALL BE INCREASED BY THREE PER CENT EACH  
9 YEAR THEREAFTER.

10 S 6. Subdivisions a and b of section 602 of the retirement and social  
11 security law, as amended by chapter 389 of the laws of 1998, are amended  
12 to read as follows:

13 a. A member who first joins a public retirement system of this state  
14 on or after July first, nineteen hundred seventy-six shall not be eligi-  
15 ble for service retirement benefits hereunder until such member has  
16 rendered a minimum of five years of credited service, EXCEPT THAT A  
17 MEMBER WHO FIRST JOINS THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIRE-  
18 MENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR  
19 AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL NOT BE ELIGIBLE FOR SERVICE  
20 RETIREMENT BENEFITS PURSUANT TO THIS ARTICLE UNTIL SUCH MEMBER HAS  
21 RENDERED A MINIMUM OF TEN YEARS OF CREDITED SERVICE.

22 b. A member who previously was a member of a public retirement system  
23 of this state shall not be eligible for service retirement benefits  
24 hereunder until such member has rendered a minimum of five years of  
25 service which is credited pursuant to section six hundred nine of this  
26 article. A MEMBER WHO FIRST JOINS THE NEW YORK STATE AND LOCAL EMPLOY-  
27 EES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM  
28 ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL NOT BE ELIGIBLE FOR  
29 SERVICE RETIREMENT BENEFITS PURSUANT TO THIS ARTICLE UNTIL SUCH MEMBER  
30 HAS RENDERED A MINIMUM OF TEN YEARS OF CREDITED SERVICE.

31 S 7. Subdivision a of section 603 of the retirement and social securi-  
32 ty law, as amended by section 3 of chapter 19 of the laws of 2008, is  
33 amended to read as follows:

34 a. The service retirement benefit specified in section six hundred  
35 four of this article shall be payable to members who have met the mini-  
36 mum service requirements upon retirement and attainment of age sixty-  
37 two, other than members who are eligible for early service retirement  
38 pursuant to subdivision c of section six hundred four-b of this article,  
39 subdivision c of section six hundred four-c of this article, subdivision  
40 d of section six hundred four-d of this article, subdivision c of  
41 section six hundred four-e of this article, subdivision c of section six  
42 hundred four-f of this article, subdivision c of section six hundred  
43 four-g of this article, subdivision c of section six hundred four-h of  
44 this article or subdivision c of section six hundred four-i of this  
45 article, provided, however, [a member who is a peace officer employed by  
46 the unified court system or] a member of a teachers' retirement system  
47 or the New York state and local employees' retirement system WHO FIRST  
48 JOINS SUCH SYSTEM BEFORE JANUARY FIRST, TWO THOUSAND TEN OR A MEMBER WHO  
49 IS A UNIFORMED COURT OFFICER OR PEACE OFFICER EMPLOYED BY THE UNIFIED  
50 COURT SYSTEM may retire without reduction of his or her retirement bene-  
51 fit upon attainment of at least fifty-five years of age and completion  
52 of thirty or more years of service, PROVIDED, HOWEVER, THAT A UNIFORMED  
53 COURT OFFICER OR PEACE OFFICER EMPLOYED BY THE UNIFIED COURT SYSTEM WHO  
54 FIRST BECOMES A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'  
55 RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN AND  
56 RETIRES WITHOUT REDUCTION OF HIS OR HER RETIREMENT BENEFIT UPON ATTAIN-



MENT OF AT LEAST FIFTY-FIVE YEARS OF AGE AND COMPLETION OF THIRTY OR MORE YEARS OF SERVICE PURSUANT TO THIS SECTION SHALL BE REQUIRED TO MAKE THE MEMBER CONTRIBUTIONS REQUIRED BY SUBDIVISION F OF SECTION SIX HUNDRED THIRTEEN OF THIS ARTICLE FOR ALL YEARS OF CREDITED AND CREDITABLE SERVICE.

S 8. Subdivision i of section 603 of the retirement and social security law, as amended by chapter 19 of the laws of 2008, is amended to read as follows:

i. 1. A member of a teachers' retirement system or the New York state and local employees' retirement system who has met the minimum service requirements but who has less than thirty years of credited service OR A MEMBER WHO FIRST JOINS THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN may retire prior to normal retirement age, but no earlier than attainment of age fifty-five, in which event, unless such person is a member of the New York city teachers' retirement system who is otherwise eligible for early service retirement pursuant to subdivision c of section six hundred four-i of this article, the amount of his or her retirement benefit otherwise computed without optional modification shall be reduced in accordance with the following schedule:

(i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; PROVIDED, HOWEVER, THAT FOR MEMBERS WHO FIRST JOIN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, SUCH AMOUNTS SHALL BE EQUAL TO ONE-FIFTEENTH PER YEAR; and

(ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month; PROVIDED, HOWEVER, THAT FOR MEMBERS WHO FIRST JOIN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, SUCH AMOUNTS SHALL BE EQUAL TO ONE-TWENTIETH PER YEAR, but in no event shall retirement be permitted prior to attainment of age fifty-five.

2. A member of the New York city employees' retirement system or the board of education retirement system of the city of New York who has met the minimum service requirement, but who is not (a) a participant in the twenty-five-year early retirement program, as defined in paragraph ten of subdivision a of section six hundred four-c of this article (as added by chapter ninety-six of the laws of nineteen hundred ninety-five), or (b) a participant in the age fifty-seven retirement program, as defined in paragraph three of subdivision b of section six hundred four-d of this article, or (c) a New York city transit authority member, as defined in paragraph one of subdivision a of section six hundred four-b of this article, may retire prior to normal retirement age, but no earlier than attainment of age fifty-five, in which event, unless such person is a member of the board of education retirement system of such city who is otherwise eligible for early service retirement pursuant to subdivision c of section six hundred four-i of this article, the amount of his or her retirement benefit computed without optional modification shall be reduced in accordance with the following schedule:

(i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; and

(ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month, but in no event shall retirement be permitted prior to attainment of age fifty-five.

1 S 8-a. Section 603 of the retirement and social security law is  
2 amended by adding a new subdivision t to read as follows:

3 T. MEMBERS WHO JOIN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON  
4 OR AFTER JANUARY FIRST, TWO THOUSAND TEN, SHALL BE ELIGIBLE TO RETIRE  
5 WITHOUT REDUCTION OF HIS OR HER RETIREMENT BENEFIT UPON ATTAINMENT OF AT  
6 LEAST FIFTY-SEVEN YEARS OF AGE AND COMPLETION OF THIRTY OR MORE YEARS OF  
7 SERVICE. MEMBERS WHO RETIRE PURSUANT TO THE PROVISIONS OF THIS SUBDIVI-  
8 SION SHALL BE REQUIRED TO MAKE THE MEMBER CONTRIBUTIONS REQUIRED BY  
9 SUBDIVISION G OF SECTION SIX HUNDRED THIRTEEN OF THIS ARTICLE FOR ALL  
10 YEARS OF CREDITED AND CREDITABLE SERVICE.

11 S 8-b. Subdivisions a and b of section 604 of the retirement and  
12 social security law, as amended by chapter 266 of the laws of 1998, are  
13 amended to read as follows:

14 a. The service retirement benefit at normal retirement age for a  
15 member with less than twenty years of credited service, OR LESS THAN  
16 TWENTY-FIVE YEARS CREDITED SERVICE FOR A MEMBER WHO JOINS THE NEW YORK  
17 STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOU-  
18 SAND TEN, shall be a retirement allowance equal to one-sixtieth of final  
19 average salary times years of credited service.

20 b. The service retirement benefit at normal retirement age for a  
21 member with twenty years or more of credited service, OR WITH  
22 TWENTY-FIVE OR MORE YEARS CREDITED SERVICE FOR A MEMBER WHO FIRST JOINS  
23 THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY  
24 FIRST, TWO THOUSAND TEN, shall be a retirement allowance equal to one-  
25 fiftieth of final average salary times years of credited service not in  
26 excess of thirty years.

27 S 8-c. Paragraph 2 of subdivision b of section 609 of the retirement  
28 and social security law, as added by chapter 414 of the laws of 1983, is  
29 amended to read as follows:

30 2. Previous service credit shall not be granted unless such member  
31 applies therefor and repays the amount refunded by a public retirement  
32 system of the state for service rendered after July first, nineteen  
33 hundred seventy-six together with interest through the date of repayment  
34 at the rate of five percent per annum compounded annually and three  
35 percent of the wages earned for service prior to that date together with  
36 interest from July first, nineteen hundred seventy-six through the date  
37 of payment at the rate of five percent per annum compounded annually and  
38 three percent of the wages earned for service which predates the date of  
39 entry into the retirement system together with interest at the rate of  
40 five percent per annum compounded annually from the date of such service  
41 until the date of payment. ANYTHING IN THIS PARAGRAPH TO THE CONTRARY  
42 NOTWITHSTANDING, IN ORDER TO OBTAIN CREDIT FOR PREVIOUS SERVICE, MEMBERS  
43 WHO FIRST JOIN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR  
44 AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL PAY THREE AND ONE-HALF  
45 PERCENT OF WAGES EARNED FOR SERVICE WHICH PREDATES THE DATE OF ENTRY  
46 INTO THE RETIREMENT SYSTEM TOGETHER WITH INTEREST AT THE RATE OF FIVE  
47 PERCENT PER ANNUM COMPOUNDED ANNUALLY FROM THE DATE OF SUCH SERVICE  
48 UNTIL THE DATE OF PAYMENT.

49 S 9. Subdivision a of section 612 of the retirement and social securi-  
50 ty law, as amended by chapter 659 of the laws of 1999, is amended to  
51 read as follows:

52 a. A member who has five or more years of credited service, OR TEN OR  
53 MORE YEARS OF CREDITED SERVICE FOR A MEMBER WHO FIRST JOINED THE NEW  
54 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE  
55 TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN,  
56 upon termination of employment, other than a member who is entitled to a

1 deferred vested benefit pursuant to any other provision of this article,  
2 shall be entitled to a deferred vested benefit at normal retirement age  
3 computed in accordance with the provisions of section six hundred four  
4 of this article. A member of a teachers' retirement system or the New  
5 York state and local employees' retirement system who has five or more  
6 years of credited service, OR TEN OR MORE YEARS OF CREDITED SERVICE FOR  
7 A MEMBER WHO FIRST BECOMES A MEMBER OF THE NEW YORK STATE AND LOCAL  
8 EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT  
9 SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, upon termination of  
10 employment shall be entitled to a deferred vested benefit prior to  
11 normal retirement age, but no earlier than age fifty-five, computed in  
12 accordance with the provisions of subdivision i of section six hundred  
13 three of this article.

14 S 9-a. Section 613 of the retirement and social security law is  
15 amended by adding two new subdivisions f and g to read as follows:

16 F. ANYTHING IN SUBDIVISION A OF THIS SECTION TO THE CONTRARY NOTWITH-  
17 STANDING A MEMBER EMPLOYED AS A UNIFORMED COURT OFFICER OR PEACE OFFICER  
18 IN THE UNIFIED COURT SYSTEM WHO FIRST JOINS THE NEW YORK STATE AND LOCAL  
19 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN  
20 SHALL CONTRIBUTE FOUR PERCENT OF ANNUAL WAGES TO THE NEW YORK STATE AND  
21 LOCAL EMPLOYEES' RETIREMENT SYSTEM. THE HEAD OF THE NEW YORK STATE AND  
22 LOCAL EMPLOYEES' RETIREMENT SYSTEM SHALL PROMULGATE SUCH REGULATIONS AS  
23 MAY BE NECESSARY AND APPROPRIATE WITH RESPECT TO THE DEDUCTION OF SUCH  
24 CONTRIBUTION FROM MEMBERS' WAGES AND FOR THE MAINTENANCE OF ANY SPECIAL  
25 FUND OR FUNDS WITH RESPECT TO AMOUNTS SO CONTRIBUTED.

26 G. MEMBERS WHO FIRST JOIN THE NEW YORK STATE TEACHERS' RETIREMENT  
27 SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL CONTRIBUTE  
28 THREE AND ONE-HALF PERCENT OF ANNUAL WAGES TO THE NEW YORK STATE TEACH-  
29 ERS' RETIREMENT SYSTEM. THE HEAD OF THE NEW YORK STATE TEACHERS' RETIRE-  
30 MENT SYSTEM SHALL PROMULGATE SUCH REGULATIONS AS MAY BE NECESSARY AND  
31 APPROPRIATE WITH RESPECT TO THE DEDUCTION OF SUCH CONTRIBUTION FROM  
32 MEMBERS' WAGES AND FOR THE MAINTENANCE OF ANY SPECIAL FUND OR FUNDS WITH  
33 RESPECT TO AMOUNTS SO CONTRIBUTED.

34 S 10. Paragraph 1 of subdivision b of section 902 of the retirement  
35 and social security law, as amended by chapter 110 of the laws of 2000,  
36 is amended to read as follows:

37 1. An eligible employee (i) with a date of membership in a retirement  
38 system on or after July twenty-seventh, nineteen hundred seventy-six AND  
39 BEFORE JANUARY FIRST, TWO THOUSAND TEN, and (ii) who has ten or more  
40 years of membership or ten or more years of credited service with a  
41 retirement system under the provisions of article fourteen or fifteen of  
42 this chapter shall not be required to contribute to a retirement system  
43 pursuant to section five hundred seventeen or six hundred thirteen of  
44 this chapter as of the cessation date.

45 S 11. Intentionally omitted.

46 S 12. Intentionally omitted.

47 S 13. Section 90 of the general municipal law, as amended by chapter  
48 576 of the laws of 1964, is amended to read as follows:

49 S 90. Payment of overtime compensation to public officers or employ-  
50 ees. The governing board of each municipal corporation or other civil  
51 division or political subdivision of the state, or in the city of New  
52 York, the mayor, by ordinance, local law, resolution, order or rule, may  
53 provide for the payment of overtime compensation to any or all public  
54 officers except elective officers and those officers otherwise excluded  
55 by law and to any or all public employees under their jurisdiction at  
56 the regular basic pay rate of such officers or employees for all time

1 such officers or employees are required to work in excess of their regu-  
2 larly established hours of employment or at such other rate as such  
3 governing board, or in the city of New York, the mayor, may authorize.  
4 The amounts received as overtime compensation under this section shall  
5 be regarded as salary or compensation for any of the purposes of any  
6 pension or retirement system of which the officer or employee receiving  
7 the same is a member, EXCEPT AS SET FORTH IN SECTIONS FIVE HUNDRED ONE,  
8 SIX HUNDRED ONE, AND TWELVE HUNDRED THREE OF THE RETIREMENT AND SOCIAL  
9 SECURITY LAW. Such overtime compensation shall not be regarded as sala-  
10 ry or compensation for the purpose of determining the right to any  
11 increase of salary or any salary increment on account of length of  
12 service or otherwise. No such overtime compensation shall be construed  
13 to constitute a promotion.

14 S 14. Section 1 of chapter 729 of the laws of 1994 relating to affect-  
15 ing the health insurance benefits and contributions of retired employees  
16 of school districts and certain boards, as amended by chapter 30 of the  
17 laws of 2009, is amended to read as follows:

18 Section 1. From on and after June 30, 1994 [until May 15, 2010,] a  
19 school district, board of cooperative educational services, vocational  
20 education and extension board or a school district as enumerated in  
21 section 1 of chapter 566 of the laws of 1967, as amended, shall be  
22 prohibited from diminishing the health insurance benefits provided to  
23 retirees and their dependents or the contributions such board or  
24 district makes for such health insurance coverage below the level of  
25 such benefits or contributions made on behalf of such retirees and their  
26 dependents by such district or board unless a corresponding diminution  
27 of benefits or contributions is effected from the present level during  
28 this period by such district or board from the corresponding group of  
29 active employees for such retirees.

30 S 15. Legislative intent. The legislature hereby finds and declares  
31 its intent, in addition to the retirement benefit changes provided for  
32 in this act, to enact legislation, in conjunction with the executive,  
33 which would offer a three-month period during calendar year 2010, during  
34 which members of the collective bargaining unit of the New York State  
35 United Teachers ("NYSUT") within the New York state teachers retirement  
36 system and the New York state and local employees' retirement system who  
37 have reached fifty-five years of age and have accumulated twenty-five  
38 years of service as a member of either such retirement system, may  
39 retire early without penalty.

40 S 16. This act shall take effect January 1, 2010; provided, however,  
41 that the amendments to subdivision a of section 603 of the retirement  
42 and social security law made by section seven of this act, shall not  
43 affect the expiration of such subdivision and shall be deemed to expire  
44 therewith.

45 PART C

46 Section 1. Subdivisions a and b of section 602 of the retirement and  
47 social security law, as amended by chapter 389 of the laws of 1998, are  
48 amended to read as follows:

49 a. [A] EXCEPT AS PROVIDED IN SUBDIVISION B-1 OF THIS SECTION, A member  
50 who first joins a public retirement system of this state on or after  
51 July first, nineteen hundred seventy-six shall not be eligible for  
52 service retirement benefits hereunder until such member has rendered a  
53 minimum of five years of credited service.

1 b. [A] EXCEPT AS PROVIDED IN SUBDIVISION B-1 OF THIS SECTION, A member  
2 who previously was a member of a public retirement system of this state  
3 shall not be eligible for service retirement benefits hereunder until  
4 such member has rendered a minimum of five years of service which is  
5 credited pursuant to section six hundred nine of this article.

6 S 2. Section 602 of the retirement and social security law is amended  
7 by adding a new subdivision b-1 to read as follows:

8 B-1. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION A OR B OF THIS  
9 SECTION OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, (I) A MEMBER OF  
10 THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM WHO HOLDS A POSITION  
11 REPRESENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR COLLECTIVE  
12 BARGAINING PURPOSES, AND WHO BECAME SUBJECT TO THE PROVISIONS OF THIS  
13 ARTICLE AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, OR (II) A MEMBER  
14 OF THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM WHO HOLDS A  
15 POSITION REPRESENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR COLLEC-  
16 TIVE BARGAINING PURPOSES, AND WHO BECAME SUBJECT TO THE PROVISIONS OF  
17 THIS ARTICLE AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, SHALL NOT BE  
18 ELIGIBLE FOR SERVICE RETIREMENT BENEFITS HEREUNDER UNTIL SUCH MEMBER HAS  
19 RENDERED A MINIMUM OF TEN YEARS OF CREDITED SERVICE.

20 S 3. Subdivision a of section 612 of the retirement and social securi-  
21 ty law, as amended by chapter 659 of the laws of 1999, is amended to  
22 read follows:

23 a. [A] EXCEPT AS PROVIDED IN SUBDIVISION A-1 OF THIS SECTION, A member  
24 who has five or more years of credited service upon termination of  
25 employment, other than a member who is entitled to a deferred vested  
26 benefit pursuant to any other provision of this article, shall be enti-  
27 tled to a deferred vested benefit at normal retirement age computed in  
28 accordance with the provisions of section six hundred four of this arti-  
29 cle. [A] EXCEPT AS PROVIDED IN SUBDIVISION A-1 OF THIS SECTION, A member  
30 of a teachers' retirement system or the New York state and local employ-  
31 ees' retirement system who has five or more years of credited service  
32 upon termination of employment shall be entitled to a deferred vested  
33 benefit prior to normal retirement age, but no earlier than age fifty-  
34 five, computed in accordance with the provisions of subdivision i of  
35 section six hundred three of this article.

36 S 4. Section 612 of the retirement and social security law is amended  
37 by adding a new subdivision a-1 to read as follows:

38 A-1. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION A OF THIS SECTION  
39 OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, (I) A MEMBER OF THE NEW  
40 YORK CITY TEACHERS' RETIREMENT SYSTEM WHO HOLDS A POSITION REPRESENTED  
41 BY THE RECOGNIZED TEACHER ORGANIZATION FOR COLLECTIVE BARGAINING  
42 PURPOSES, WHO BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE AFTER THE  
43 EFFECTIVE DATE OF THIS SUBDIVISION, AND WHO HAS TEN OR MORE YEARS OF  
44 CREDITED SERVICE, OR (II) A MEMBER OF THE NEW YORK CITY BOARD OF EDUCA-  
45 TION RETIREMENT SYSTEM WHO HOLDS A POSITION REPRESENTED BY THE RECOG-  
46 NIZED TEACHER ORGANIZATION FOR COLLECTIVE BARGAINING PURPOSES, WHO  
47 BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE AFTER THE EFFECTIVE  
48 DATE OF THIS SUBDIVISION, AND WHO HAS TEN OR MORE YEARS OF CREDITED  
49 SERVICE, OTHER THAN SUCH A MEMBER OF EITHER OF SUCH RETIREMENT SYSTEMS  
50 WHO IS ENTITLED TO A DEFERRED VESTED BENEFIT PURSUANT TO ANY OTHER  
51 PROVISION OF THIS ARTICLE, SHALL, UPON TERMINATION OF EMPLOYMENT, BE  
52 ENTITLED TO A DEFERRED VESTED BENEFIT AT NORMAL RETIREMENT AGE COMPUTED  
53 IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED FOUR OF THIS  
54 ARTICLE. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION A OF THIS  
55 SECTION OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, A MEMBER OF THE  
56 NEW YORK CITY TEACHERS' RETIREMENT SYSTEM WHO HOLDS A POSITION REPRES-

1 ENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR COLLECTIVE BARGAINING  
2 PURPOSES, WHO BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE AFTER THE  
3 EFFECTIVE DATE OF THIS SUBDIVISION, AND WHO HAS TEN OR MORE YEARS OF  
4 CREDITED SERVICE, SHALL, UPON TERMINATION OF EMPLOYMENT, BE ENTITLED TO  
5 A DEFERRED VESTED BENEFIT PRIOR TO NORMAL RETIREMENT AGE, BUT NO EARLIER  
6 THAN AGE FIFTY-FIVE, COMPUTED IN ACCORDANCE WITH THE PROVISIONS OF  
7 SUBDIVISION I OF SECTION SIX HUNDRED THREE OF THIS ARTICLE.

8 S 5. Paragraph 1 of subdivision b of section 911 of the retirement and  
9 social security law, as amended by chapter 110 of the laws of 2000, is  
10 amended to read as follows:

11 1. [An] SUBJECT TO THE PROVISIONS OF PARAGRAPH ONE-A OF THIS SUBDIVI-  
12 SION, AN eligible member (i) with a date of membership in a retirement  
13 system on or after July twenty-seventh, nineteen hundred seventy-six and  
14 (ii) who has ten or more years of membership or ten or more years of  
15 credited service with a retirement system under the provisions of arti-  
16 cle fourteen or fifteen of this chapter shall not be required to  
17 contribute to a retirement system pursuant to section five hundred  
18 seventeen or six hundred thirteen of this chapter as of the cessation  
19 date.

20 S 6. Subdivision b of section 911 of the retirement and social securi-  
21 ty law is amended by adding a new paragraph 1-a to read as follows:

22 1-A. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVI-  
23 SION OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, A MEMBER OF THE NEW  
24 YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE NEW YORK CITY BOARD OF  
25 EDUCATION RETIREMENT SYSTEM:

26 (I) WHO IS A TWENTY-SEVEN YEAR PARTICIPANT IN THE AGE FIFTY-FIVE  
27 RETIREMENT PROGRAM (AS DEFINED IN PARAGRAPH TWELVE OF SUBDIVISION A OF  
28 SECTION SIX HUNDRED FOUR-I OF THIS CHAPTER), AND

29 (II) WHO BECOMES SUBJECT TO THE PROVISIONS OF ARTICLE FIFTEEN OF THIS  
30 CHAPTER AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, SHALL CONTRIBUTE TO  
31 A RETIREMENT SYSTEM PURSUANT TO SECTION SIX HUNDRED THIRTEEN OF THIS  
32 CHAPTER UNTIL HE OR SHE HAS COMPLETED TWENTY-SEVEN YEARS OF CREDITED  
33 SERVICE.

34 S 7. Paragraph 2 of subdivision e of section 604-i of the retirement  
35 and social security law, as added by chapter 19 of the laws of 2008, is  
36 amended to read as follows:

37 2. A twenty-five-year participant in the age fifty-five retirement  
38 program (as defined in paragraph eleven of subdivision a of this  
39 section) shall contribute additional member contributions until the  
40 later of (i) June twenty-ninth, two thousand eight, or (ii) the date on  
41 which he or she has completed twenty-five years of credited service. A  
42 twenty-seven-year participant in the age fifty-five retirement program  
43 shall contribute additional member contributions only until he or she  
44 has completed twenty-seven years of credited service; PROVIDED, HOWEVER,  
45 THAT A TWENTY-SEVEN-YEAR PARTICIPANT IN THE AGE FIFTY-FIVE RETIREMENT  
46 PROGRAM WHO BECOMES SUBJECT TO THE PROVISIONS OF THIS ARTICLE AFTER THE  
47 EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT  
48 AMENDED THIS PARAGRAPH SHALL CONTRIBUTE ADDITIONAL MEMBER CONTRIBUTIONS  
49 FOR ALL YEARS OF CREDITED SERVICE AS PROVIDED IN SUBPARAGRAPH (II) OF  
50 PARAGRAPH ONE OF THIS SUBDIVISION.

51 S 8. Subdivision d of section 13-582 of the administrative code of the  
52 city of New York is amended to read as follows:

53 d. [Interest] 1. SUBJECT TO THE PROVISIONS OF PARAGRAPH TWO OF THIS  
54 SUBDIVISION, INTEREST shall be allowed on the participant's tax-deferred  
55 account in the annuity savings fund at the same rate and in accordance

1 with the same rules and procedures applicable to any account in the  
2 annuity savings fund, as provided in this chapter.

3 2. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVI-  
4 SION, OR ANY OTHER PROVISION OF LAW, OR ANY RETIREMENT BOARD RULE, REGU-  
5 LATION OR RESOLUTION TO THE CONTRARY, ON OR AFTER THE FIRST BUSINESS DAY  
6 IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THIS PARAGRAPH, INTEREST  
7 SHALL BE ALLOWED AT THE RATE OF SEVEN PERCENT PER ANNUM, COMPOUNDED  
8 ANNUALLY, ON THE TAX-DEFERRED ACCOUNT IN THE ANNUITY SAVINGS FUND OF  
9 PARTICIPANTS (I) WHO HOLD A POSITION REPRESENTED BY THE RECOGNIZED  
10 TEACHER ORGANIZATION FOR COLLECTIVE BARGAINING PURPOSES, OR (II) WHO  
11 HELD SUCH A POSITION AT THE TIME THEY RETIRED OR DISCONTINUED SERVICE  
12 WITH VESTED RIGHTS TO A RETIREMENT ALLOWANCE AND ELECTED TO DEFER  
13 COMMENCEMENT OF DISTRIBUTION OF THEIR TAX-DEFERRED ACCOUNTS IN ACCORD-  
14 ANCE WITH SUBDIVISION G OF THIS SECTION.

15 S 9. Section 13-582 of the administrative code of the city of New York  
16 is amended by adding two new subdivisions n and o to read as follows:

17 N. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OR ANY RETIREMENT BOARD  
18 RULE, REGULATION OR RESOLUTION TO THE CONTRARY, THE AMENDMENT TO SUBDI-  
19 VISION D OF THIS SECTION ENACTED BY THE CHAPTER OF THE LAWS OF TWO THOU-  
20 SAND NINE WHICH ADDED THIS SUBDIVISION SHALL NOT AFFECT THE RATE OF  
21 INTEREST BEING CHARGED ON NEW LOANS FROM THE TAX-DEFERRED ANNUITY  
22 PROGRAM, AND THE RATE OF INTEREST THAT WAS BEING CHARGED ON SUCH LOANS  
23 IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL BE  
24 USED FOR NEW LOANS FROM THE TAX-DEFERRED ANNUITY PROGRAM MADE ON OR  
25 AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, UNLESS THE RETIREMENT  
26 BOARD, IN ACCORDANCE WITH ITS AUTHORITY PURSUANT TO PARAGRAPH TWO OF  
27 SUBDIVISION L OF THIS SECTION, AS ADDED BY CHAPTER FIVE HUNDRED SEVEN-  
28 TEEN OF THE LAWS OF NINETEEN HUNDRED NINETY-THREE, SHALL AMEND ITS RULES  
29 AND REGULATIONS GOVERNING LOANS FROM THE TAX-DEFERRED ANNUITY PROGRAM TO  
30 ESTABLISH A DIFFERENT RATE OF INTEREST APPLICABLE TO SUCH LOANS.

31 O. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OR ANY RETIREMENT BOARD  
32 RULE, REGULATION OR RESOLUTION TO THE CONTRARY, WHERE A PARTICIPANT IN  
33 THE TAX-DEFERRED ANNUITY PROGRAM HAS ELECTED TO TRANSFER ALL OR A  
34 PORTION OF THE AMOUNT CREDITED TO HIS OR HER TAX-DEFERRED ACCOUNT IN THE  
35 ANNUITY SAVINGS FUND TO A TAX-DEFERRED ACCOUNT IN THE VARIABLE ANNUITY  
36 SAVINGS FUND, THE RETIREMENT SYSTEM SHALL EFFECTUATE SUCH TRANSFER AS  
37 EXPEDITIOUSLY AS IS ADMINISTRATIVELY FEASIBLE.

38 S 10. Subdivision 20 of section 2575 of the education law, as added by  
39 chapter 509 of the laws of 1993, is amended by adding a new paragraph  
40 (e) to read as follows:

41 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OR ANY RULE OR REGU-  
42 LATION, OR THE PROVISIONS OF ANY RETIREMENT BOARD RESOLUTION TO THE  
43 CONTRARY:

44 (1) ON OR AFTER THE FIRST BUSINESS DAY IMMEDIATELY FOLLOWING THE  
45 EFFECTIVE DATE OF THIS PARAGRAPH, INTEREST SHALL BE ALLOWED AT THE RATE  
46 OF SEVEN PERCENT PER ANNUM, COMPOUNDED ANNUALLY, ON THE TAX-DEFERRED  
47 ACCOUNTS IN THE ANNUITY SAVINGS FUND OF PARTICIPANTS (I) WHO HOLD A  
48 POSITION REPRESENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR COLLEC-  
49 TIVE BARGAINING PURPOSES, OR (II) WHO HELD SUCH A POSITION AT THE TIME  
50 THEY RETIRED OR DISCONTINUED SERVICE WITH VESTED RIGHTS TO A RETIREMENT  
51 ALLOWANCE AND ELECTED TO DEFER COMMENCEMENT OF DISTRIBUTION OF THEIR  
52 TAX-DEFERRED ACCOUNTS IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVI-  
53 SION; AND

54 (2) THE PROVISIONS OF SUBPARAGRAPH ONE OF THIS PARAGRAPH SHALL NOT  
55 AFFECT THE RATE OF INTEREST BEING CHARGED ON NEW LOANS FROM THE TAX-DE-  
56 FERRED ANNUITY PROGRAM, AND THE RATE OF INTEREST THAT WAS BEING CHARGED

ON SUCH LOANS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH SHALL BE USED FOR NEW LOANS FROM THE TAX-DEFERRED ANNUITY PROGRAM MADE ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, UNLESS THE RULES AND REGULATIONS GOVERNING LOANS FROM THE TAX-DEFERRED ANNUITY PROGRAM ARE AMENDED PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION TO ESTABLISH A DIFFERENT RATE OF INTEREST APPLICABLE TO SUCH LOANS; AND

(3) WHERE A PARTICIPANT IN THE TAX-DEFERRED ANNUITY PROGRAM HAS ELECTED TO TRANSFER ALL OR A PORTION OF THE AMOUNT CREDITED TO HIS OR HER TAX-DEFERRED ACCOUNT IN THE ANNUITY SAVINGS FUND TO A TAX-DEFERRED ACCOUNT IN THE VARIABLE ANNUITY SAVINGS FUND, THE RETIREMENT SYSTEM SHALL EFFECTUATE SUCH TRANSFER AS EXPEDITIOUSLY AS IS ADMINISTRATIVELY FEASIBLE.

S 11. This act shall take effect immediately.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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

FISCAL NOTE.--PROVISIONS OF PART C OF THE PROPOSED LEGISLATION - OVERVIEW: With respect to the New York City Retirement Systems ("NYCRS"), Part C of this proposed legislation would amend New York State Retirement and Social Security Law ("RSSL") Sections 602, 604-i, 612 and 911.b, Administrative Code of the City of New York ("ACNY") Section 13-582 and Education Law ("Ed Law") Section 2575 to provide changes in the service eligibility requirements for certain members for Vested and Service Retirement benefits, to revise the duration of payability for member contributions for certain Tier IV members hired on and after the Effective Date, and to provide a change to the rate of interest to be credited on Fixed Fund account balances of certain participants in the Tax Deferred Annuity ("TDA") Programs of the New York City Teachers' Retirement System ("NYCTRS") and the New York City Board of Education Retirement System ("BERS").

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

IMPACT ON SECTIONS OF LAW: The proposed legislation would amend the following provisions of law for certain new NYCRS members hired on and after the Effective Date ("New Members") and also impact certain existing members on the Effective Date with respect to certain TDA provisions.

SECTION OF LAW	PROVISIONS BEING AMENDED
	TIER I-IV PROVISIONS
ACNY 13-582.d	Provisions relating to NYCTRS TDA.
ACNY 12-582.n.o	Provisions relating to NYCTRS TDA loans.
	TIER IV PROVISIONS
RSSL Sec. 602.a,b	Service Retirement ("SR") eligibility.
RSSL Sec. 604-i	Additional Member



RSSL Sec. 612.a	Contributions ("AMC").
RSSL Sec. 911.b	Eligibility for Vested benefits.
	Limitations on Basic Member Contributions

#### TDA PROVISIONS AND TDA LOANS FOR BERS

Ed Law Sec. 2575	TDA provisions and TDA loans for BERS.
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IMPACT ON NYCRS RETIREMENT PLANS - NON-TDA PROVISIONS: Part C of the proposed legislation would cover certain Tier IV New Members of NYCTRS and BERS and impact provisions of the following Plans:

- \* Basic Tier IV Plan Provisions ("Basic 62/5 Plan") and

- \* Optional Age Fifty-five Retirement Program for New York City Teachers and certain other members ("Age 55 Program").

IMPACT ON ELIGIBILITY PROVISIONS - NON-TDA PROVISIONS: Under the proposed legislation, certain New Members hired on and after the Effective Date would become subject to the following revised Service Retirement and Vesting eligibility requirements:

#### SERVICE RETIREMENT

Under the proposed legislation, the minimum service required for a Service Retirement benefit in the Basic 62/5 Plan would be increased to 10 years from 5 years of credited service.

#### VESTING

Under the proposed legislation, the minimum service required for a Vested benefit in the Basic 62/5 Plan would be increased to 10 years from 5 years of credited service.

While such New Members would participate in the Age 55 Program, in the event a participant terminated employment prior to meeting the eligibility requirements of the Age 55 Program for Service Retirement, the benefits payable upon vesting, retirement, disability or death would be based on the provisions of the Basic 62/5 Plan.

IMPACT ON MEMBER CONTRIBUTIONS - NON-TDA PROVISIONS: Currently, Basic Member Contributions ("BMC") of 3.0% of salary for Tier IV members are required (per Chapter 126 of the Laws of 2000) for only the first 10 years of membership or the first 10 years of credited service, whichever occurs earliest.

Under the proposed legislation, certain New Members would be required to pay BMC for all years of credited service up to a maximum of 27 years.

Currently, under the existing Age 55 Program, only those participants subject to the 27-year provisions are required to contribute AMC of 1.85% of salary to a maximum of 27 years of credited service.

Under Part C of the proposed legislation, New Member 27-year participants in the Age 55 Program after the Effective Date would be required to contribute AMC for all years of credited service.

FINANCIAL IMPACT - OVERVIEW: If enacted into law, the ultimate employer cost of this proposed legislation would be determined by the net change in benefits paid, offset by any increases in member contributions, and by the reduced amount of interest credited to TDA Fixed Fund account balances.

FINANCIAL IMPACT - NON-TDA PROVISIONS - ACTUARIAL PRESENT VALUES - CURRENT MEMBERS: Based on the census data and the actuarial assumptions and methods currently in effect, the enactment of this proposed legislation would not change the APV of benefits, the APV of member contributions or the APV of future salary of current members of NYCTRS or BERS as of June 30, 2008.

IMPACT ON NYCRS RETIREMENT PLANS - TDA PROVISIONS: The proposed legislation changes to the TDA provisions would cover both existing members and New Members of NYCTRS and BERS in Tier I, Tier II, Tier III and Tier IV whose job titles are represented in collective bargaining by the United Federation of Teachers ("UFT") ("Covered Members").

These TDA changes would impact all such NYCTRS and BERS members regardless of the Plan in which they participate.

BACKGROUND - EARNINGS ON TDA ACCOUNTS - CURRENT LAW: Under current law, eligible members of NYCTRS who elect to participate in the TDA Program select from among the following funds to allocate their TDA account balances (100.0% in one Fund or proportions (delineated in minimum 5.0% increments)) within the following six alternative funds:

- \* A Fixed Fund that provides a guaranteed annual rate of return of 8.25% per annum (for periods on and after July 1, 1988), or

- \* Five separate Variable Funds (i.e., Diversified Equity Fund, Stable Value Fund, International Equity Fund, Inflation Protection Fund or Socially Responsive Equity Fund) that provide alternative risk/reward characteristics.

Eligible BERS members who participate in the TDA Program select only from the Fixed Fund and the Diversified Equity Fund.

At retirement after age 59 1/2, TDA participants may receive their TDA account balances payable as a lump sum, as a monthly annuity based on annuitization factors used by the NYCTRS or BERS Qualified Pension Plan ("QPP") Programs, respectively, or in other amounts they elect subject to the Internal Revenue Code ("IRC") Minimum Required Distribution ("MRD") rules for those age 70 1/2 or greater.

BACKGROUND - EARNINGS ON TDA ACCOUNTS - PROPOSED LAW: Under the proposed legislation, the interest crediting rate for TDA participants in the Fixed Fund for Covered Members would be decreased (i.e., 8.25% per annum would decrease to 7.0% per annum).

FINANCIAL IMPACT - TDA FIXED FUND ASSETS - OVERVIEW: If enacted into law, the ultimate change in employer cost of this proposed legislation would equal the change in benefits payable by NYCTRS and BERS arising from revised TDA provisions.

Simplistically, this change in employer cost would equal the cumulative reduction in obligations between crediting 8.25% per annum and 7.0% per annum on TDA Fixed Fund account balances for Covered Members.

However, financing this change in obligations is not simplistic.

Under current law, TDA Fixed Fund assets of NYCTRS and BERS are co-invested with NYCTRS QPP assets.

The Investment Policy for NYCTRS QPP assets reflects a broad asset allocation of 70% equity-like securities and 30% bond-like securities.

The actuarial assumptions currently in effect include an Actuarial Interest Rate ("AIR") assumption of 8.0% per annum that is consistent with an assumption that the NYCTRS QPP assets are expected to earn an average of 8.0% per year. To the extent that TDA Fixed Fund assets earn more than 8.25% per year (i.e., the crediting rate on TDA Fixed Fund account balances), actuarial gains occur. To the extent that TDA Fixed Fund assets earn less than 8.25% per year, actuarial losses occur.

To the extent TDA Fixed Fund account balances are shifted to Variable Funds or vice versa, there are also impacts on the potential cost of the TDA Programs.

Under the proposed legislation, access to and earnings payable on the Variable Funds would not change.

Under current actuarial practice, the Actuary spreads through the Actuarial Asset Valuation Method ("AAVM") over six years and then over

the expected future working lifetimes of NYCTRS QPP and BERS QPP active members the investment gains/losses attributable to the TDA Fixed Fund earnings equaling more/less than the 8.25% per annum TDA Fixed Fund Interest Crediting Rate.

In particular, the Actuary includes in the NYCTRS QPP and BERS QPP actuarial valuations a modest load to the Actuarial Present Value of Benefits ("APVB") equal to approximately 2.3% of their respective TDA Fixed Fund assets. This amount is intended to represent a portion of the anticipated difference between the expected earnings on TDA Fixed Fund assets and the TDA Fixed Fund Interest Crediting Rate. These obligations are financed over the expected future working lifetimes of NYCTRS QPP and BERS QPP active members.

FINANCIAL IMPACT - TDA FIXED FUND ASSETS - RISK ADJUSTED: As noted earlier, the expected long-term actuarial loss on TDA Fixed Fund assets, under the current actuarial assumptions, is .25% of TDA Fixed Fund assets, per year.

However, on a risk-adjusted basis, the economic implications are more significant. Specifically, TDA Fixed Fund account balances are credited with interest at a rate of 8.25% per annum, not subject to any risk to the TDA participants.

To earn the AIR assumption of 8.0% per annum, (or the 8.25% per annum crediting rate), TDA Fixed Fund assets are subject to considerable investment risk.

Were NYCTRS to set aside TDA Fixed Fund assets whose characteristics had a comparable level of certainty of payment, it would have to invest in some form of risk-free asset class such as U.S. Treasury securities.

Although a TDA participant may move, following a modest notification period, his or her TDA account balance between the Fixed Fund and the Variable Funds, the Actuary has assumed an average TDA Fixed Fund holding period of 10 years. Comparing the expected yield on 10-year U.S. Treasury securities would then be a reasonable, risk-adjusted benchmark.

Over time, intermediate-term U.S. Treasury securities may be expected to earn a real rate of return of approximately 2.5% per year. Combined with a long-term assumption for inflation of 2.5% per year, a total rate of return for intermediate-term Treasury securities would equal approximately 5.0% per year.

Comparing the current risk-free TDA Fixed Fund interest crediting rate of 8.25% per annum with a long-term expected, market place, risk-free yield of 5.0% per year on intermediate-term U.S. Treasury securities indicates that TDA account balances are being credited with an expected 3.25% per year greater rate of return on a risk-adjusted basis than the expected earnings on the supporting TDA Fixed Fund assets.

Thus, on an economically robust, risk-adjusted basis, the crediting of TDA account balances with interest at either 7.0% or 8.25% per annum is more expensive than reported on a non-risk-adjusted basis.

FINANCIAL IMPACT - TDA VARIABLE ANNUITY CONVERSIONS: In addition, the Actuary holds as obligations of the NYCTRS QPP and BERS QPP, amounts to reflect the actuarial losses anticipated upon the conversion of some TDA account balances into Variable Annuities. This reflects the fact that the annuity factors used for such conversion, by law, are not actuarially equivalent to what the Actuary assumes in the actuarial valuations.

Under the proposed legislation, TDA participants would be permitted to transfer their TDA Fixed Fund account balances to one or more of the Variable Funds as soon as feasible under the direction of the Plan administrators of each NYCTRS and BERS.

However, it is not expected that enactment of the proposed legislation would result in substantial numbers of TDA participants transferring their TDA Fixed Fund account balances to TDA Variable Funds.

FINANCIAL IMPACT - TDA FIXED FUND - SUMMARY: Annual investment returns on the TDA Fixed Fund assets that exceed the guaranteed amounts to be credited to the TDA Fixed Fund accounts produce actuarial gains.

Conversely, annual investment returns less than the guaranteed amounts to be credited to the TDA Fixed Fund accounts produce actuarial losses.

Under the current AIR assumption of 8.0% per annum, an aggregate long-term net actuarial loss of .25% on TDA Fixed Fund account balances is expected. This loss ultimately increases employer costs.

The Actuary anticipates that enactment of the proposed legislation with respect to the decrease to 7.0% per annum from 8.25% per annum of the Interest Crediting Rate on TDA Fixed Fund account balances in NYCTRS and BERS would become effective in the Fiscal Year containing the Effective Date.

If enacted before June 30, 2010, the Actuary would likely reduce Fiscal Year 2010 employer contributions to reflect that there would be fewer TDA Fixed Fund account balances expected to be credited at 8.25% per annum.

As of June 30, 2008, TDA Fixed Fund account balances equaled approximately \$8.970 billion for NYCTRS and \$456.8 million for BERS.

Assuming a portion of the TDA Fixed Fund account balances would be transferred to the TDA Variable Funds following enactment of this proposed legislation, the Actuary would likely apply the 2.3% load to only non-UFT TDA account balances.

If the proposed legislation were enacted on or before June 30, 2010, the impact of reducing expected TDA Fixed Fund actuarial losses would result in decreases in Fiscal Year 2010 employer contributions of approximately \$18.7 million for NYCTRS and \$.4 million for BERS.

It is anticipated that the annualized expected reduction in Fiscal Year 2010 employer contributions to NYCTRS and BERS would continue for future years.

PROJECTED CHANGES IN EMPLOYER CONTRIBUTIONS - CURRENT ACTUARIAL ASSUMPTIONS AND METHODS: If the proposed legislation were enacted and effective for certain New Members on or after the Effective Date, these New Members would first join the NYCTRS during Fiscal Year 2010 and first be included in the June 30, 2010 actuarial valuations of the NYCTRS used to determine Fiscal Year 2012 employer contributions.

However, since most New Members of NYCTRS and BERS impacted by this proposed legislation would likely not be hired until September 2010 and would first be included in the June 30, 2011 actuarial valuations of the NYCTRS, the first significant impact of the proposed legislation with respect to non-TDA provisions would likely be on the Fiscal Year 2013 employer contributions.

The proposed changes to the TDA provisions would first impact the Fiscal Year 2010 employer contributions.

The following Table 1 presents an estimate of the reduction in employer contributions that would occur based on current actuarial assumptions and methods:

Table 1

Estimated Reductions in Employer Contributions  
If Proposed Legislation is Enacted to be Effective  
On or Before June 30, 2010\*

## Under Current Actuarial Assumptions and Methods

(\$ Millions)

Fiscal Year	NYCTRS	BERS	Total
2010	18.7	0.4	19.1
2011	17.6	0.4	18.0
2012	16.6	0.3	16.9
2013	23.2	0.5	23.7
2014	29.5	0.7	30.2
2015	35.9	0.8	36.7
2016	42.5	1.0	43.5
2017	49.0	1.2	50.2
2018	55.6	1.4	57.0
2019	62.6	1.5	64.1

\* Based on projection assumptions set forth in Actuarial Assumptions and Methods Section and as noted herein. Includes both impact of non-TDA provisions with first significant impact in Fiscal Year 2013 and TDA provisions with impact in Fiscal Year 2010 and later.

The estimated reductions in employer contributions shown in Table 1 are based upon the following projection assumptions:

\* Level workforce (i.e., new employees are hired to replace those who leave active status).

\* Projected salary increase consistent with those used in projections presented to the New York City Office of Management and Budget ("NYCOMB") on February 20, 2009 ("February Projections").

\* New entrant salaries consistent with those used in the February Projections.

These "open group" projections include future new entrants introduced into the census data models to project the future workforces.

As of each future actuarial valuation date, the current "closed group" actuarial assumptions and valuation methodology are used.

Under this methodology only Plan Participants as of each actuarial valuation date are utilized to determine Actuarial Present Values, employer costs and employer contributions.

To the extent Plan designs do not change markedly over time, such closed group actuarial methodology is well suited to funding a Retirement System.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES - POTENTIAL METHODOLOGY: The impact of enactment of the proposed legislation provided in this Fiscal Note has been based on the continued use of the current actuarial assumptions and methods.

However, the current actuarial assumptions and methods do not represent the only possible approach for funding the NYCERS.

Historically, actuarial assumptions and methods have been reviewed on average every five years in connection with an actuarial experience study mandated by New York City Charter Section 96.

Following this review, the Actuary generally proposes changes in actuarial assumptions and methods that he believes appropriate and reasonably related to such experience period and future expectations.

The next such review is anticipated during Fiscal Year 2011 or 2012.

If enacted, the proposed legislation would increase the duration of member contributions of New Members of the NYCTRS and BERS. This increase may possibly impact the timing of their election to retire for service and hence, their future working lifetimes. As such, the Actuary

will be considering alternative actuarial methodologies that could, directly or indirectly, reflect the impact of future new entrants as early as the Fiscal Year of enactment.

The Actuary may also consider revising the amortization periods for financing certain costs in order to reflect the expected change in the average working lifetimes of New Members hired after enactment of this proposed legislation.

Note: The Actuary has not committed to any particular methodology for determining employer costs and employer contributions in connection with the upcoming, experience review of actuarial assumptions and methods. However, the Actuary intends to consider seriously the potential implications for financing the NYCERS that could arise should the benefits and the expected future working lifetimes of certain New Members after the Effective Date differ from those of current new entrants.

FINANCIAL IMPACT - ENTRY AGE NORMAL COSTS: Entry Age Normal Costs can provide a useful basis to compare the value of alternative benefit programs. For each member who enters a NYCERS, there is a theoretical net annual employer cost to be paid for such member while such member remains actively employed (i.e., the Entry Age Normal Cost ("EANC")).

In addition, such EANC may be expressed as a percentage of salary earned over a working lifetime and referred to as the Entry Age Normal Rate ("EANR").

Under the proposed legislation and based on the actuarial assumptions noted herein, the EANC and EANR of New Members would be less than the EANC and EANR for comparable new members entering at the same attained age and gender under the current NYCERS provisions.

A summary of the change in EANC by NYCERS for entry age 25, 30 and 35 follows:

Table 2  
Comparison of Representative Employer Entry Age Normal Rates\*  
To Implement Proposed Legislation Impacting Certain  
New Members of NYCTRS and BERS

Retirement System	EANR Under Proposed Legislation					
	Entry Age 25		Entry Age 30		Entry Age 35	
	Male	Female	Male	Female	Male	Female
NYCTRS	5.68%	5.99%	6.39%	6.79%	6.99%	7.53%
BERS	3.72%	4.19%	4.21%	4.80%	4.47%	5.21%
EANR Under Current Law**						
NYCTRS	7.08%	7.40%	7.79%	8.21%	8.46%	9.02%
BERS	5.07%	5.58%	5.55%	6.18%	5.80%	6.61%
Reduction in EANR Due to Proposed Legislation						
NYCTRS	1.40%	1.41%	1.40%	1.42%	1.47%	1.49%
BERS	1.35%	1.39%	1.34%	1.38%	1.33%	1.40%

\* Based on salaries paid over entire working lifetime.

\*\* EANR were determined as of June 30, 2008 and do not vary significantly over time, absent benefit and/or actuarial assumption changes.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS FISCAL YEARS 2010, 2011 and 2012 - CURRENT METHODOLOGY: Based on the census data and the actuarial assumptions and methods currently in effect, and assuming enactment to be effective on or before June 30, 2010, the enactment of this proposed legislation would, with respect to the changes in TDA provisions, result in changes in employer contributions to NYCTRS and BERS for Fiscal Years 2010, 2011 and 2012.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS FISCAL YEAR 2013 AND BEYOND - CURRENT METHODOLOGY: If enacted to be effective on or before June 30, 2010, the first significant number of New Members would join NYCTRS and BERS during September 2010 and be included in the June 30, 2011 (Lag) actuarial valuations of those NYCTRS. Based on the actuarial assumptions and methods currently in effect, those provisions under the proposed legislation that affect New Members would first significantly impact employer contributions to NYCTRS and BERS for Fiscal Year 2013.

OTHER COSTS: Not measured in this Fiscal Note is the impact of this proposed legislation on Other Post-Employment Benefit ("OPEB") costs. Also not measured are the initial and ongoing additional administrative costs of NYCTRS and BERS and their participating employers to implement the proposed legislation.

CENSUS DATA: The starting census data used for the calculations presented herein are the census data used in the June 30, 2008 (Lag) actuarial valuations of NYCTRS and BERS.

The census data used for the estimates of additional APVB and employer contributions presented herein of the non-TDA portions of the proposed legislation are based on average salaries of new entrants in the June 30, 2008 (Lag) actuarial valuations of NYCTRS and BERS.

The metrics for new members of NYCTRS were approximately 25% male, age 34 and 75% female, age 34 and a combined average salary of \$48,239.

The metrics for new members of BERS were approximately 25% male, age 41 and 75% female, age 44 and a combined average salary of \$33,774.

The census data used for estimates of the impact on employer contributions of the TDA portion of the proposed legislation presented herein are those active participants included in the June 30, 2008 (Lag) actuarial valuations of the NYCTRS and BERS.

For NYCTRS, this consisted of 2,401 Tier I, 1,224 Tier II and 69,273 Tier IV TDA participants included in the June 30, 2008 (Lag) actuarial valuation of NYCTRS.

For BERS, this consisted of 108 Tier I, 58 Tier II and 11,799 Tier IV TDA participants included in the June 30, 2008 (Lag) actuarial valuation of BERS.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional APVB, EANR and employer contributions under current methodology presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2008 (Lag) actuarial valuations of NYCTRS and BERS.

Employer contributions under current methodology have been estimated assuming the additional APVB would be financed through future normal contributions.

Projections of salaries, reflecting the impact of estimated contractual wage increases, include information provided by NYCOMB. These and other projection assumptions (such as projected expenses) are set forth in the February Projections.

New entrants were projected to replace the NYCERS members expected to leave the active population to maintain a steady-state population.

The following Table 3 presents the total number of active employees used in the projections, assuming a level work force, and the net number of New Members as of each June 30 from 2009 to 2017.

Table 3

Active\* and Net New Members of NYCTRS and BERS\*  
Used in the Projections for Table 1

June 30	NYCTRS		BERS	
	Actives	Net New Members	Actives	Net New Members
2009	112,472	0	22,702	0
2010	112,472	0	22,702	0
2011	112,472	6,330	22,702	1,582
2012	112,472	12,213	22,702	3,096
2013	112,472	17,705	22,702	4,553
2014	112,472	22,846	22,702	5,940
2015	112,472	27,652	22,702	7,241
2016	112,472	32,181	22,702	8,457
2017	112,472	36,461	22,702	9,595

\* Active members included in the projections assume a level work force based on the June 30, 2008 (Lag) actuarial valuation census data. For simplification, all New Members in TRS and 15% of the New Members in BERS are assumed to be UFT Members.

The changes in employer contributions and costs have been estimated assuming that changes in the Actuarial Present Values of Future Employer Costs would be financed through future normal contributions.

Information on TDA Fixed Fund and TDA Variable Fund account balances used to estimate the impact on employer costs of the TDA portion of the legislation presented herein also reflect financial information provided by the accountants of NYCTRS and BERS.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2009 Legislative Session. It is Fiscal Note 2009-17, dated November 17, 2009, prepared by the Chief Actuary of the New York City Teachers' Retirement System and the New York City Board of Education Retirement System.

FISCAL NOTE.--This bill would (1) create new benefits for new members who first join the New York State and Local Employees' Retirement System, the New York State Teachers' Retirement System, the New York City Teachers' Retirement System, the New York City Employees' Retirement System or the New York City Board of Education Retirement System on or after January 1, 2010 (2) create a new plan in the New York State and Local Police and Fire Retirement System.

Insofar as this bill would affect the New York State and Local Employees' Retirement System (ERS), the significant plan design changes for members who join on or after January 1, 2010 include:

1. Employee contributions of 3% of pay for all years of service, except



- State correction officer contributions would be limited to 30 years of service, &
- uniformed court officers/peace officers employed by the Unified Court System would contribute 4% of pay for all years of service.

2. Ten year vesting,

3. Larger early retirement reductions would be in place for members retiring prior to age 62, and the waiver of reduction with 30 years would be eliminated except for uniformed court officers/peace officers employed by the Unified Court System,

4. Annual overtime pay in excess of \$15,000 would not be included in the definition of wages and final average salary. This overtime pay limitation would increase by 3% annually.

If this bill is enacted, we will calculate new plan rates for all ERS members who first enter on or after January 1, 2010. The long term expected annual employer contribution rate for new general members will be approximately 8.9% as compared to the current expected long term annual employer contribution rate for Tier 4 general members of approximately 11.0% of payroll. For fiscal year ending March 31, 2010, since the average Tier 4 employer contribution rate is approximately 7%, the new plan rate would be approximately 5.7%.

For ERS members in 20 or 25 year retirement plans that allow retirement without regard to age, the long term reductions would vary by plan and be less than 2% of salary, with the fiscal year ending March 31, 2010 reductions averaging approximately 1%.

Insofar as this bill would affect the New York State and Local Police and Fire Retirement System (PFRS), the significant plan design changes for members who join on or after January 1, 2010 include:

1. An employee contribution of 3% of pay will be required for all years of service, except that a member who is enrolled in a plan that limits the amount of creditable service which may be accrued will not be required to contribute after accruing the maximum amount of creditable service under such plan,

2. Overtime pay in an amount in excess of 15% of a member's annual wages not classified as overtime pay shall be excluded from a member's final average salary,

3. Ten year vesting.

If this bill is enacted, we will calculate new plan rates for all PFRS members who first enter on or after January 1, 2010. The long term expected annual employer contribution rate would change as follows:

- 1.8% for municipal 20 year plans with additional 60ths (benefits for members hired on or after 7/1/2009 are now computed under Article 14),

- 0.6% for the state 20 year plan with additional 60ths (benefits for members hired on or after 7/1/2009 are now computed under Article 14),

- 2.6% for 20 year plans (benefits for members hired on or after 7/1/2009 are now computed under Article 14),

- 3.0% for 25 year plans with additional 60ths, 25 year plans, and regular plans previously non-contributory.

This estimate, dated November 16, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-297, prepared by the Actuary for the ERS and PFRS.

FISCAL NOTE.--This bill would amend various sections of the Education Law and the Retirement and Social Security Law to implement a new retirement benefit structure (Tier 5) for members who first join a public retirement system of the state (or New York City) on or after January 1, 2010. The following provisions are with respect to members of the New York State Teachers' Retirement System. Members would be eligi-

ble for a service retirement benefit after rendering a minimum of ten years of credited service and attainment of age 55. The service retirement benefit formula for a member with less than twenty-five years of service would be equal to one-sixtieth of final average salary times the years of service. The service retirement benefit formula for a member with twenty-five or more years of service would be equal to one-fiftieth of final average salary times the years of service (not in excess of thirty). Years of service in excess of thirty shall provide an additional retirement benefit equal to three two-hundredths of final average salary. Members retiring prior to age 62 would have their retirement benefit reduced by one-fifteenth per year for each of the first two years retirement predates age 62 and by one-twentieth per year for each year retirement predates age 60. However, members who are at least age 57 with 30 or more years of credited service would be permitted to retire without reduction. Members would be required to contribute three and one-half percent of annual salary for ALL years of service.

The current required employer contribution rate for the New York State Teachers' Retirement System is 6.19% of pay, applicable to 7/1/09 - 6/30/10 member salaries and to be collected in the fall of 2010. This rate is applicable to the salaries of all members, regardless of tier. In that this proposed benefit structure is only applicable to members joining on or after January 1, 2010, it will be at least several years before it has a noticeable impact on the employer contribution rate. The cost savings impact of this change will become more significant with time as the number of post-1/1/10 members grows as a percentage of the total membership.

Our "new entrant rate", a hypothetical employer contribution rate that would occur if we started a new Retirement System without any assets, is equal to 11.8% of pay under the current benefit structure. This can be thought of as the cost of the benefit structure for new entrants, based on current actuarial assumptions. Under the proposed benefit structure, this new entrant rate would be equal to 8.7% of pay.

The source of this estimate is Fiscal Note 2009-92 dated November 16, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.