AN ACT to provide for the payment of the annual contributions owed and to be owed on behalf of the New York city off-track betting corporation to the New York city employees' retirement system

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

1. Section 1. Statement of legislative findings and intent. The legislature hereby finds that the state has a statutory and constitutional obligation to protect and fund the pension benefits of the former employees and retirees of the defunct New York city off-track betting corporation.

   The New York city off-track betting corporation is a public benefit corporation created pursuant to state law and is a participating employer in the New York city employees' retirement system. The pension benefits of the corporation's former employees and retirees are protected from impairment under article V, section 7 of the state constitution.

   In 2008, the state legislatively enhanced its role with respect to the New York city off-track betting corporation due to its financial difficulties, thus becoming its successor for purposes of assuming the statutory and constitutional obligation to make pension contributions. The corporation ceased operations in 2010 and has since failed to make annual contributions to the New York city employees' retirement system as required under the administrative code of the city of New York.

   Sections 13-130 and 13-638.2 of the administrative code of the city of New York provide that the employer liabilities of a public benefit corporation that participates in the New York city employees' retirement system, such as the New York city off-track betting corporation, are to be paid by the corporation or a successor. On March 8, 2018, the board of trustees of the New York city employees' retirement system adopted a resolution recognizing the state as a successor to the New York city

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [−] is old law to be omitted.
off-track betting corporation and a responsible obligor with respect to its required contributions.

As a successor to the New York city off-track betting corporation, and in the interest of properly funding the pension benefits of its former employees and retirees in compliance with the state constitution, the state will fulfill the past, present, and future obligations of the New York city off-track betting corporation to the New York city employees' retirement system as follows:

§ 2. Definitions. The following words and phrases as used in this act shall have the following meanings unless a different meaning is plainly required by context.

1. "Actuary" shall mean the actuary appointed by the board of trustees of the New York city employees' retirement system pursuant to section 13-121 of the administrative code of the city of New York.

2. "City fiscal year" shall mean a fiscal year of the city of New York as defined in section 226 of the New York city charter.

3. "Executive director" shall mean the executive director appointed by the board of trustees of the New York city employees' retirement system pursuant to paragraph 2 of subdivision a of section 13-103 of the administrative code of the city of New York.

4. "Interest" shall mean the rate per centum per annum of interest specified in paragraph 2 of subdivision b of section 13-638.2 of the administrative code of the city of New York.

5. "NYC administrative code" shall mean the administrative code of the city of New York.

6. "NYCERS" shall mean the New York city employees' retirement system, as established by chapter 427 of the laws of 1920.

7. "NYCOTB" shall mean the New York city off-track betting corporation, as established by chapter 144 of the laws of 1970 and continued pursuant to article 6 of the racing, pari-mutuel wagering and breeding law.

8. "State fiscal year" shall mean a fiscal year of the state as defined in section 3 of the state finance law.

§ 3. Payment of the future annual contributions to be owed by NYCOTB to NYCERS. Notwithstanding the provisions of any general or special state law or local law to the contrary, in state fiscal year 2021 and in each state fiscal year thereafter, the department of audit and control shall take actions necessary to pay in full, subject to appropriation, the annual contribution determined to be owed by NYCOTB to NYCERS under the provisions of the NYC administrative code, including but not limited to sections 13-127, 13-130, 13-133, and 13-638.2 thereof, for the corresponding city fiscal year. On or prior to the date specified in section 13-133 of the NYC administrative code for the payment of annual contributions by NYCOTB, such moneys, to the extent of such appropriation, shall be payable to NYCERS on the audit and warrant of the comptroller of the state of New York on vouchers certified or approved by the executive director of NYCERS in the manner prescribed by law. Notwithstanding the provisions of any general or special state law or local law to the contrary, an annual contribution determined and paid under this section shall not include any amount attributable to any annual contribution previously determined to be owed by NYCOTB to NYCERS for any city fiscal year prior to the 2021 city fiscal year and not yet paid by NYCOTB or the state.

§ 4. Payment of overdue annual contributions owed by NYCOTB to NYCERS.

a. Notwithstanding the provisions of any general or special state law or local law to the contrary, on or before January 2, 2020, the actuary...
shall determine the sum of all annual contributions previously deter-
mined to be owed by NYCOTB to NYCERS for any city fiscal year prior to
the 2021 city fiscal year and not yet paid by NYCOTB, with interest.
Such interest, compounded annually, shall be computed on each such over-
due annual contribution from the date such contribution was required to
be paid pursuant to section 13-133 of the NYC administrative code
through January 1, 2020. This sum shall be known as the "amount to be
amortized".

b. Notwithstanding the provisions of any general or special state law
or local law to the contrary, on or before January 2, 2020, the actuary
shall further determine an amount that if paid in fifteen equal annual
installments beginning on January 1, 2021, would be sufficient to pay in
full the amount to be amortized with interest, compounded annually,
computed from January 2, 2020, to January 1, 2035. This amount shall be
known as the "annual amortization payment". Any annual amortization
payment subsequent to the initial annual amortization payment payable on
January 1, 2021, shall include the unpaid balance of any prior annual
amortization payment, with interest, compounded annually, computed from
the date such prior annual amortization payment was required to be paid
to the date that such subsequent annual authorization payment is
required to be paid.

c. Notwithstanding the provisions of any general or special state law
or local law to the contrary, in state fiscal year 2021 and in each
state fiscal year thereafter until the amount to be amortized, with
interest, is paid in full, the department of audit and control shall
take actions necessary to pay in full the annual amortization payment,
subject to appropriation. On or prior to January 1st of each such state
fiscal year, such moneys, to the extent of such appropriation shall be
payable to NYCERS on the audit and warrant of the comptroller of the
state of New York on vouchers certified or approved by the executive
director of NYCERS in the manner prescribed by law.

§ 5. Deposit of moneys. NYCERS shall deposit all moneys received
pursuant to this act in the contingent reserve fund specified in section
13-127 of the NYC administrative code.

§ 6. This act shall take effect immediately.

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

SUMMARY OF BILL: The proposed legislation provides a funding mecha-
nism, through unconsolidated provisions of law, for the State of New
York (State), as a successor obligor, to appropriate funds to pay past,
present, and future New York City Off-Track Betting Corporation (NYCOTB)
employer contributions, with applicable interest, to the New York City
Employees' Retirement System (NYCERS) on behalf of former and retired
NYCOTB employees.

Effective Date: Upon enactment.

BACKGROUND: NYCOTB is a defunct public benefit corporation and is a
participating employer in NYCERS. NYCOTB retirees currently receive full
retirement benefits from NYCERS even though NYCOTB last made partial
employer contributions to NYCERS in fiscal years 2010 and 2011 and
completely ceased making employer contributions thereafter. Unpaid past
and future annual employer contributions, with applicable interest, continue to accrue.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: The proposed legis-
lation would require the Actuary of the City of New York (Actuary) to
calculate the cumulative owed past and current NYCOTB employer contrib-
utions, with applicable interest, through and inclusive of fiscal year
2020 (the Amount to be Amortized), on or before January 2, 2020, and
amortize such cumulative Amount in fifteen equal installments, with
applicable interest, to be paid by the State Comptroller, subject to
appropriation, commencing on or before January 1, 2021 and ending by
January 1, 2035 (the Annual Amortization Payment). The proposed legis-
lation would further require the calculation and, subject to State
appropriation, annual payment of future annual NYCOTB employer contrib-
utions in accordance with applicable provisions of the Administrative
Code of the City of New York (ACCNY).

FINANCIAL IMPACT - SUMMARY: Based on the actuarial assumptions and
methods described herein, the enactment of this proposed legislation
would, assuming full and timely payment, result in a potential total
present value cost to the State of approximately $289.9 million as of
January 1, 2021. Any amount appropriated and paid by the State to NYCERS
would be applied as a credit to NYCOTB and relieve any potential addi-
tional successor or any potential guarantor of such amounts paid.

The following Table presents an estimate of the annual cost for Fiscal
Years 2021 through 2025 as of January 1, 2021.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Cost Attributable to Employer Contributions Prior to 2021*</th>
<th>Cost Attributable to Employer Contributions Subsequent to 2020**</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>2021</td>
<td>$16,933,668</td>
<td>$13,378,824</td>
<td>$30,312,492</td>
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<td>2022</td>
<td>$16,933,668</td>
<td>$13,715,186</td>
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<td>2024</td>
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<td>$14,417,094</td>
<td>$31,350,762</td>
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<tr>
<td>2025</td>
<td>$16,933,668</td>
<td>$14,783,804</td>
<td>$31,717,472</td>
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</tbody>
</table>

* Equal to a 15-year amortization of $165,026,521 as of January 1, 2021.
** Estimates of future employer contributions for OTB based on the actu-
arial assumptions and methods in effect for the June 30, 2018 (Lag)
actuarial valuation, including an assumed investment return of 7.0% per
annum.

OTHER COSTS: Not measured in this Fiscal Note are the following:
* The initial, additional administrative costs of NYCERS, other New
York City agencies and the State to implement the proposed legislation.
* The impact of this proposed legislation on Other Postemployment
Benefit (OPEB) costs.

CENSUS DATA: The estimates presented herein are based on the census
data used in the Preliminary June 30, 2018 (Lag) actuarial valuation of
NYCERS to determine the Preliminary Fiscal Year 2020 employer contrib-
utions.

As of June 30, 2018, OTB had 1,187 retirees with an average age of
approximately 74.5 years, 370 terminated vested members with an average
age of approximately 52.7 years, and 81 active off payroll members with
an average age of approximately 45.0 years.

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates of annual employer
contributions presented herein have been calculated based on the actuar-
ial assumptions and methods in effect for the June 30, 2018 (Lag) actu-
arial valuations used to determine the Preliminary Fiscal Year 2020 employer contributions of NYCERS.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend
highly on the actuarial assumptions and methods used and are subject to
change based on the realization of potential investment, demographic,
contribution, and other risks. If actual experience deviates from actu-
arial assumptions, the actual costs could differ from those presented herein. Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974, a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2019-03 dated March 21, 2019 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2019 Legislative Session.