

# STATE OF NEW YORK

5455

2019-2020 Regular Sessions

## IN SENATE

May 1, 2019

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

AN ACT to amend the retirement and social security law and the administrative code of the city of New York, in relation to the establishment of twenty-five year retirement programs for members of the New York city employees' retirement system employed as fire protection inspectors and associate fire protection inspectors

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

1 Section 1. Subdivision a of section 444 of the retirement and social  
2 security law, as amended by section 141 of subpart B of part C of chap-  
3 ter 62 of the laws of 2011, is amended to read as follows:  
4 a. Except as provided in subdivision c of section four hundred forty-  
5 five-a of this article, subdivision c of section four hundred forty-  
6 five-b of this article, subdivision c of section four hundred forty-  
7 five-c of this article, subdivision c of section four hundred  
8 forty-five-d of this article as added by chapter four hundred seventy-  
9 two of the laws of nineteen hundred ninety-five, subdivision c of  
10 section four hundred forty-five-e of this article, subdivision c of  
11 section four hundred forty-five-f of this article [~~and~~], subdivision c  
12 of section four hundred forty-five-h of this article and subdivision c  
13 of section four hundred forty-five-j of this article, the maximum  
14 retirement benefit computed without optional modification provided to a  
15 member of a retirement system who is subject to the provisions of this  
16 article, other than a police officer, a firefighter, an investigator  
17 member of the New York city employees' retirement system, a member of  
18 the uniformed personnel in institutions under the jurisdiction of the  
19 New York city department of correction who receives a performance of  
20 duty disability retirement allowance, a member of the uniformed person-  
21 nel in institutions under the jurisdiction of the department of  
22 corrections and community supervision or a security hospital treatment

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

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1 assistant, as those terms are defined in subdivision i of section eight-  
2 y-nine of this chapter, who receives a performance of duty disability  
3 retirement allowance, a member of a teachers' retirement system, New  
4 York city employees' retirement system, New York city board of education  
5 retirement system or a member of the New York state and local employees'  
6 retirement system or a member of the New York city employees' retirement  
7 system or New York city board of education retirement system employed as  
8 a special officer, parking control specialist, school safety agent,  
9 campus peace officer, taxi and limousine inspector or a police communi-  
10 cations member and who receives a performance of duty disability  
11 pension, from funds other than those based on a member's own or  
12 increased-take-home-pay contributions, shall, before any reduction for  
13 early retirement, be sixty per centum of the first fifteen thousand  
14 three hundred dollars of final average salary, and fifty per centum of  
15 final average salary in excess of fifteen thousand three hundred  
16 dollars, and forty per centum of final average salary in excess of twen-  
17 ty-seven thousand three hundred dollars, provided, however, that the  
18 benefits provided by subdivision c of section four hundred forty-five-d  
19 of this article as added by chapter four hundred seventy-two of the laws  
20 of nineteen hundred ninety-five based upon the additional member  
21 contributions required by subdivision d of such section four hundred  
22 forty-five-d shall be subject to the maximum retirement benefit computa-  
23 tions set forth in this section. The maximum retirement benefit computed  
24 without optional modification payable to a police officer, an investi-  
25 gator member of the New York city employees' retirement system or a  
26 firefighter shall equal that payable upon completion of thirty years of  
27 service, except that the maximum service retirement benefit computed  
28 without optional modification shall equal that payable upon completion  
29 of thirty-two years of service.

30 § 2. Subdivision a of section 445 of the retirement and social securi-  
31 ty law, as amended by chapter 476 of the laws of 2018, is amended to  
32 read as follows:

33 a. No member of a retirement system who is subject to the provisions  
34 of this article shall retire without regard to age, exclusive of retire-  
35 ment for disability, unless he or she is a police officer, an investi-  
36 gator member of the New York city employees' retirement system, fire-  
37 fighter, correction officer, a qualifying member as defined in section  
38 eighty-nine-t, as added by chapter six hundred fifty-seven of the laws  
39 of nineteen hundred ninety-eight, of this chapter, sanitation worker, a  
40 special officer (including persons employed by the city of New York in  
41 the title urban park ranger or associate urban park ranger), school  
42 safety agent, campus peace officer or a taxi and limousine commission  
43 inspector member of the New York city employees' retirement system or  
44 the New York city board of education retirement system, a dispatcher  
45 member of the New York city employees' retirement system, a police  
46 communications member of the New York city employees' retirement system,  
47 an EMT member of the New York city employees' retirement system, a depu-  
48 ty sheriff member of the New York city employees' retirement system, a  
49 fire protection inspector member of the New York city employees' retire-  
50 ment system, a correction officer of the Westchester county correction  
51 department as defined in section eighty-nine-e of this chapter or  
52 employed in Suffolk county as a peace officer, as defined in section  
53 eighty-nine-s, as added by chapter five hundred eighty-eight of the laws  
54 of nineteen hundred ninety-seven, of this chapter, employed in Suffolk  
55 county as a correction officer, as defined in section eighty-nine-f of  
56 this chapter, or employed in Nassau county as a correction officer,

1 uniformed correction division personnel, sheriff, undersheriff or deputy  
2 sheriff, as defined in section eighty-nine-g of this chapter, or  
3 employed in Nassau county as an ambulance medical technician, an ambu-  
4 lance medical technician/supervisor or a member who performs ambulance  
5 medical technician related services, as defined in section  
6 eighty-nine-s, as amended by chapter five hundred seventy-eight of the  
7 laws of nineteen hundred ninety-eight, of this chapter, or employed in  
8 Nassau county as a peace officer, as defined in section eighty-nine-s,  
9 as added by chapter five hundred ninety-five of the laws of nineteen  
10 hundred ninety-seven, of this chapter, or employed in Albany county as a  
11 sheriff, undersheriff, deputy sheriff, correction officer or identifica-  
12 tion officer, as defined in section eighty-nine-h of this chapter or is  
13 employed in St. Lawrence county as a sheriff, undersheriff, deputy sher-  
14 iff or correction officer, as defined in section eighty-nine-i of this  
15 chapter or is employed in Orleans county as a sheriff, undersheriff,  
16 deputy sheriff or correction officer, as defined in section  
17 eighty-nine-l of this chapter or is employed in Jefferson county as a  
18 sheriff, undersheriff, deputy sheriff or correction officer, as defined  
19 in section eighty-nine-j of this chapter or is employed in Onondaga  
20 county as a deputy sheriff-jail division competitively appointed or as a  
21 correction officer, as defined in section eighty-nine-k of this chapter  
22 or is employed in a county which makes an election under subdivision j  
23 of section eighty-nine-p of this chapter as a sheriff, undersheriff,  
24 deputy sheriff or correction officer as defined in such section eighty-  
25 nine-p or is employed in Broome County as a sheriff, undersheriff, depu-  
26 ty sheriff or correction officer, as defined in section eighty-nine-m of  
27 this chapter or is a Monroe county deputy sheriff-court security, or  
28 deputy sheriff-jailor as defined in section eighty-nine-n, as added by  
29 chapter five hundred ninety-seven of the laws of nineteen hundred nine-  
30 ty-one, of this chapter or is employed in Greene county as a sheriff,  
31 undersheriff, deputy sheriff or correction officer, as defined in  
32 section eighty-nine-o of this chapter or is a traffic officer with the  
33 town of Elmira as defined in section eighty-nine-q of this chapter or is  
34 employed by Suffolk county as a park police officer, as defined in  
35 section eighty-nine-r of this chapter or is a peace officer employed by  
36 a county probation department as defined in section eighty-nine-t, as  
37 added by chapter six hundred three of the laws of nineteen hundred nine-  
38 ty-eight, of this chapter or is employed in Rockland county as a deputy  
39 sheriff-civil as defined in section eighty-nine-v of this chapter as  
40 added by chapter four hundred forty-one of the laws of two thousand one,  
41 or is employed in Rockland county as a superior correction officer as  
42 defined in section eighty-nine-v of this chapter as added by chapter  
43 five hundred fifty-six of the laws of two thousand one or is a paramedic  
44 employed by the police department in the town of Tonawanda and retires  
45 under the provisions of section eighty-nine-v of this chapter, as added  
46 by chapter four hundred seventy-two of the laws of two thousand one, or  
47 is a county fire marshal, supervising fire marshal, fire marshal,  
48 assistant fire marshal, assistant chief fire marshal or chief fire  
49 marshal employed by the county of Nassau as defined in section eighty-  
50 nine-w of this chapter and is in a plan which permits immediate retire-  
51 ment upon completion of a specified period of service without regard to  
52 age. Except as provided in subdivision c of section four hundred forty-  
53 five-a of this article, subdivision c of section four hundred forty-  
54 five-b of this article, subdivision c of section four hundred forty-  
55 five-c of this article, subdivision c of section four hundred  
56 forty-five-d of this article, subdivision c of section four hundred

1 forty-five-e of this article, subdivision c of section four hundred  
2 forty-five-f of this article [~~and~~], subdivision c of section four  
3 hundred forty-five-h of this article, and subdivision c of section four  
4 hundred forty-five-j of this article, a member in such a plan and such  
5 an occupation, other than a police officer or investigator member of the  
6 New York city employees' retirement system or a firefighter, shall not  
7 be permitted to retire prior to the completion of twenty-five years of  
8 credited service; provided, however, if such a member in such an occupa-  
9 tion is in a plan which permits retirement upon completion of twenty  
10 years of service regardless of age, he or she may retire upon completion  
11 of twenty years of credited service and prior to the completion of twenty-  
12 five years of service, but in such event the benefit provided from  
13 funds other than those based on such a member's own contributions shall  
14 not exceed two per centum of final average salary per each year of cred-  
15 ited service.

16 § 3. The retirement and social security law is amended by adding a new  
17 section 445-j to read as follows:

18 § 445-j. Optional twenty-five year improved benefit retirement program  
19 for fire protection inspector members. a. Definitions. The following  
20 words and phrases as used in this section shall have the following mean-  
21 ings unless a different meaning is plainly required by the context.

22 1. "Retirement system" shall mean the New York city employees' retire-  
23 ment system.

24 2. "Fire protection inspector member" shall mean (i) a member of the  
25 retirement system who is subject to the provisions of this article, who  
26 is employed by the city of New York or by the New York city fire depart-  
27 ment in a title whose duties are those of a fire protection inspector or  
28 associate fire protection inspector; and (ii) a member of the retirement  
29 system who, on the effective date of this section or thereafter, was  
30 employed by the city of New York or by the New York city fire department  
31 in a title whose duties are those of a fire protection inspector or  
32 associate fire protection inspector and who, subsequent thereto, became  
33 employed by the city of New York or by the New York city fire department  
34 in a title whose duties require the supervision of employees whose  
35 duties are those of a fire protection inspector or associate fire  
36 protection inspector.

37 3. "Twenty-five year improved benefit retirement program" shall mean  
38 all the terms and conditions of this section.

39 4. "Starting date of the twenty-five year improved benefit retirement  
40 program" shall mean the effective date of this section, as such date is  
41 certified pursuant to section forty-one of the legislative law.

42 5. "Participant in the twenty-five year improved benefit retirement  
43 program" shall mean any fire protection inspector member who, under the  
44 applicable provisions of subdivision b of this section, is entitled to  
45 the rights, benefits and privileges and is subject to the obligations of  
46 the twenty-five year improved benefit retirement program, as applicable  
47 to him or her.

48 6. "Administrative code" shall mean the administrative code of the  
49 city of New York.

50 7. "Accumulated deductions" shall mean accumulated deductions as  
51 defined in subdivision eleven of section 13-101 of the administrative  
52 code.

53 8. "Optional retirement provisions" shall mean the right to retire and  
54 receive a retirement allowance under this section upon the completion of  
55 twenty-five years of credited service.

1 9. "Credited service" for purposes of this section shall mean all  
2 service as a fire protection inspector member.

3 b. Election of twenty-five year improved benefit retirement program.

4 1. Subject to the provisions of paragraphs five and six of this subdivi-  
5 sion, any person who is a fire protection inspector member on the start-  
6 ing date of the twenty-five year improved benefit retirement program may  
7 elect to become a participant in the twenty-five year improved benefit  
8 retirement program by filing, within one hundred eighty days after such  
9 starting date, a duly executed application for such participation with  
10 the retirement system, provided he or she is such a fire protection  
11 inspector member on the date such application is filed.

12 2. Subject to the provision of paragraphs five and six of the this  
13 subdivision, any person who becomes a fire protection inspector member  
14 after the starting date of the twenty-five year improved benefit retire-  
15 ment program may elect to become a participant in the twenty-five year  
16 improved benefit retirement program by filing, within one hundred eighty  
17 days after becoming such a fire protection inspector member, a duly  
18 executed application for such participation with the retirement system,  
19 provided he or she is such a fire protection inspector member on the  
20 date such application is filed.

21 3. Any election to be a participant in the twenty-five year improved  
22 benefit retirement program shall be irrevocable.

23 4. Where any participant in the twenty-five year improved benefit  
24 retirement program shall cease to hold a position as a fire protection  
25 inspector member, he or she shall cease to be such a participant and,  
26 during any period in which such a person does not hold such a fire  
27 protection inspector position, he or she shall not be a participant in  
28 the twenty-five year improved benefit retirement program and shall not  
29 be eligible for the benefits of subdivision c of this section.

30 5. Where any participant in the twenty-five year improved benefit  
31 retirement program terminates service as a fire protection inspector  
32 member and returns to such service as a fire protection inspector member  
33 at a later date, he or she shall again become such a participant on that  
34 date.

35 6. Notwithstanding any other provision of law to the contrary, any  
36 person who is eligible to become a participant in the twenty-five year  
37 improved benefit retirement program pursuant to paragraph one or two of  
38 this subdivision for the full one hundred eighty day period provided for  
39 in such applicable paragraph and who fails to timely file a duly  
40 executed application for such participation with the retirement system,  
41 shall not thereafter be eligible to become a participant in such  
42 program.

43 c. Service retirement benefits. Notwithstanding any other provision of  
44 law to the contrary, where a participant in the twenty-five year  
45 improved benefit retirement program, who is otherwise qualified for a  
46 retirement allowance pursuant to the optional retirement provision set  
47 forth in subdivision a of this section, has made and/or paid, while he  
48 or she is a fire protection inspector member, all additional member  
49 contributions and interest (if any) required by subdivision d of this  
50 section, then:

51 1. that participant, while he or she remains a participant, shall not  
52 be subject to the provisions of subdivision a of section four hundred  
53 forty-five of this article; and

54 2. if that participant, while such a participant, retires from  
55 service, he or she shall not be subject to the provisions of section  
56 four hundred forty-four of this article; and

1 3. his or her retirement allowance shall be an amount, on account of  
2 the required minimum period of service, equal to the sum of (i) an annu-  
3 ity which shall be the actuarial equivalent of the accumulated  
4 deductions from his or her pay during such period, (ii) a pension for  
5 increased-take-home-pay which shall be the actuarial equivalent of the  
6 reserve for increased-take-home-pay to which he or she may be entitled,  
7 for such period, and (iii) a pension which, when added to such annuity  
8 and such pension for increased-take-home-pay, produces a retirement  
9 allowance equal to fifty percent of his or her final average salary,  
10 plus an amount for each additional year of allowable service as a fire  
11 protection inspector member, or fraction thereof, beyond such required  
12 minimum period of service equal to two percent of his or her final aver-  
13 age salary for such allowable service as a fire protection inspector  
14 member during the period from completion of twenty-five years of allow-  
15 able service as a fire protection inspector member to the date of  
16 retirement but not to exceed more than five years of additional service  
17 as a fire protection inspector member.

18 d. Additional member contributions. 1. In addition to the member  
19 contributions required pursuant to section 13-125 or 13-162 of the  
20 administrative code, each participant in the twenty-five year improved  
21 benefit retirement program shall contribute, subject to the applicable  
22 provisions of section 13-125.2 of the administrative code, an additional  
23 six and twenty-five one-hundredths percent of his or her compensation  
24 earned from all allowable service as a fire protection inspector member,  
25 as a participant in the twenty-five year improved benefit retirement  
26 program, rendered on and after the starting date of the improved benefit  
27 retirement program, and all allowable service as a fire protection  
28 inspector member after such person ceases to be a participant, but  
29 before he or she again becomes a participant pursuant to paragraph five  
30 of subdivision b of this section. A participant in the twenty-five year  
31 improved benefit retirement program shall contribute additional member  
32 contributions until the later of the date as of which he or she is  
33 eligible to retire with thirty years of allowable service as a fire  
34 protection inspector member under such retirement program, or the first  
35 anniversary of the starting date of the twenty-five year improved bene-  
36 fit retirement program. The additional contributions required by this  
37 section shall be in lieu of additional member contributions required by  
38 subdivision d of section four hundred forty-five-d of this chapter, as  
39 added by chapter ninety-six of the laws of nineteen hundred ninety-five,  
40 and no member paying additional contributions pursuant to this section  
41 shall be required to pay additional contributions pursuant to such  
42 subdivision d of section four hundred forty-five-d of this article.

43 2. Commencing with the first full payroll period after each person  
44 becomes a participant in the twenty-five year improved benefit retire-  
45 ment program, additional member contributions at the rate specified in  
46 paragraph one of this subdivision shall be deducted, subject to the  
47 applicable provisions of section 13-125.2 of the administrative code,  
48 from the compensation of such participant on each and every payroll of  
49 such participant for each and every payroll period for which he or she  
50 is such a participant.

51 3. (i) Subject to the provisions of subparagraph (ii) of this para-  
52 graph, where any additional member contributions required by paragraph  
53 one of this subdivision are not paid by deductions from a participant's  
54 compensation pursuant to paragraph two of this subdivision:

1 (A) that participant shall be charged with a contribution deficiency  
2 consisting of such unpaid amounts, together with interest thereon,  
3 compounded annually; and

4 (B) such interest on each amount of undeducted contributions shall  
5 accrue from the end of the payroll period for which such amount would  
6 have been deducted from compensation if he or she had been a participant  
7 at the beginning of that payroll period and such deductions had been  
8 required for such payroll period until such amount is paid to the  
9 retirement system; and

10 (C) (1) interest on each such amount included in such participant's  
11 contribution deficiency pursuant to this subparagraph shall be calcu-  
12 lated as if such additional member contributions never had been paid by  
13 such participant, and such interest shall accrue from the end of the  
14 payroll period to which an amount of such additional member contribution  
15 is attributable, compounded annually, until such amount is paid to the  
16 retirement system;

17 (2) the rate of interest to be applied to each such amount during the  
18 period for which interest accrues on that amount shall be equal to the  
19 rate or rates of interest required by law to be used during that same  
20 period to credit interest on the accumulated deductions of retirement  
21 system members;

22 (ii) Except as provided in subparagraph (iii) of this paragraph, no  
23 interest shall be due on any unpaid additional contributions which are  
24 not attributable to the period prior to the first full payroll period  
25 referred to in paragraph two of this subdivision;

26 (iii) Should any person who, pursuant to paragraph seven of this  
27 subdivision has withdrawn any additional member contributions (and any  
28 interest paid thereon) again become a participant in the twenty-five  
29 year improved benefit retirement program pursuant to paragraph five of  
30 subdivision b of this section, an appropriate amount shall be included  
31 in such participant's contribution deficiency (including interest there-  
32 on as calculated pursuant to this paragraph) for any credited service  
33 with respect to which such person received a refund of additional member  
34 contributions (including any amount of an unpaid loan balance deemed to  
35 have been returned to such person pursuant to paragraph seven of this  
36 subdivision), as if such additional member contributions never had been  
37 paid.

38 4. The board of trustees of the retirement system may, consistent with  
39 the provisions of this subdivision, promulgate regulations for the  
40 payment of the additional member contributions required by this subdivi-  
41 sion, and any interest thereon, by a participant in the twenty-five year  
42 improved benefit retirement program (including the deduction of such  
43 contributions, and any interest thereon, from his or her compensation).

44 5. Where a participant who is otherwise eligible for service retire-  
45 ment pursuant to subdivision c of this section did not, prior to the  
46 effective date of retirement, pay the entire amount of a contribution  
47 deficiency chargeable to him or her pursuant to paragraph three of this  
48 subdivision, or repay the entire amount of a loan of his or her addi-  
49 tional member contributions pursuant to paragraph eight of this subdivi-  
50 sion (including accrued interest on such loan), that participant, never-  
51 theless, shall be eligible to retire pursuant to subdivision c of this  
52 section, provided, however, that where such participant is not entitled  
53 to a refund of additional member contributions pursuant to paragraph  
54 seven of this subdivision, such participant's service retirement benefit  
55 calculated pursuant to the applicable provisions of subdivision c of  
56 this section shall be reduced by a life annuity (calculated in accord-

1 ance with the method set forth in subdivision i of section six hundred  
2 thirteen-b of this chapter) which is actuarially equivalent to (i) the  
3 amount of any unpaid contribution deficiency chargeable to such member  
4 pursuant to paragraph three of this subdivision; plus (ii) the amount of  
5 any unpaid balance of a loan of his or her additional member contrib-  
6 utions pursuant to paragraph eight of this subdivision (including  
7 accrued interest on such loan).

8 6. Subject to the provisions of paragraph five of this subdivision,  
9 where a participant has not paid in full any contribution deficiency  
10 chargeable to him or her pursuant to paragraph three of this subdivi-  
11 sion, and a benefit, other than a refund of a member's accumulated  
12 deductions or a refund of additional member contributions pursuant to  
13 paragraph seven of this subdivision, becomes payable by the retirement  
14 system to the participant or to his or her designated beneficiary or  
15 estate, the actuarial equivalent of any such unpaid amount shall be  
16 deducted from the benefit otherwise payable.

17 7. (i) All additional member contributions required by this subdivi-  
18 sion (and any interest thereon) which are received by the retirement  
19 system shall be paid into its contingent reserve fund and shall be the  
20 property of the retirement system. Such additional member contributions  
21 (and any interest thereon) shall not for any purpose be deemed to be  
22 member contributions or accumulated deductions of a member of the  
23 retirement system under section 13-125 or 13-162 of the administrative  
24 code while he or she is a participant in the twenty-five year improved  
25 benefit retirement program or otherwise.

26 (ii) Should a participant in the twenty-five year improved benefit  
27 retirement program, who has rendered less than fifteen years of credited  
28 service cease to hold a position as a fire protection inspector member  
29 for any reason whatsoever, his or her accumulated additional member  
30 contributions made pursuant to this subdivision (together with any  
31 interest thereon paid to the retirement system) which remain credited to  
32 such participant's account may be withdrawn by him or her pursuant to  
33 procedures promulgated in regulations of the board of trustees of the  
34 retirement system, together with interest thereon at the rate of inter-  
35 est required by law to be used to credit interest on the accumulated  
36 deductions of retirement system members compounded annually.

37 (iii) Notwithstanding any other provision of law to the contrary, (A)  
38 no person shall be permitted to withdraw from the retirement system any  
39 additional member contributions paid pursuant to this subdivision or any  
40 interest paid thereon, except pursuant to and in accordance with the  
41 preceding subparagraphs of this paragraph; and

42 (B) no person, while he or she is a participant in the twenty-five  
43 year improved benefit retirement program, shall be permitted to withdraw  
44 any such additional member contributions or any interest paid thereon  
45 pursuant to any of the preceding subparagraphs of this paragraph or  
46 otherwise.

47 8. A participant in the twenty-five year improved benefit retirement  
48 program shall be permitted to borrow from his or her additional member  
49 contributions, including any interest paid thereon, which are credited  
50 to the additional contributions account established for such participant  
51 in the contingent reserve fund of the retirement system. The borrowing  
52 from such additional member contributions pursuant to this paragraph  
53 shall be governed by the same rights, privileges, obligations and proce-  
54 dures set forth in section six hundred thirteen-b of this chapter which  
55 govern the borrowing by members subject to article fifteen of this chap-  
56 ter of member contributions made pursuant to section six hundred thir-



1 teen of this chapter. The board of trustees of the retirement system  
2 may, consistent with the provisions of this subdivision and the  
3 provisions of section six hundred thirteen-b of this chapter as made  
4 applicable to this subdivision, promulgate regulations governing the  
5 borrowing of such additional member contributions.

6 9. Wherever a person has an unpaid balance of a loan of his or her  
7 additional member contributions pursuant to paragraph eight of this  
8 subdivision at the time he or she becomes entitled to a refund of his or  
9 her additional member contributions pursuant to subparagraph (ii) of  
10 paragraph seven of this subdivision, the amount of such unpaid loan  
11 balance (including accrued interest) shall be deemed to have been  
12 returned to such member, and the refund of such additional contributions  
13 shall be the net amount of such contributions, together with interest  
14 thereon in accordance with the provisions of such subparagraph.

15 10. Notwithstanding any other provision of law to the contrary, the  
16 provisions of section one hundred thirty-eight-b of this chapter shall  
17 not be applicable to the additional member contributions which are  
18 required by this subdivision.

19 11. Notwithstanding any other provision of law to the contrary, the  
20 additional member contributions which are required by this subdivision  
21 shall not be reduced under any program for increased-take-home-pay.

22 e. The provisions of this section shall not be construed to provide  
23 benefits to any participant in the twenty-five year improved benefit  
24 retirement program which are greater than those which would be received  
25 by a similarly situated member who is entitled to benefits under the  
26 provisions of section 13-157.2 of the administrative code, but who is  
27 not governed by the provisions of this article.

28 § 4. The retirement and social security law is amended by adding a new  
29 section 604-j to read as follows:

30 § 604-j. Twenty-five year retirement program for fire protection  
31 inspector members. a. Definitions. The following words and phrases as  
32 used in this section shall have the following meanings unless a differ-  
33 ent meaning is plainly required by the context.

34 1. "Fire protection inspector member" shall mean a member who is  
35 employed by the city of New York or by the New York city fire department  
36 in a title whose duties are those of a fire protection inspector or  
37 associate fire protection inspector; or in a title whose duties require  
38 the supervision of employees whose duties are those of a fire protection  
39 inspector or associate fire protection inspector.

40 2. "Twenty-five year retirement program" shall mean all the terms and  
41 conditions of this section.

42 3. "Starting date of the twenty-five year retirement program" shall  
43 mean the effective date of this section.

44 4. "Participant in the twenty-five year retirement program" shall mean  
45 any fire protection inspector member who, under the applicable  
46 provisions of subdivision b of this section, is entitled to the rights,  
47 benefits and privileges and is subject to the obligations of the twen-  
48 ty-five year retirement program, as applicable to him or her.

49 5. "Discontinued member" shall mean a participant in the twenty-five  
50 year retirement program who, while he or she was a fire protection  
51 inspector member, discontinued service as such a member and has a right  
52 to a deferred vested benefit under subdivision d of this section.

53 6. "Administrative code" shall mean the administrative code of the  
54 city of New York.

55 7. "Allowable service as a fire protection inspector member" shall  
56 mean all service as a fire protection inspector member.

1 b. Participation in the twenty-five year retirement program. 1.  
2 Subject to the provisions of paragraphs six and seven of this subdivi-  
3 sion, any person who is a fire protection inspector member on the start-  
4 ing date of the twenty-five year retirement program and who, as such a  
5 fire protection inspector member or otherwise, last became subject to  
6 the provisions of this article prior to such starting date, may elect to  
7 become a participant in the twenty-five year retirement program by  
8 filing, within one hundred eighty days after the starting date of the  
9 twenty-five year retirement program, a duly executed application for  
10 such participation with the retirement system of which such person is a  
11 member, provided he or she is such a fire protection inspector member on  
12 the date such application is filed.

13 2. Subject to the provisions of paragraphs six and seven of this  
14 subdivision, any person who becomes a fire protection inspector member  
15 after the starting date of the twenty-five year retirement program and  
16 who, as such a fire protection inspector member or otherwise, last  
17 became subject to the provisions of this article prior to such starting  
18 date, may elect to become a participant in the twenty-five year retire-  
19 ment program by filing, within one hundred eighty days after becoming  
20 such a fire protection inspector member, a duly executed application for  
21 such participation with the retirement system for which such person is a  
22 member, provided he or she is such a fire protection inspector member on  
23 the date such application is filed.

24 3. Each fire protection inspector member, other than a fire protection  
25 inspector member subject to paragraph one or two of this subdivision,  
26 who becomes subject to the provisions of this article on or after the  
27 starting date of the twenty-five year retirement program shall become a  
28 participant in the twenty-five year retirement program on the date he or  
29 she becomes such a fire protection inspector member. Provided, however,  
30 a person subject to this paragraph, and who has exceeded age twenty-five  
31 upon employment as a fire protection inspector member, shall be exempt  
32 from participation in the improved twenty-five year retirement program  
33 if such person elects not to participate by filing a duly executed form  
34 with the retirement system within one hundred eighty days of becoming a  
35 fire protection inspector member.

36 4. Any election to be a participant in the twenty-five year retirement  
37 program shall be irrevocable.

38 5. Where any participant in the twenty-five year retirement program  
39 shall cease to be employed as a fire protection inspector member, he or  
40 she shall cease to be such a participant and, during any period in which  
41 such person is not so employed, he or she shall not be a participant in  
42 the twenty-five year retirement program and shall not be eligible for  
43 the benefits of subdivision c of this section.

44 6. Where any participant in the twenty-five year retirement program  
45 terminates service as a fire protection inspector member and returns to  
46 such service as a fire protection inspector member at a later date, he  
47 or she shall again become such a participant on that date.

48 7. Notwithstanding any other provision of the law to the contrary, any  
49 person who is eligible to elect to become a participant in the twenty-  
50 five year retirement program pursuant to paragraph one or two of this  
51 subdivision for the full one hundred eighty day period provided for in  
52 such applicable paragraph and who fails to timely file a duly executed  
53 application for such participation with the retirement system, shall not  
54 thereafter be eligible to become a participant in such program.

55 c. Service retirement benefits. 1. A participant in the twenty-five  
56 year retirement program:

1 (i) who has completed twenty-five or more years of allowable service  
2 as a fire protection inspector member; and

3 (ii) who has paid, before the effective date of retirement, all addi-  
4 tional member contributions and interest (if any) required by subdivi-  
5 sion e of this section; and

6 (iii) who files with the retirement system of which he or she is a  
7 member an application for service retirement setting forth at what time,  
8 not less than thirty days subsequent to the execution and filing there-  
9 of, he or she desires to be retired; and

10 (iv) who shall be a participant in the twenty-five year retirement  
11 program at the time so specified for his or her retirement; shall be  
12 retired pursuant to the provisions of this section affording early  
13 service retirement.

14 2. Notwithstanding the provisions of subdivision a-1 of section six  
15 hundred three of this article, or any other provision of law to the  
16 contrary, and subject to the provisions of paragraph six of subdivisi-  
17 on e of this section, the early service retirement benefit for participants  
18 in the twenty-five year retirement program who retire pursuant to para-  
19 graph one of this subdivision shall be a retirement allowance consisting  
20 of:

21 (i) an amount, on account of the required minimum period of service,  
22 equal to fifty percent of his or her final average salary; plus

23 (ii) an amount on account of allowable service as a fire protection  
24 inspector member, or fraction thereof, beyond such required minimum  
25 period of service equal to two percent of his or her final salary for  
26 such allowable service as a fire protection inspector member during the  
27 period from completion of twenty-five years of allowable service as a  
28 fire protection inspector member to the date of retirement but not to  
29 exceed more than five years of additional service as a fire protection  
30 inspector member.

31 d. Vesting. 1. A participant in the twenty-five year retirement  
32 program:

33 (i) who discontinues service as such a participant, other than by  
34 death or retirement; and

35 (ii) in the case of a participant who is not a New York city revised  
36 plan member, who prior to such discontinuance, completed five but less  
37 than twenty-five years of allowable service as a fire protection inspec-  
38 tor member or, in the case of a participant who is a New York city  
39 revised plan member, who prior to such discontinuance, completed ten but  
40 less than twenty-five years of allowable service as a fire protection  
41 inspector member; and

42 (iii) who, subject to the provisions of paragraph seven of subdivisi-  
43 on e of this section, has paid, prior to such discontinuance, all addi-  
44 tional member contributions and interest (if any) required by subdivi-  
45 sion e of this section; and

46 (iv) who does not withdraw in whole or in part his or her accumulated  
47 member contributions pursuant to section six hundred thirteen of this  
48 article unless such participant thereafter returns to public service and  
49 repays the amounts so withdrawn, together with interest, pursuant to  
50 such section six hundred thirteen; shall be entitled to receive a  
51 deferred vested benefit as provided in this subdivision.

52 2. (i) Upon such discontinuance under the conditions and in compliance  
53 with the provisions of paragraph one of this subdivision, such deferred  
54 vested benefit shall vest automatically.

55 (ii) In the case of a participant who is not a New York city revised  
56 plan member, such vested benefit shall become payable on the earliest

1 date on which such discontinued member could have retired for service if  
2 such discontinuance had not occurred or, in the case of a participant  
3 who is a New York city revised plan member, such vested benefit shall  
4 become payable at age sixty-three. Subject to the provisions of para-  
5 graph seven of subdivision e of this section, such deferred vested bene-  
6 fit shall be a retirement allowance consisting of an amount equal to two  
7 percent of such discontinued member's final average salary, multiplied  
8 by the number of years of credited service.

9 e. Additional member contributions. 1. In addition to the member  
10 contributions required by section six hundred thirteen of this article,  
11 each participant in the twenty-five year retirement program shall  
12 contribute to the retirement system of which he or she is a member  
13 (subject to the applicable provisions of subdivision d of section six  
14 hundred thirteen of this article and subject to the limitation provided  
15 for in paragraph two of this subdivision) an additional six and twenty-  
16 five one-hundredths percent of his or her compensation earned from (i)  
17 all allowable service, as a participant in the twenty-five year retire-  
18 ment program, rendered on or after the starting date of the twenty-five  
19 year retirement program, and (ii) all allowable service after such  
20 person ceases to be a participant, but before he or she again becomes a  
21 participant pursuant to paragraph six of subdivision b of this section.  
22 The additional contributions required by this section shall be in lieu  
23 of additional member contributions required by subdivision d of section  
24 six hundred four-c of this article, as added by chapter ninety-six of  
25 the laws of nineteen hundred ninety-five, and no member making addi-  
26 tional contributions pursuant to this section shall be required to make  
27 contributions pursuant to such subdivision d of section six hundred  
28 four-c of this article. Notwithstanding the foregoing provisions of this  
29 paragraph, the additional member contribution required to be paid by  
30 each participant pursuant to this paragraph shall not exceed the  
31 percentage of his or her compensation that, when added to the contrib-  
32 ution made pursuant to subdivision d of section six hundred thirteen of  
33 this article, equals nine and twenty-five one-hundredths percent of that  
34 compensation.

35 2. A participant in the twenty-five year retirement program shall  
36 contribute additional member contributions until the later of (i) the  
37 first anniversary of the starting date of the twenty-five year retire-  
38 ment program, or (ii) the date on which he or she completes thirty years  
39 of allowable service as a fire protection inspector member.

40 3. Commencing with the first full payroll period after each person  
41 becomes a participant in the twenty-five year retirement program, addi-  
42 tional member contributions at the rate specified in paragraph one of  
43 this subdivision shall be deducted (subject to the applicable provisions  
44 of subdivision d of section six hundred thirteen of this article) from  
45 the compensation of such participant on each and every payroll of such  
46 participant for each and every payroll period for which he or she is  
47 such a participant.

48 4. (i) Each participant in the twenty-five year retirement program  
49 shall be charged with a contribution deficiency consisting of the total  
50 amounts of additional member contributions such person is required to  
51 make pursuant to paragraphs one and two of this subdivision which are  
52 not deducted from his or her compensation pursuant to paragraph three of  
53 this subdivision, if any, together with interest thereon, compounded  
54 annually, and computed in accordance with the provisions of subpara-  
55 graphs (ii) and (iii) of this paragraph.

1 (ii) (A) The interest required to be paid on each such amount speci-  
2 fied in subparagraph (i) of this paragraph shall accrue from the end of  
3 the payroll period for which such amount would have been deducted from  
4 compensation if he or she had been a participant at the beginning of  
5 that payroll period and such deduction had been required for such  
6 payroll period, until such amount is paid to the retirement system.

7 (B) The rate of interest to be applied to each such amount during the  
8 period for which interest accrues on that amount shall be equal to the  
9 rate or rates of interest required by law to be used during that same  
10 period to credit interest on the accumulated deductions of retirement  
11 system members.

12 (iii) Except as otherwise provided in paragraph five of this subdivi-  
13 sion, no interest shall be due on any unpaid additional member contrib-  
14 utions which are not attributable to a period prior to the first full  
15 payroll period referred to in paragraph three of this subdivision.

16 5. (i) Should any person who, pursuant to subparagraph (ii) of para-  
17 graph ten of this subdivision, has received a refund of his or her addi-  
18 tional member contribution including any interest paid on such contrib-  
19 utions, again become a participant in the twenty-five year retirement  
20 program pursuant to paragraph six of subdivision b of this section, an  
21 appropriate amount shall be included in such participant's contribution  
22 deficiency (including interest thereon as calculated pursuant to subpar-  
23 agraph (ii) of this paragraph) for any credited service for which such  
24 person received a refund of such additional member contributions  
25 (including any amount of an unpaid loan balance deemed to have been  
26 returned to such person pursuant to paragraph twelve of this subdivi-  
27 sion), as if such additional member contributions never had been paid.

28 (ii)(A) Interest on a participant's additional member contributions  
29 included in such participant's contribution deficiency pursuant to  
30 subparagraph (i) of this paragraph shall be calculated as if such addi-  
31 tional member contributions had never been paid by such participant, and  
32 such interest shall accrue from the end of the payroll period to which  
33 an amount of such additional member contributions is attributable, until  
34 such amount is paid to the retirement system.

35 (B) The rate of interest to be applied to each such amount during the  
36 period for which interest accrues on that amount shall be five percent  
37 per annum, compounded annually.

38 6. Where a participant who is otherwise eligible for service retire-  
39 ment pursuant to subdivision c of this section did not, prior to the  
40 effective date of retirement, pay the entire amount of a contribution  
41 deficiency chargeable to him or her pursuant to paragraphs four and five  
42 of this subdivision, or repay the entire amount of a loan of his or her  
43 additional member contributions pursuant to paragraph eleven of this  
44 subdivision (including accrued interest on such loan), that participant,  
45 nevertheless, shall be eligible to retire pursuant to subdivision c of  
46 this section, provided, however, that such participant's service retire-  
47 ment benefit calculated pursuant to paragraph two of such subdivision c  
48 of this section shall be reduced by a life annuity (calculated in  
49 accordance with the method set forth in subdivision i of section six  
50 hundred thirteen-b of this article) which is actuarially equivalent to:

51 (i) the amount of any unpaid contribution deficiency chargeable to  
52 such member pursuant to paragraphs four and five of this subdivision;  
53 plus

54 (ii) the amount of any unpaid balance of a loan of his or her addi-  
55 tional member contributions pursuant to paragraph eleven of this subdivi-  
56 vision (including accrued interest on such loan).

1 7. Where a participant who is otherwise eligible for a vested right to  
2 a deferred benefit pursuant to subdivision d of this section did not,  
3 prior to the date of discontinuance of service, pay the entire amount of  
4 a contribution deficiency chargeable to him or her pursuant to para-  
5 graphs four and five of this subdivision, or repay the entire amount of  
6 a loan of his or her additional member contributions pursuant to para-  
7 graph eleven of this subdivision (including accrued interest on such  
8 loan), that participant, nevertheless, shall have a vested right to a  
9 deferred benefit pursuant to subdivision d of this section provided,  
10 however, that the deferred vested benefit calculated pursuant to para-  
11 graph two of subdivision d of this section shall be reduced by a life  
12 annuity (calculated in accordance with the method set forth in subdivi-  
13 sion i of section six hundred thirteen-b of this article) which is actu-  
14 arially equivalent to:

15 (i) the amount of any unpaid contribution chargeable to such member  
16 pursuant to paragraphs four and five of this subdivision; plus

17 (ii) the amount of any unpaid balance of a loan of his or her addi-  
18 tional member contributions pursuant to paragraph eleven of this subdivi-  
19 vision (including accrued interest on such a loan).

20 8. The head of a retirement system which includes participants in the  
21 twenty-five year retirement program in its membership may, consistent  
22 with the provisions of this subdivision, promulgate regulations for the  
23 payment of such additional member contributions, and any interest there-  
24 on, by such participants (including the deduction of such contributions,  
25 and any interest thereon, from the participant's compensation).

26 9. Subject to the provisions of paragraphs six and seven of this  
27 subdivision, where a participant has not paid in full any contribution  
28 deficiency chargeable to him or her pursuant to paragraphs four and five  
29 of this subdivision, and a benefit, other than a refund of member  
30 contributions pursuant to section six hundred thirteen of this article  
31 or a refund of additional member contributions pursuant to subparagraph  
32 (ii) of paragraph ten of this subdivision, becomes payable under this  
33 article to the participant or to his or her designated beneficiary or  
34 estate, the actuarial equivalent of any such unpaid amount shall be  
35 deducted from the benefit otherwise payable.

36 10. (i) Such additional member contributions (and any interest there-  
37 on) shall be paid into the contingent reserve fund of the retirement  
38 system of which the participant is a member and shall not for any  
39 purpose be deemed to be member contributions or accumulated contrib-  
40 utions of a member under section six hundred thirteen of this article or  
41 otherwise while he or she is a participant in the twenty-five year  
42 retirement program or otherwise.

43 (ii) Should a participant in the twenty-five year retirement program  
44 who has rendered less than fifteen years of credited service cease to  
45 hold a position as a fire protection inspector member for any reason  
46 whatsoever, his or her accumulated additional member contributions made  
47 pursuant to this subdivision (together with any interest thereon paid to  
48 the retirement system) may be withdrawn by him or her pursuant to proce-  
49 dures promulgated in regulations of the board of trustees of the retire-  
50 ment system, together with interest thereon at the rate of five percent  
51 per annum, compounded annually.

52 (iii) Notwithstanding any other provision of law to the contrary, (A)  
53 no person shall be permitted to withdraw from the retirement system any  
54 additional member contributions paid pursuant to this subdivision or any  
55 interest paid thereon, except pursuant to and in accordance with the  
56 preceding subparagraphs of this paragraph; and (B) no person, while he

1 or she is a participant in the twenty-five year retirement program,  
2 shall be permitted to withdraw any such additional member contributions  
3 or any interest paid thereon pursuant to any of the preceding subpara-  
4 graphs of this paragraph or otherwise.

5 11. A participant in the twenty-five year retirement program shall be  
6 permitted to borrow from his or her additional member contributions  
7 (including any interest paid thereon) which are credited to the addi-  
8 tional contributions account established for such participant in the  
9 contingent reserve fund of the retirement system. The borrowing from  
10 such additional member contributions pursuant to this paragraph shall be  
11 governed by the rights, privileges, obligations and procedures set forth  
12 in section six hundred thirteen-b of this article which govern the  
13 borrowing of member contributions made pursuant to section six hundred  
14 thirteen of this article. The board of trustees of the retirement system  
15 may, consistent with the provisions of this subdivision and the  
16 provisions of section six hundred thirteen-b of this article as made  
17 applicable to this subdivision, promulgate regulations governing the  
18 borrowing of such additional member contributions.

19 12. Whenever a person has an unpaid balance of a loan or his or her  
20 additional member contributions pursuant to paragraph eleven of this  
21 subdivision at the time he or she becomes entitled to a refund of his or  
22 her additional member contributions pursuant to subparagraph (ii) of  
23 paragraph ten of this subdivision, the amount of such unpaid loan  
24 balance (including accrued interest) shall be deemed to have been  
25 returned to such member, and the refund of such additional contributions  
26 shall be the net amount of such contribution, together with interest  
27 thereon in accordance with the provisions of such subparagraph (ii).

28 § 5. Subdivision d of section 613 of the retirement and social securi-  
29 ty law is amended by adding a new paragraph 12 to read as follows:

30 12. (i) The city of New York shall, in the case of a fire protection  
31 inspector member (as defined in paragraph one of subdivision a of  
32 section six hundred four-j of this article) who is a participant in the  
33 twenty-five year retirement program (as defined in paragraph four of  
34 subdivision a of such section six hundred four-j), pick up and pay to  
35 the retirement system of which such participant is a member all addi-  
36 tional member contributions which otherwise would be required to be  
37 deducted from such member's compensation pursuant to paragraphs one and  
38 two of subdivision e of such section six hundred four-j of this article  
39 (not including any additional member contributions due for any period  
40 prior to the first full payroll period referred to in such paragraph  
41 three of such subdivision e), and shall effect such pick up in each and  
42 every payroll of such participant for each and every payroll period with  
43 respect to which such paragraph three would otherwise require such  
44 deductions.

45 (ii) An amount equal to the amount of additional contributions picked  
46 up pursuant to this paragraph shall be deducted by such employer from  
47 the compensation of such member (as such compensation would be in the  
48 absence of a pick up program applicable to him or her hereunder) and  
49 shall not be paid to such member.

50 (iii) The additional member contributions picked up pursuant to this  
51 paragraph for any such member shall be paid by such employer in lieu of  
52 an equal amount of additional member contributions otherwise required to  
53 be paid by such member under the applicable provisions of subdivision e  
54 of section six hundred four-j of this article, and shall be deemed to be  
55 and treated as employer contributions pursuant to section 414(h) of the  
56 Internal Revenue Code.

1 (iv) For the purpose of determining the retirement system rights,  
2 benefits and privileges of any member whose additional member contrib-  
3 utions are picked up pursuant to this paragraph, such picked up addi-  
4 tional member contributions shall be deemed to be and treated as part of  
5 such member's additional member contributions under the applicable  
6 provisions of subdivision e of section six hundred four-j of this arti-  
7 cle.

8 (v) With the exception of federal income tax treatment, the additional  
9 member contributions picked up pursuant to subparagraph (i) of this  
10 paragraph shall for all other purposes, including computation of retire-  
11 ment benefits and contributions by employers and employees, be deemed  
12 employee salary. Nothing contained in this subdivision shall be  
13 construed as superseding the provisions of section four hundred thirty-  
14 one of this chapter, or any similar provision of law which limits the  
15 salary base for computing retirement benefits payable by a public  
16 retirement system.

17 § 6. Section 13-125.2 of the administrative code of the city of New  
18 York is amended by adding a new subdivision a-9 to read as follows:

19 a-9. Notwithstanding any other provision of law to the contrary, on or  
20 after the starting date for pick up, the employer responsible for pick  
21 up shall, in the case of a fire protection inspector member (as defined  
22 in paragraph two of subdivision a of section four hundred forty-five-j  
23 of the retirement and social security law) who is a participant in the  
24 twenty-five year improved benefit retirement program (as defined in  
25 paragraph three of such subdivision a), pick up and pay to the retire-  
26 ment system all additional member contributions which otherwise would be  
27 required to be deducted from such member's compensation pursuant to  
28 subdivision d of such section four hundred forty-five-j, and shall  
29 effect such pick up on each and every payroll of such participant for  
30 each and every payroll period with respect to which such subdivision d  
31 would otherwise require such deductions.

32 § 7. Subparagraph (ii) of paragraph 1 of subdivision c of section  
33 13-125.2 of the administrative code of the city of New York, as amended  
34 by chapter 682 of the laws of 2003, is amended to read as follows:

35 (ii) the determination of the amount of such member's Tier I or Tier  
36 II nonuniformed-force member contributions eligible for pick up by the  
37 employer or additional member contributions required to be picked up  
38 pursuant to subdivision a-one, subdivision a-two, subdivision a-three,  
39 subdivision a-four, subdivision a-five, subdivision a-six, subdivision  
40 a-seven or subdivision a-eight of this section, or subdivision a-nine of  
41 this section; and

42 § 8. Subdivision d of section 13-125.2 of the administrative code of  
43 the city of New York is amended by adding a new paragraph 2-h to read as  
44 follows:

45 (2-h) For the purpose of determining the retirement system rights,  
46 benefits and privileges of any member who is a participant in the twen-  
47 ty-five year retirement program (as defined in paragraph three of subdivi-  
48 vision a of section four hundred forty-five-j of the retirement and  
49 social security law), the additional member contributions of such  
50 participant picked up pursuant to subdivision a-nine of this section  
51 shall be deemed to be and treated as a part of such member's additional  
52 contributions under subdivision d of such section four hundred forty-  
53 five-j.

54 § 9. Paragraph 3 of subdivision d of section 13-125.2 of the adminis-  
55 trative code of the city of New York, as amended by chapter 682 of the  
56 laws of 2003, is amended to read as follows:



1 (3) Interest on contributions picked up for any Tier I or Tier II  
2 non-uniformed-force member pursuant to this section (other than addi-  
3 tional member contributions picked up pursuant to subdivision a-one,  
4 subdivision a-two, subdivision a-three, subdivision a-four, subdivision  
5 a-five, subdivision a-six, subdivision a-seven ~~[e]~~, subdivision  
6 a-eight, or subdivision a-nine of this section) shall accrue in favor of  
7 the member and be payable to the retirement system at the same rate, for  
8 the same time periods, in the same manner and under the same circum-  
9 stances as interest would be required to accrue in favor of the member  
10 and be payable to the retirement system on such contributions if they  
11 were made by such member in the absence of a pick up program applicable  
12 to such member under the provisions of this section.

13 § 10. Subdivision a of section 603 of the retirement and social secu-  
14 rity law, as amended by chapter 18 of the laws of 2012, is amended to  
15 read as follows:

16 a. The service retirement benefit specified in section six hundred  
17 four of this article shall be payable to members who have met the mini-  
18 mum service requirements upon retirement and attainment of age sixty-  
19 two, other than members who are eligible for early service retirement  
20 pursuant to subdivision c of section six hundred four-b of this article,  
21 subdivision c of section six hundred four-c of this article, subdivision  
22 d of section six hundred four-d of this article, subdivision c of  
23 section six hundred four-e of this article, subdivision c of section six  
24 hundred four-f of this article, subdivision c of section six hundred  
25 four-g of this article, subdivision c of section six hundred four-h of  
26 this article ~~[e]~~ subdivision c of section six hundred four-i of this  
27 article, or subdivision c of section six hundred four-j of this article,  
28 provided, however, a member of a teachers' retirement system or the New  
29 York state and local employees' retirement system who first joins such  
30 system before January first, two thousand ten or a member who is a  
31 uniformed court officer or peace officer employed by the unified court  
32 system who first becomes a member of the New York state and local  
33 employees' retirement system before April first, two thousand twelve may  
34 retire without reduction of his or her retirement benefit upon attain-  
35 ment of at least fifty-five years of age and completion of thirty or  
36 more years of service, provided, however, that a uniformed court officer  
37 or peace officer employed by the unified court system who first becomes  
38 a member of the New York state and local employees' retirement system on  
39 or after January first, two thousand ten and retires without reduction  
40 of his or her retirement benefit upon attainment of at least fifty-five  
41 years of age and completion of thirty or more years of service pursuant  
42 to this section shall be required to make the member contributions  
43 required by subdivision f of section six hundred thirteen of this arti-  
44 cle for all years of credited and creditable service, provided further  
45 that the ~~[the]~~ preceding provisions of this subdivision shall not apply  
46 to a New York city revised plan member.

47 § 11. Nothing contained in sections five and ten of this act shall be  
48 construed to create any contractual right with respect to members to  
49 whom such sections apply. The provisions of such sections are intended  
50 to afford members the advantages of certain benefits contained in the  
51 internal revenue code, and the effectiveness and existence of such  
52 sections and benefits they confer are completely contingent thereon.

53 § 12. This act shall take effect immediately, provided, however that:

54 (a) The provisions of sections five and ten of this act shall remain  
55 in full force and effect only so long as, pursuant to federal law,  
56 contributions picked up under such sections are not includable as gross

1 income of a member for federal income tax purposes until distributed or  
2 made available to the member; provided that the New York city employees'  
3 retirement system shall notify the legislative bill drafting commission  
4 upon the occurrence of such a change in federal law ruling affecting the  
5 provisions of this act in order that the commission may maintain an  
6 accurate and timely effective data base of the official text of the laws  
7 of the state of New York in furtherance of effectuating the provisions  
8 of section 44 of the legislative law and section 70-b of the public  
9 officers law;

10 (b) The amendments to section 13-125.2 of the administrative code of  
11 the city of New York made by sections six, seven, eight, and nine of  
12 this act shall not affect the expiration of such section and shall be  
13 deemed to expire therewith; and

14 (c) The amendments to subdivision a of section 603 of the retirement  
15 and social security law made by section ten of this act shall not affect  
16 the expiration of such subdivision and shall be deemed to expire there-  
17 with.

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

SUMMARY OF BILL: This proposed legislation would amend Administrative Code of the City of New York (ACCNY) Section 13-125.2 and Retirement and Social Security Law (RSSL) Sections 444, 445, 603, and 613, and add ACCNY Section 13-157.5 and RSSL Sections 445-j and 604-j to establish a 25-Year Retirement Program for Fire Protection Inspectors (FPI 25-Year Plan) for each tier.

Effective Date: Upon enactment.

MEMBERS ELIGIBLE TO JOIN: Members whose duties are one of the following are eligible to participate in the FPI 25-Year Plan:

- \* Fire Protection Inspector,
- \* Associate Fire Protection Inspector,
- \* Supervisor of employees whose duties are those of a fire protection inspector, and
- \* Supervisor of employes whose duties are those of an associate fire protection inspector.

For purposes of this Fiscal Note, these members are collectively referred to as "Fire Inspectors."

Participation in an applicable FPI 25-Year Plan is optional for anyone who is eligible to participate in such Plan on the date of enactment by filing an election form within 180 days of enactment. Anyone who is an existing member of the New York City Employees' Retirement System (NYCERS) on the date of enactment and subsequently becomes employed as a Fire Inspector also has 180 days to elect to join the applicable FPI 25-Year Plan.

Any Fire Inspector who becomes a NYCERS member after the date of enactment is mandated into the Tier 6 FPI 25-Year Plan. However, if the member exceeds age 25 upon being mandated into the FPI 25-Year Plan, the member has the option, within 180 days of becoming a Fire Inspector, to elect not to participate.

IMPACT ON BENEFITS: Currently, Fire Inspectors generally participate in one of the NYCERS general plans (i.e. basic Tier 4 62/5 Plan, Tier 6 63/10 Plan or Improved Tier 4 57/5, 55/25 Plans). Note that since there is only one Tier 2 Fire Inspector remaining, the following summary of the FPI 25-Year Plan is for Tier 4 and Tier 6 members only.

The proposed legislation, if enacted, would provide the following benefits to Fire Inspectors under the FPI 25-Year Plan:

- \* Service retirement benefit:

- \* 50% of Final Average Salary (FAS) for the first 25 years of Allowable Service, plus
- \* 2% of FAS for each additional year of Allowable Service, or fraction thereof, exceeding 25 years up to a maximum of 30 years of such service.
- \* Final Average Salary:
  - \* Tier 4 - Three Year Average (FAS3).
  - \* Tier 6 - Five Year Average (FAS5).
- \* Vested benefit:
  - \* Eligibility:
    - \* Tier 4 - At least five, but less than 25, years of allowable service.
    - \* Tier 6 - At least 10, but less than 25, years of allowable service.
  - \* Payable at:
    - \* Tier 4 - The date the member would have completed 25 years of allowable service.
    - \* Tier 6 - Age 63.
  - \* Amount:
    - \* 2% of FAS for each year of allowable service.
- \* Other benefits: Members of the proposed FPI 25-Year Plans are entitled to the same disability and death benefits as other Tier 4 and Tier 6 members under the respective basic plans.

ADDITIONAL MEMBER CONTRIBUTIONS: Members of an FPI 25-Year Plan are required to make, in addition to the Tier 4 Basic Member Contributions (BMC) of 3% and the Tier 6 BMC ranging from 3% to 6% depending on defined salary scales, Additional Member Contributions (AMC) equal to 6.25% of compensation for all service as a Plan participant on and after the starting date of the Plan until the later of the one-year anniversary of the effective date of the Plans or 30 years of credited service. In no event shall BMCs plus AMCs exceed 9.25% of salary.

FINANCIAL IMPACT - PRESENT VALUES: Based on the anticipated group of members joining the FPI 25-Year Plans and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by approximately \$2.7 million, and increase the Present Value of member contributions of approximately \$1.2 million. The net result is an increase in the Present Value of future employer contributions of approximately \$1.5 million.

Under the Entry Age Normal cost method used to determine the employer contributions to NYCERS, there would be an increase in the Unfunded Accrued Liability (UAL) of approximately \$2.0 million offset by a decrease in the Present Value of future employer Normal Cost of \$0.5 million.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with Administrative Code of the City of New York (ACCNYS) Section 13-638.2(k-2), new UAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetime of those impacted by the benefit changes. As of June 30, 2018, the remaining working lifetime of the Fire Inspectors assumed to join the FPI 25-Year Plans is approximately 8 years.

For the purposes of this Fiscal Note, the increase in UAL was amortized over an 8-year period (7 payments under the One-Year Lag Methodology) using level dollar payments. This payment plus the increase in the Normal Cost results in an increase in annual employer contributions of approximately \$454,000 each year.

OTHER COSTS: Not measured in this Fiscal Note are the following:

\* The initial, additional administrative costs of NYCERS and other New York City agencies to implement the proposed legislation.

\* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

**CONTRIBUTION TIMING:** For the purposes of this Fiscal Note, it is assumed that the changes in the Present Value of future employer contributions and annual employer contributions would be reflected for the first time in the June 30, 2019 actuarial valuation of NYCERS. In accordance with the One-Year Lag Methodology (OYLM) used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2021.

**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 contributions.

The 69 Fire Inspectors as of June 30, 2018 assumed to join the FPI 25-Year Plans had an average age of approximately 50.3 years, average service of approximately 20.0 years, and an average salary of approximately \$77,400.

**ACTUARIAL ASSUMPTIONS AND METHODS:** The changes in the Present Value of future employer contributions and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2018 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2020 employer contributions of NYCERS.

To determine the impact of the elective nature of the proposed legislation, a subgroup of NYCERS Fire Inspectors was developed based on who could potentially benefit actuarially. The net Present Value of future employer costs (i.e. the PVFB less the Present Value of future member contributions) of each member's benefit was determined under their current plan and under the FPI 25-Year Plan. If the net Present Value of future employer cost under the FPI 25-Year Plan was greater than or equal to the Present Value of future employer cost under the member's current plan, the member was deemed to benefit actuarially.

Based on this analysis, it was determined that those members who are mandated into the FPI 25-Year Plan in the future will generally not benefit under the Plan (i.e. they will have a decrease in Present Value of future employer costs as compared to the Tier 6 63/10 Plan they would otherwise participate in, absent this proposed legislation), and therefore the costs presented in this Fiscal Note are borne only from current NYCERS members who are assumed to benefit from, and thus opt to join, the FPI-25 Year Plan.

**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 actuarial 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 2019-09 dated April 23, 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.