STATE OF NEW YORK

5278--B

2021-2022 Regular Sessions

IN ASSEMBLY

February 12, 2021

Introduced by M. of A. BARRETT, BURDICK, SOLAGES -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to discharged LGBT veterans

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

Section 1. Paragraph a of subdivision 29 of section 2 of the retirement and social security law is amended to read as follows:

a. **(1)** Has been honorably discharged or released therefrom under honorable circumstances, **or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** and

§ 2. Paragraph d of subdivision 29-a of section 2 of the retirement and social security law, as amended by chapter 528 of the laws of 1964, is amended to read as follows:

d. Credit under this section shall not accrue to a person who is released from active duty under conditions other than honorable**, unless such person has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service**.

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

LBD05266-07-2

§ 3. Subdivision 31 of section 2 of the retirement and social security law, as amended by chapter 616 of the laws of 1995, is amended to read as follows:

31. "Service in world war II." (1) Military service during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, as a member of the armed forces of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who **(i)** was discharged or released therefrom under honorable conditions, **or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who **(iv)** was discharged or released therefrom under honorable conditions**, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** or of any person who:

a. **(i)** Has been honorably discharged or released therefrom under honorable circumstances, **or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** and

b. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then

or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state and was a resident of such other state at the time of his entrance into such armed forces, and

c. Was either a member of the retirement system and an employee of the state or of a participating employer at the time he entered such armed forces or became such employee and such member while in such armed forces on or before July first, nineteen hundred forty-eight, or became such employee while in such armed forces and subsequently became such member on or before July first, nineteen hundred forty-eight, or was an employee of an employer which was not a participating employer at the time he entered such armed forces but which elected to become a participating employer while he was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined in article eleven of the education law at the time of his entrance into the armed forces and became a member of the retirement system subsequent to separation or discharge from the armed services, and

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

(2) Military service, not in excess of three years and not otherwise creditable under paragraph one hereof, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who **(i)** was discharged or released therefrom under honorable conditions, **or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has**

received a discharge other than bad conduct or dishonorable from such service, or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, by a person who was a resident of New York state at the time of entry into such service and at the time of being discharged therefrom (vii) under honorable circumstances, or (viii) with a qualifying condition, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or (ix) as a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or, if not a resident of this state at such times was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state, and was a resident of such other state at the time of entry into and discharge from such service, and who makes the payments required by subdivision k of section forty-one of this article.

However, no military service shall be creditable under this paragraph two in the case of a member under an existing plan permitting retirement upon twenty years of creditable service who is receiving a federal pension (other than for disability) based upon a minimum of twenty years of full time active military service in the armed forces of the United States nor shall any military service be creditable in the case of a member under any other plan who is receiving a military pension (other than for disability) for military service in the armed forces of the United States.

§ 4. Subparagraph (c) of paragraph 8 of subdivision a of section 80-a of the retirement and social security law, as added by chapter 219 of the laws of 1968, is amended to read as follows:

(c) In the case of a senator or assemblyman, service, not in excess of three years and not otherwise creditable under subparagraph (b) of this paragraph [~~eight~~], rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, by a person who was a resident of the state at the time of entry into service and at the time of being discharged therefrom (i) under honorable circumstances, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and was a resident of the state at the time of entry into service and at the time of receiving a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and was a resident of the state at the time of entry into service and at the time of receiving a discharge other than bad conduct or dishonorable from such service.

§ 5. Subdivision (i) of section 89-a of the retirement and social security law, as added by chapter 996 of the laws of 1966 and such section as renumbered by chapter 1059 of the laws of 1968, is amended to read as follows:

(i) In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after world war I as defined in section two of this chapter, provided such member at the time of his entrance into the military service of the United States was then a resident of this state and in the service of a sheriffs department and **(1)** had been honorably discharged or released under honorable circumstances from such military service**, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service,** and **such member** returned to the service of a sheriffs department within the time limited by section two of this chapter.

§ 6. Paragraph a of subdivision 29 of section 302 of the retirement and social security law, as added by chapter 1000 of the laws of 1966, is amended to read as follows:

a. **(1)** Has been honorably discharged or released therefrom under honorable circumstances, **or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** and

§ 7. Paragraph d of subdivision 29-a of section 302 of the retirement and social security law, as added by chapter 1000 of the laws of 1966, is amended to read as follows:

d. Credit under this section shall not accrue to a person who is released from active duty under conditions other than honorable**, unless such person has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service**.

§ 8. Subdivision 31 of section 302 of the retirement and social security law, as amended by chapter 616 of the laws of 1995, subparagraph c of paragraph 1 as amended by chapter 476 of the laws of 2018, is amended to read as follows:

31. "Service in world war II." (1) Military service during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, as a member of the armed forces of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels

in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in ocean-going service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who **(i)** was discharged or released therefrom under honorable conditions, **or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nine-teen hundred forty-five, and who **(iv)** was discharged or released there-from under honorable conditions, **or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** or of any person who:

a. **(i)** Has been honorably discharged or released therefrom under honorable circumstances, **or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** and

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

c. Was either a member of the New York state and local employees' retirement system and an employee of the state or of a participating employer of such system at the time he or she entered such armed forces or became such employee and such member while in such armed forces on or before July first, nineteen hundred forty-eight, or became such employee while in such armed forces and subsequently became such member on or before July first, nineteen hundred forty-eight, or was an employee of an employer which was not a participating employer at the time he or she entered such armed forces but which elected to become a participating employer while he or she was absent on military duty, or was an employee of the state or of a participating employer or was a teacher as defined

in article eleven of the education law at the time of his or her entrance into the armed forces and became a member of the police and fire retirement system subsequent to separation or discharge from the armed services, and

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

(2) Military service, not in excess of three years and not otherwise creditable under paragraph one hereof, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who **(i)** was discharged or released therefrom under honorable conditions, **or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service,** or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who **(iv)** was discharged or released therefrom under honorable conditions, **or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge**

other than bad conduct or dishonorable from such service, or by a person who was a resident of New York state at the time of entry into such service and at the time of being discharged therefrom (vii) under honorable circumstances, or (viii) with a qualifying condition, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or (ix) as a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or, if not a resident of this state at such times was then or thereafter became an employee of a participating employer created by and deriving its powers from an agreement between this state and any other state, and was a resident of such other state at the time of entry into and discharge from such service, and who makes the payments required by subdivision k of section three hundred forty-one of this chapter.

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

§ 9. Subdivision 1 of section 1000 of the retirement and social security law, as amended by chapter 41 of the laws of 2016, is amended to read as follows:

1. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if the member (a) was honorably discharged from the military, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 10. Notwithstanding any other provision of law to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

§ 11. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

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

This bill would extend the benefits of Section 1000 of Retirement and Social Security Law to any member of a public retirement system in New York State who has a qualifying condition or is a discharged LGBT veteran as defined in section 350 of the Executive Law. The total service credit granted for any military service shall not exceed three years. Members must have at least five years of credited service (not including military service). Tier 1-5 members would be required to make a payment of three percent of their most recent compensation per year of additional service credit granted by this bill. Tier 6 members would be required to make a payment of six percent of their most recent compensation per year of additional service credit.

If this bill is enacted during the 2022 legislative session, insofar as this proposal affects the New York State and Local Employees' Retirement System (NYSLERS), it is estimated that the past service cost will average approximately 18% (15% for Tier 6) of an affected members' compensation for each year of additional service credit that is purchased.

If this bill is enacted during the 2022 legislative session, insofar as this proposal affects the New York State and Local Police and Fire Retirement System (NYSLPFRS), it is estimated that the past service cost will average approximately 22% (19% for Tier 6) of an affected members' compensation for each year of additional service that is purchased.

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined.

Costs arising in the NYSLERS would be shared by the State of New York and the participating employers in the NYSLERS.

Costs arising in the NYSLPFRS would be shared by the State of New York and the participating employers in the NYSLPFRS.

Summary of relevant resources:

Membership data as of March 31, 2021 was used in measuring the impact of the proposed change, the same data used in the April 1, 2021 actuarial valuation. Distributions and other statistics can be found in the 2021 Report of the Actuary and the 2021 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 and 2021 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes, Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2021 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated January 21, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-57, prepared by the Actuary for the New York State and Local Retirement System.

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

As it applies to members of the New York State Teachers' Retirement System, Section 9 of this bill would amend Subdivision 1 of Section 1000 of the Retirement and Social Security Law to allow a member who has a qualifying condition as defined in Section 350 of the Executive Law (post-traumatic stress disorder or traumatic brain injury) or a member who is a discharged LGBT veteran as defined in Section 240 of the Executive Law to purchase up to three years of military service credit provided such member did not receive a dishonorable discharge and was not discharged for bad conduct. To obtain such credit, a member must make payments as required by Section 1000 of the Retirement and Social Security Law. Tier 1, 2, 3, 4 and 5 members are required to pay three percent of salary earned during the twelve months of credited service immediately preceding the year in which a claim is made for each year of military service. Tier 6 members are required to pay six percent of salary earned during the twelve months of credited service immediately

preceding the year in which a claim is made for each year of military service.

It is not possible to determine the number of eligible current and future members, or the number of years of military service credit each such member may purchase under this bill. Therefore, it is not possible to estimate the annual increase in the employers' cost for this bill. Whatever increase in liability that arises for service credited under this bill above that paid by the member would be included in the cost that would be shared by employers through the employer contribution rate.

It is estimated that the cost, expressed as a percentage of a member's salary for each year of service credit a member purchases under this bill is as follows:

Cost per year of Service Purchased
(as a percentage of the member's salary)

Tier(s)	1-4	5	6
Cost	12.5%	10.9%	8.9%
Member Contribution offset	3.0%	3.0%	6.0%
Net cost to participating employers	9.5%	7.9%	2.9%

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Annual Report. System assets are as reported in the System's financial statements and can also be found in the System's Annual Report. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report and the 2021 Actuarial Assumptions Report.

The source of this estimate is Fiscal Note 2022-27 dated April 6, 2022 prepared by the Office of the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2022 Legislative Session. I, Richard A. Young, am the Chief Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

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

SUMMARY OF BILL: This proposed legislation, as it relates to members of the New York City Retirement Systems and Pension Funds (NYCRS), amends Retirement and Social Security Law (RSSL) Section 1000 to permit the purchase of qualifying, other than honorably discharged, military service for NYCRS service credit.

Effective Date: One year after enactment.

BACKGROUND: Members of NYCRS who were other than honorably discharged from military service due to (1) post-traumatic stress disorder; (2) traumatic brain injury; (3) an experience of military sexual trauma; (4) sexual orientation, gender identity, or gender expression; or (5) conduct or acts relating to sexual orientation, gender identity, or gender expression that was prohibited by the military at the time of discharge, are generally ineligible to purchase such military service for purposes of NYCRS benefits.

IMPACT ON BENEFITS: Under the proposed legislation, if enacted, military service with qualifying discharges described above, would become eligible for purchase pursuant to RSSL Section 1000. RSSL Section 1000 allows for up to three years of military service to be purchased as NYCRS service credit.

Prior military service with discharges due to bad conduct or dishonorable discharge would remain ineligible to purchase for purposes of NYCRS benefits.

IMPACT ON PAYABILITY: In addition to the impact on benefits above, once purchased, eligible military service would count towards meeting the minimum eligibility requirements for NYCRS pension benefits.

ADDITIONAL MEMBER CONTRIBUTIONS: Eligible NYCRS members are required to make contributions, equal to 3% of compensation earned during the year of credited service immediately preceding the date of application, for all military service being purchased.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members who were previously ineligible to purchase qualifying military service and potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis equal to the increase in the Present Value of Future Benefits (PVFB) for an average NYCRS member who has purchased military service under Chapter 41 of the Laws of 2016. In determining the increase in the PVFB, it has been assumed that 2.4 years were purchased.

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the PVFB by approximately $49,500, on average, for each military buyback of 2.4 years purchased. The average cost to the member for each buyback was approximately $8,400. This results in a net increase in the Present Value of future employer contributions of approximately $41,100 for each military buyback of 2.4 years purchased.

With respect to an individual member, the additional cost of this proposed legislation could vary greatly depending on the member's length of service, age, and salary history.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of members affected as well as other member characteristics as described above.

As there is no data currently available to estimate the number of members who might become eligible and purchase military service due to the proposed legislation, the financial impact would be recognized at the time of the event. Consequently, changes in employer contributions have been estimated assuming that the increase in the PVFB will be financed over a time period used under the current amortization period for actuarial losses under the Entry Age Normal cost method. Using this approach, the additional PVFB would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments.

Based on the Actuary's actuarial assumptions and methods in effect described herein, the enactment of this proposed legislation is estimated to increase annual employer contributions by approximately $4,900 for each military buyback of 2.4 years purchased. With respect to the timing, increases in employer contributions would depend upon when members elect to purchase the service. Generally, increased employer contributions will first occur the second fiscal year following processing and payment of the buyback application.

The proposed legislation, pursuant to section 10 of the bill, is not subject to RSSL section 25. Therefore, costs associated with the enactment of this bill would not be subject to State reimbursement notwithstanding the increased cost of prior service associated with the bill.

CENSUS DATA: The estimates presented herein are based on the census data of members who have purchased military service under Chapter 41 of the Laws of 2016 as of June 30, 2021.

As of June 30, 2021, there were 3,461 NYCRS members who have purchased prior military service under Chapter 41. Those members had an average age of approximately 48.7 years, average service of approximately 16.8 years before buyback, and an average salary of approximately $107,600. The average amount of service credit purchased was approximately 2.4 years.

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, 2020 (Lag) actuarial valuations used to determine the Final Fiscal Year 2022 employer contributions of each respective NYCRS.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of each respective NYCRS and other exogenous factors such as investment, 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.

Not measured in this Fiscal Note are the following:

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

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

STATEMENT OF ACTUARIAL OPINION: I, Michael J. Samet, am the Interim Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. 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. 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 2022-18 dated April 7, 2022 was prepared by the Interim Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2022 Legislative Session.