

STATE OF NEW YORK

6060--B

2021-2022 Regular Sessions

IN SENATE

April 1, 2021

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, the education law and the administrative code of the city of New York, in relation to providing cost-of-living adjustments

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

Section 1. Subdivision f of section 78-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, is amended to read as follows:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%

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

LBD10513-06-1

1	1962	80%
2	1961	90%
3	prior to 1961	100%

4 Said adjusted benefit shall be computed on a base benefit amount not to
 5 exceed eighteen thousand dollars of the retirement allowance otherwise
 6 payable, computed without optional modification. Any benefit received
 7 pursuant to this subdivision shall be in lieu of any benefit received
 8 pursuant to section seventy-eight of this title.

9 Commencing September first, two thousand twenty-one, all retired
 10 members who have retired prior to the calendar year nineteen hundred
 11 ninety-seven and who meet the eligibility criteria set forth in subdivi-
 12 sion a of this section shall be paid an adjusted benefit in monthly
 13 installments on the basis provided for in this subdivision. Said
 14 adjusted benefit shall be equal to a percentage of the change in consum-
 15 er price index (all urban consumers, CPI-U, U.S. city average, all
 16 items, 1982-84=100), published by the United States bureau of labor
 17 statistics, measured from the year of retirement through calendar year
 18 nineteen hundred ninety-seven according to the following schedule:

19	<u>Year of retirement</u>	<u>Percentage</u>
20	<u>1973 through 1996</u>	<u>50%</u>
21	<u>1971 and 1972</u>	<u>55%</u>
22	<u>1970</u>	<u>60%</u>
23	<u>1969</u>	<u>65%</u>
24	<u>1968</u>	<u>70%</u>
25	<u>1967</u>	<u>80%</u>
26	<u>1966</u>	<u>90%</u>
27	<u>prior to 1966</u>	<u>100%</u>

28 Said adjusted benefit commencing September first, two thousand twenty-
 29 one, shall be computed on the base benefit amount of the retirement
 30 allowance otherwise payable, computed without optional modification, set
 31 forth herein above. Any benefit received pursuant to this subdivision
 32 shall be in lieu of any benefit received pursuant to section seventy-
 33 eight of this title.

34 § 2. Subdivision f of section 378-a of the retirement and social secu-
 35 rity law, as added by chapter 125 of the laws of 2000, is amended to
 36 read as follows:

37 f. Commencing September first, two thousand, all retired members who
 38 have retired prior to the calendar year nineteen hundred ninety-seven
 39 and who meet the eligibility criteria set forth in subdivision a of this
 40 section shall be paid an adjusted benefit in monthly installments on the
 41 basis provided for in this subdivision. Said adjusted benefit shall be
 42 equal to a percentage of the change in consumer price index (all urban
 43 consumers, CPI-U, U.S. city average, all items, 1982-84=100), published
 44 by the United States bureau of labor statistics, measured from the year
 45 of retirement through calendar year nineteen hundred ninety-seven
 46 according to the following schedule:

47	Year of retirement	Percentage
48	1968 through 1996	50%
49	1966 and 1967	55%
50	1965	60%
51	1964	65%
52	1963	70%
53	1962	80%
54	1961	90%

prior to 1961 100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section three hundred seventy-eight of this title.

Commencing September first, two thousand twenty-one, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

<u>Year of retirement</u>	<u>Percentage</u>
<u>1973 through 1996</u>	<u>50%</u>
<u>1971 and 1972</u>	<u>55%</u>
<u>1970</u>	<u>60%</u>
<u>1969</u>	<u>65%</u>
<u>1968</u>	<u>70%</u>
<u>1967</u>	<u>80%</u>
<u>1966</u>	<u>90%</u>
<u>prior to 1966</u>	<u>100%</u>

Said adjusted benefit commencing September first, two thousand twenty-one, shall be computed on the base benefit amount of the retirement allowance otherwise payable, computed without optional modification, set forth herein above. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section three hundred seventy-eight of this title.

§ 3. Subdivision f of section 532-a of the education law, as added by chapter 125 of the laws of 2000, is amended to read as follows:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

<u>Year of retirement</u>	<u>Percentage</u>
<u>1968 through 1996</u>	<u>50%</u>
<u>1966 and 1967</u>	<u>55%</u>
<u>1965</u>	<u>60%</u>
<u>1964</u>	<u>65%</u>
<u>1963</u>	<u>70%</u>
<u>1962</u>	<u>80%</u>
<u>1961</u>	<u>90%</u>
<u>prior to 1961</u>	<u>100%</u>

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification excluding any annuity

derived from voluntary contributions made by members, except those made pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article. Any benefits received pursuant to this subdivision shall be in lieu of any benefits received pursuant to section five hundred thirty-two of this article, unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

Commencing September first, two thousand twenty-one, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

<u>Year of retirement</u>	<u>Percentage</u>
<u>1973 through 1996</u>	<u>50%</u>
<u>1971 and 1972</u>	<u>55%</u>
<u>1970</u>	<u>60%</u>
<u>1969</u>	<u>65%</u>
<u>1968</u>	<u>70%</u>
<u>1967</u>	<u>80%</u>
<u>1966</u>	<u>90%</u>
<u>prior to 1966</u>	<u>100%</u>

Said adjusted benefit, commencing September first, two thousand twenty-one, shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification, set forth herein above. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section five hundred thirty-two of this article, unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

§ 4. Subdivision f of section 13-696 of the administrative code of the city of New York, as added by chapter 125 of the laws of 2000, is amended to read as follows:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

<u>Year of retirement</u>	<u>Percentage</u>
<u>1968 through 1996</u>	<u>50%</u>
<u>1966 and 1967</u>	<u>55%</u>
<u>1965</u>	<u>60%</u>
<u>1964</u>	<u>65%</u>
<u>1963</u>	<u>70%</u>

1	1962	80%
2	1961	90%
3	prior to 1961	100%

4 Said adjusted benefit shall be computed on a base benefit amount not to
 5 exceed eighteen thousand dollars of the annual fixed retirement allow-
 6 ance otherwise payable, computed without optional modification. Any
 7 benefit received pursuant to this subdivision shall be in lieu of any
 8 benefit received pursuant to chapter three hundred ninety of the laws of
 9 nineteen hundred ninety-eight, and any preceding provision of law
 10 providing for supplementation.

11 Commencing September first, two thousand twenty-one, all retired
 12 members who have retired prior to the calendar year nineteen hundred
 13 ninety-seven and who meet the eligibility criteria set forth in subdivi-
 14 sion a of this section shall be paid an adjusted benefit in monthly
 15 installments on the basis provided for in this subdivision. Said
 16 adjusted benefit shall be equal to a percentage of the change in consum-
 17 er price index (all urban consumers, CPI-U, U.S. city average, all
 18 items, 1982-84=100), published by the United States bureau of labor
 19 statistics, measured from the year of retirement through calendar year
 20 nineteen hundred ninety-seven according to the following schedule:

21	<u>Year of retirement</u>	<u>Percentage</u>
22	<u>1973 through 1996</u>	<u>50%</u>
23	<u>1971 and 1972</u>	<u>55%</u>
24	<u>1970</u>	<u>60%</u>
25	<u>1969</u>	<u>65%</u>
26	<u>1968</u>	<u>70%</u>
27	<u>1967</u>	<u>80%</u>
28	<u>1966</u>	<u>90%</u>
29	<u>prior to 1966</u>	<u>100%</u>

30 Said adjusted benefit, commencing September first, two thousand twenty-
 31 one, shall be computed on the base benefit amount of the retirement
 32 allowance otherwise payable, computed without optional modification, set
 33 forth herein above. Any benefit received pursuant to this subdivision
 34 shall be in lieu of any benefit received pursuant to section 13-695 of
 35 this article.

36 § 5. This act shall take effect immediately.

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

This bill would provide an increase in the defined benefit cost-of-living adjustment (COLA) for New York public retirement systems. Starting with a payment in September 2021, additional payments will be made for those members who retired after 1960 and prior to 1973.

Insofar as this bill affects the New York State and Local Employees' Retirement System, pursuant to Section 25 of the Retirement and Social Security Law, the increased costs would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. If this bill were enacted, the increase in the present value of benefits would be approximately \$124,000.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (PFRS), the increased costs would be shared by the State of New York and the participating employers in the PFRS. If this bill were enacted, the increase in the present value of benefits would be approximately \$584,000. The estimated first year cost would be approximately \$12,000 to the State of New York and approximately \$52,000 to the participating employers in the PFRS.

Summary of relevant resources:

Membership data as of March 31, 2020 was used in measuring the impact of the proposed change, the same data used in the April 1, 2020 actuarial valuation. Distributions and other statistics can be found in the 2020 Report of the Actuary and the 2020 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 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, 2020 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 April 1, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-109, prepared by the Actuary for the New York State and Local Retirement System.

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

In as much as this bill would impact members and employers of the New York State Teachers' Retirement System (NYSTRS), this bill (legislative bill draft 10513-01-1) would amend subdivision f of Section 532-a of the Education Law to provide an increase in supplementation for retired members who meet the eligibility requirements set forth in subdivision a of Section 532-a and who retired during the calendar years 1961 through 1972, inclusive. Benefit increases are based on the first \$18,000 of the maximum annual benefit without optional modification and would be effective in September of 2021.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

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 and GASB disclosures are 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.

The source of this estimate is Fiscal Note 2021-36 dated May 5, 2021 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2021 Legislative Session. I, Richard A. Young, am the 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: With regards to the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (NYCTRS), the New York City Board of Education Retirement System (BERS), the New York City Police Pension Fund (POLICE), and the New York City Fire Pension Fund (FIRE), collectively known as the New York City Retirement Systems and Pension Funds (NYCRS), this proposed legislation would amend subdivision f of Section 13-696 of the Administrative Code of the City of New York (ACCNY) to increase the Cost-of-Living Adjust-

ment (COLA) effective September 1, 2021 for NYCERS members and their spouses who retired during the period 1961 through 1972.

Effective Date: Upon enactment.

BACKGROUND: Commencing September 1, 2000, members who retired prior to January 1, 1997 and met certain eligibility requirements to receive a COLA, were paid an adjusted monthly benefit equal to a percentage of the change in the consumer price index from the year of retirement through calendar year 1997. For the purposes of this Fiscal Note, it is assumed that the revised percentages would be paid in lieu of current percentages as shown in the table below:

Year of Retirement	Current Percentage	Revised Percentage
1973 through 1996	50%	50%
1971 through 1972	50%	55%
1970	50%	60%
1969	50%	65%
1968	50%	70%
1967	55%	80%
1966	55%	90%
1965	60%	100%
1964	65%	100%
1963	70%	100%
1962	80%	100%
1961	90%	100%
Prior to 1961	100%	100%

FINANCIAL IMPACT - SUMMARY: The estimated financial impact of increasing the COLA for members who retired from 1961 through 1972 as described above is an increase in Present Value of Future Benefits (PVFB) of approximately \$5.6 million and an increase in the first year annual employer contributions of approximately \$6.2 million. A breakdown of the financial impact by NYCERS is shown in the table below.

NYCERS	Additional Present Value of Future Benefits as of June 30, 2020 (\$ Thousands)	Increase in Fiscal Year 2022 Employer Contributions (\$ Thousands)
NYCERS	\$1,433.8	\$1,587.0
NYCTRS	55.4	61.3
BERS	2.4	2.6
POLICE	2,207.9	2,443.8
FIRE	<u>1,897.4</u>	<u>2,100.1</u>
Total	\$5,596.9	\$6,194.8

In accordance with ACCNY Section 13-638.2(k-2), new Unfunded Accrued Liability (UAL) attributable to benefit changes are to be amortized as determined by the Actuary but are generally amortized over the remaining working lifetime of those impacted by the benefit changes. For the purposes of this Fiscal Note, since those that would benefit are retired, the entire increase in UAL would be recognized immediately.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the PVFB and annual employer contributions would be reflected for the first time in the June 30, 2020 actuarial valuations 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 2022.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2020 (Lag) actuarial valuations of NYCERS to determine the Preliminary Fiscal Year 2022 employer contributions.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the PVFB and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of NYCERS.

The Actuary is proposing a set of changes for use beginning with the June 30, 2019 (Lag) actuarial valuations of NYCERS to determine the Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted it is estimated that it would produce PVFB and employer contribution results that are approximately 2% smaller than the results shown above.

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 NYCERS 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 initial, additional administrative costs to implement the proposed legislation.

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 2021-53 dated June 17, 2021 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund, and the New York City Fire Pension Fund. This estimate is intended for use only during the 2021 Legislative Session.