

# STATE OF NEW YORK

7496

2023-2024 Regular Sessions

## IN SENATE

May 31, 2023

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to authorize the office of court administration to pay certain judicial compensation

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

1 Section 1. The legislature finds and declares the following:  
2 Under New York state law, supreme court justices must retire on Decem-  
3 ber 31 of the year that they turn 70, unless they request permission to  
4 continue to serve an additional six years, in three two-year terms,  
5 until the age of 76, under a process called certification. Until 2020,  
6 justices were routinely granted certification. In September 2020, 46 of  
7 the 49 supreme court and appellate court justices who applied were  
8 denied certification by the office of court administration based on  
9 potential future budget cuts that never materialized, despite an actual  
10 need for the services of those justices. The justices who had been  
11 denied certification were permitted to reapply in April 2021, but were  
12 not permitted to resume their service as justices until June 15, 2021.  
13 15 of the justices denied certification continue to serve the people of  
14 New York as supreme court justices or appellate division justices. As a  
15 result of that denial of certification, those justices were deprived of  
16 salaries they otherwise would have been paid for five and one-half  
17 months, for the period from January 1, 2021 to June 14, 2021, as well as  
18 the concomitant pension credit for that period. Those justices who took  
19 their pensions during that period and continue to work as of June 15,  
20 2023, will be required to repay the New York state and local employees'  
21 retirement system the full amount of the pension payments received, with  
22 interest. In 2021 the legislature allocated monies to the office of  
23 court administration to make those 15 justices whole.  
24 This body is in agreement with the office of court administration,  
25 that in the interest of fairness, and for the purpose of remedying the

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

LBD11644-01-3

1 injury to those justices who were, through no fault of their own, denied  
2 their compensation and the opportunity to continue to serve the people  
3 of the state of New York, those justices should be made whole, to the  
4 extent possible, in terms of their salary and their pensions.

5 § 2. Notwithstanding any other provision of law, rule or regulation,  
6 the office of court administration is authorized to pay to fifteen  
7 supreme court justices and appellate division justices, who were  
8 initially denied certification in September 2020 but resumed service in  
9 June 2021, the salaries they would have earned during the period from  
10 January 1, 2021 to June 14, 2021. In the event that any such justices  
11 worked full- or part-time during the period of January 1, 2021 to June  
12 15, 2021, outside earnings from such employment shall be deducted from  
13 the amount payable as judicial compensation, so that his or her total  
14 wages shall not exceed the amount that such justice would have earned as  
15 wages from New York state during that period. The office of court admin-  
16 istration is also authorized to pay to the New York state and local  
17 employees' retirement system the amount that would have been deducted  
18 and paid to such retirement system for the pension credit accrued by  
19 each justice during that period. All such payments shall be made out of  
20 moneys appropriated therefor. The New York state and local employees'  
21 retirement system is authorized to reinstate the fifteen justices to the  
22 retirement system for that period nunc pro tunc, and to adjust their  
23 seniority and credit accordingly. The comptroller is authorized to waive  
24 the payment of interest by any of the fifteen justices who took his or  
25 her pension during the period from January 1, 2021 to June 14, 2021, and  
26 is now required to repay it.

27 § 3. This act shall take effect immediately.