§ 114. Reduction of salaries for investment in custodial accounts. 1. The department, in its discretion, may enter into a written agreement with any employee to reduce the annual salary otherwise payable by law to such employee for the purpose of investing in a custodial account, as permitted by paragraph seven of subdivision (b) of section four hundred three of the United States internal revenue code, as amended, or in a tax deferred annuity, as permitted by subdivision (b) of section four hundred three of the United States internal revenue code, as amended, for such employee. Any such agreement shall be subject to approval and filing by the comptroller, and shall specify the amount of such reduction and the effective date thereof. Any such agreement may be terminated at any time upon written notice by either such employee or the department. Such termination shall take effect at the beginning of the payroll period the first day of which is nearest to the thirtieth day following the day on which such notification of termination was (a) received by the department, in the event such termination is initiated by the employee, or (b) sent to the employee, in the event such termination is initiated by the department. No more than one such agreement shall be entered into in any period of twelve successive calendar months.

2. Upon approval and filing by the comptroller of any such agreement the comptroller shall reduce an employee's salary pursuant to said agreement and pay an amount equal to the amount agreed upon for such salary reduction as an employer contribution to the designated custodian of the employee's account or the issuer of the employee's annuity. Notwithstanding the reductions of salary authorized by this section, (a) the amount of employer and employee contributions otherwise required on behalf of an employee electing the optional retirement program pursuant to part five of this article shall continue to be made on the basis of the salary of such employee without regard to such reduction, or (b) in the event a member of a public retirement system in this state agrees to a reduction of salary pursuant to this section, such agreement shall not cause the employee to lose any benefits under such public retirement system to which such employee would otherwise be entitled had he or she not agreed to a reduction in salary for the purpose of establishing a custodial account or purchasing a tax-deferred annuity, and any required

employer and employee contributions shall continue to be made on the basis of the salary of such employee without regard to such reduction. Any survivor's benefit payable pursuant to sections one hundred fifty-four and one hundred fifty-four-a of the civil service law shall be based upon the salary of such employee without regard to the reduction authorized by this section.

3. Any payroll deduction, other than income tax withholdings as required by law, which may be required or authorized pursuant to law, contract, agreement, or any other instrument, the amount of which is determined in relation to an employee's earnings, shall be based on the salary of such employee without regard to reduction thereof pursuant to any agreement authorized by this section.

4. Payments for custodial accounts or tax deferred annuities shall be made by the comptroller to the designated custodian or custodians of such accounts or the issuers of such annuities out of moneys otherwise available in accordance with law for salaries of the employees who have entered into agreements pursuant to this section.

5. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.