§ 2575. Retirement of employees of board of education. 1. (a) The board of education of a city school district of a city having a population of one hundred thousand or more shall have power to establish a retirement system for all civil employees permanently employed by said board other than superintendents and teachers who may now be retired under the provisions of other retirement laws. In any such city in which there is a bureau of compulsory education, school census, and child welfare established under the provisions of this chapter, all persons, except for attendance teachers and specially certificated attendance officers who are first employed by a board of education of a city having a population of one million or more, beginning on the first day of September, nineteen hundred sixty-eight, and further except for the director of attendance, assistant director of attendance, chief attendance officer, division supervising attendance officer, and district supervising attendance officer, supervisors of school social workers, who were first employed by a board of education of a city having a population of one million or more, beginning on the first day of September nineteen hundred sixty-nine, of which such a bureau of compulsory education, school census, and child welfare consists shall be members of the retirement system created in accordance with the provisions of this section, provided that any such person who on May fourth, nineteen hundred twenty-six, was a member of another retirement system in such city may continue such membership so long as he or she holds an office or position in such bureau. Transfer of membership of any such persons from another retirement system to a retirement system as herein provided shall be made in accordance with the provisions of section fifty-nine of the civil service law. The board of education of such city shall adopt appropriate rules and regulations for the government, management and control of the retirement of said employees; except that in regard to the actions of the governing board of a retirement system governed by such rules and regulations, the concurrence of one employee representative and one non-employee representative shall be necessary for an act of such board, and there shall be no fewer than two employee representatives of such board. Before they become effective such rules and regulations must be approved by the board of estimate, or the board of estimate and apportionment in a city having such body, and in a city not having such body by the

common council or such other officers or bodies as have the management and control of financial affairs similar to that exercised by such board of estimate or board of estimate and apportionment. The board of estimate or the board of estimate and apportionment in a city having such body, and in other cities the officers or bodies performing the functions similar to those of a board of estimate or a board of estimate and apportionment shall appropriate annually the sum necessary to pay the expenses of the administration of this section, except that in the city of New York such appropriations shall be made pursuant to chapter six of the New York city charter, and also to pay such pensions to the employees herein described as they shall be entitled to receive annually under the rules and regulations prescribed by the board of education and approved by the said board of estimate or board of estimate and apportionment or other authorities.

(b) (1) The rules and regulations prescribed by the board of education and approved by the board of estimate or the board of estimate and apportionment or other authorities named herein shall provide for the annual payment of a pension which shall be a per centum of the average annual personal compensation of an employee for the five years of service immediately preceding his retirement, except as otherwise provided in subparagraph two of this paragraph (b).

(2) Such rules and regulations so prescribed and approved with respect to any such retirement system established in the city school district of a city having a population of one million or more may provide for the annual payment of a pension which shall be a per centum of the compensation of an employee during any period designated in such rules and regulations; provided, however, that such period shall in no event be less than one year or more than five years.

2. In a city having a population of one million or more and having a teachers' retirement board, changes, alterations, amendments or modifications in the rules and regulations established for the administration of this section shall be adopted as follows:

The board of education of said city may adopt and shall submit such changes, alterations, amendments or modifications, hereinafter in this subdivision referred to as changes, to said teachers' retirement board

for approval. Said teachers' retirement board shall within thirty days after the submission to it of such changes transmit to said board of education a statement in writing setting forth which of such changes it approves and which it disapproves, if any, and the reasons for such disapproval. If said teachers' retirement board shall approve of all of such changes, then such changes shall immediately become effective and in full force and operation.

If said teachers' retirement board shall disapprove of all or any of such changes and if said board of education and said teachers' retirement board within thirty days thereafter shall fail to agree upon changes in place of the changes so disapproved, then the changes shall be submitted by said board of education within ten days after the lapse of said thirty days to the commissioner of education who shall have full power to approve, alter or modify the changes disapproved by said teachers' retirement board, and the action of the commissioner of education shall be final, and thereupon the changes approved by said teachers' retirement board and the changes as approved, altered or modified by the commissioner of education shall immediately become effective and in full force and operation.

Should said teachers' retirement board fail either to approve or to disapprove all or any of such changes submitted to it as herein provided, then such changes not approved or not disapproved shall at the expiration of the thirty days immediately following their submission to said teachers' retirement board be deemed to have been approved by said teachers' retirement board and such changes shall immediately become effective and in full force and operation.

Said teachers' retirement board and the trustees of any variable annuity funds created by said rules and regulations may negotiate an agreement whereby said variable annuity funds are commonly invested with the variable annuity funds of said teachers' retirement board. In such event, final authority for investing such funds shall rest with the teachers' retirement board for the period of such agreement. Such agreement shall be for a period not to exceed five years but may be renewed.

3. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan analogous to that authorized by a chapter of the laws of nineteen hundred sixty, entitled "An act to amend the administrative code of the city of New York, in relation to authorizing the addition of pensions-providing-for-increased-take-home-pay and death benefits with respect to the New York city employees' retirement system." Such resolution of the board of education, however, shall not take effect until and unless it is approved by the board of estimate of such city.

4. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan analogous to that authorized by a chapter of the laws of nineteen hundred sixty-two, entitled "An act to amend the administrative code of the city of New York, in relation to authorizing pensions-providing-for-increased-take-home-pay and death benefits with respect to the New York city employees' retirement system." Such resolution of the board of education, however, shall not take effect until and unless it is approved by the board of estimate of such city.

5. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-three--nineteen hundred sixty-four analogous to that authorized for the fiscal year nineteen

hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-seven of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

6. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-four--nineteen hundred sixty-five analogous to that authorized for the fiscal year nineteen hundred sixty-three--nineteen hundred sixty-four by chapter five hundred seventeen of the laws of nineteen hundred sixty-three. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

7. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-five--nineteen hundred sixty-six analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

8. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for

the fiscal year nineteen hundred sixty-six--nineteen hundred sixty-seven analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

9. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-seven-nineteen hundred sixty-eight analogous to that authorized for the fiscal year nineteen hundred sixty-two-nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

10. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pension-providing-for-increased-take-home-pay plan, in addition to the plan authorized by subdivision nine of this section, for members who are employees of the board of education in the titles of attendance teacher, attendance officer, attendance teacher (Spanish speaking), auxiliary attendance teacher, or auxiliary attendance officer, for the period September first, nineteen hundred sixty-seven through June thirtieth, nineteen hundred sixty-eight, analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that the reduced rate of contribution factor to be used on computing the reduction provided for in the resolution authorized by this subdivision in the contributions of

such members may be designated by the board of education as three per centum. Such resolution may contain provisions for a period of retroactive applicability analogous to those contained in paragraph thirteen of subdivision j of section B3--36.1 of the administrative code of the city of New York, as such section was added by chapter seven hundred eighty-seven of the laws of nineteen hundred sixty-two. Such resolution may also provide that the amount of the reduction provided for in the resolution in the contributions of any members to whom such resolution applies, attributable to the period of retroactive applicability of such resolution shall be refunded by the system without interest. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

11. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-eight--nineteen hundred sixty-nine analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(1) the reduced rate of contribution factor to be used in computing the reduction in contributions of members who are employees of the board of education in the titles of attendance teacher, attendance officer, attendance teacher (spanish speaking), auxiliary attendance teacher, may be designated by the board of education as eight per centum, and provided further, however, that

(2) the reduced rate of contribution factor to be used in computing the reductions of any member who is eligible for the benefits analogous to the career pension plan of the New York city employees' retirement system, if a bill entitled "An act to amend the administrative code of the city of New York and the military law, in relation to providing additional rights, privileges, and benefits for members of the New York city employees' retirement system and establishing an optional career

pension plan for certain of such members" is enacted into law, and if the board of education adopts a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to provide a plan analogous to such career pension plan, regardless of whether such member elects the benefits of such analogous plan, may be designated by the board of education as four per centum. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

12. Notwithstanding any provisions of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-nine--nineteen hundred seventy analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(1) the reduced-rate-of-contribution factor to be used in computing the reduction in contributions of members who are employees of the board of education in the titles of attendance teacher, attendance officer, attendance teacher (spanish speaking), auxiliary attendance teacher, may be designated by the board of education as eight percentum, and provided further, however, that

(2) the reduced-rate-of-contribution factor to be used in computing the reductions of any member who is a career pension plan member or who is eligible to elect to become a career pension plan member under the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section, regardless of whether such member makes such election, may be designated by the board of education as four percentum, and provided further, however, that

(3) the reduced-rate-of-contribution factor to be used in computing the reductions of any member other than a member mentioned in paragraphs one and two of this subdivision twelve may be designated by the board of

education as five per centum, and provided further, however, that

(4) such resolution of the board of education shall not take effect until and unless it is approved by the mayor of such city.

13. Notwithstanding any provisions of this section or any other provision of law to the contrary, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred seventy--nineteen hundred seventy-one analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(1) the reduced-rate-of-contribution factor to be used in computing the reductions of any member who is a career pension plan member or who is eligible to elect to become a career pension plan member under the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section, regardless of whether such member makes such election, may be designated by the board of education as four percentum, and provided further, however, that

(2) the reduced-rate-of-contribution factor to be used in computing the reductions of any member other than a member mentioned in paragraph one of this subdivision thirteen may be designated by the board of education as five per centum, and provided further, however, that

(3) such resolution of the board of education shall not take effect until and unless it is approved by the mayor of such city.

14. (1) In the event that:

(a) a bill entitled "An act to amend the administrative code of the city of New York and chapter eight hundred seventeen of the laws of nineteen hundred sixty-nine, entitled, 'An act to amend the administrative code of the city of New York, in relation to providing additional rights, privileges and benefits for members of the New York city employees' retirement system who are career pension plan members or fifty-five-year-increased-service-fraction members, and for certain

beneficiaries of such system', in relation to establishing a new career pension plan for certain members of the New York city employees' retirement system" is enacted into law; and

(b) The provisions which govern a retirement system established pursuant to this section with respect to the board of education of a city having a population of one million or more and which were adopted pursuant or subject to this section are amended pursuant or subject to this section so that such provisions include a retirement plan analogous to that set forth in such bill; no plan for pensions-providing-for-increased-take-home-pay shall be adopted for the fiscal year nineteen hundred seventy-one--nineteen hundred seventy-two with respect to the members of such retirement system.

(2) In the event that such bill referred to in paragraph one of this subdivision fourteen is not enacted into law, such board of education referred to in paragraph one of this subdivision fourteen, is authorized, notwithstanding any provision of this section or any other provision of law to the contrary, to adopt a resolution amending the provisions governing such retirement system adopted pursuant or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred seventy-one--nineteen hundred seventy-two analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(a) the reduced-rate-of-contribution factor to be used in computing the reduction in contributions of members under such plan may be designated by the board of education to be four per centum, and provided further, however, that

(b) such resolution of the board of education shall not take effect unless and until it is approved by the mayor of such city.

15. (1) In the event that:

(a) a bill entitled "An act to amend the administrative code of the city of New York and chapter eight hundred seventeen of the laws of nineteen hundred sixty-nine, entitled, 'An act to amend the administrative code of the city of New York, in relation to providing

additional rights, privileges and benefits for members of the New York city employees' retirement system who are career pension plan members or fifty-five-year-increased-service-fraction members, and for certain beneficiaries of such system', in relation to establishing a new career pension plan for certain members of the New York city employees' retirement system" is enacted into law; and

(b) the provisions which govern a retirement system established pursuant to this section with respect to the board of education of a city having a population of one million or more and which were adopted pursuant or subject to this section are amended pursuant or subject to this section so that such provisions include a retirement plan analogous to that set forth in such bill;

no plan for pensions-providing-for-increased-take-home-pay shall be adopted for the fiscal year nineteen hundred seventy-two--nineteen hundred seventy-three with respect to the members of such retirement system.

(2) In the event that such bill referred to in paragraph one of this subdivision fifteen is not enacted into law, such board of education referred to in paragraph one of this subdivision fifteen, is authorized, notwithstanding any provision of this section or any other provision of law to the contrary, to adopt a resolution amending the provisions governing such retirement system adopted pursuant or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred seventy-two--nineteen hundred seventy-three analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(a) the reduced-rate-of-contribution factor to be used in computing the reduction in contributions of members under such plan may be designated by the board of education to be four per centum, and provided further, however, that

(b) such resolution of the board of education shall not take effect unless and until it is approved by the mayor of such city.

16. (a) As used in this subdivision, the following terms shall mean

and include:

(1) "Board of education". The board of education of a city.

(2) "City". A city having a population of one million or more.

(3) "Rules and regulations". The rules and regulations for the government, management and control of the retirement system adopted pursuant to this section.

(4) "Retirement system". The board of education retirement system established pursuant to the provisions of this section in a city.

(5) (i) "Normal contribution for balance sheet liability purposes". The hypothetical amount which the normal contribution payable in each city fiscal year occurring during the period beginning on July first, nineteen hundred seventy-four and ending on June thirtieth, nineteen hundred eighty would have equalled if such normal contribution had been required by law to be paid to the contingent reserve fund in the city fiscal year in which the obligation to make such normal contribution accrued and such normal contribution had been required by law to be determined in the manner provided for in items (ii), (iii) and (iv) of this subparagraph.

(ii) Upon the basis of the mortality and other tables effective under the rules and regulations as of July first, nineteen hundred seventy-seven and interest at the rate of five and one-half per centum per annum, the actuary shall determine, as of June thirtieth next preceding each such fiscal year for which such normal contribution is being determined (hereinafter referred to as the "subject fiscal year") the amount of the then total liability for all benefits provided in the rules and regulations, in articles eleven and fourteen of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all then members and beneficiaries, exluding the then liability on account of future annual contributions, for balance sheet liability purposes, on account of reserves-for-increased-take-home-pay (as defined in subparagraph eight of this paragraph), if any, and the then liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund.

(iii) The hypothetical normal rate of contribution with respect to the subject fiscal year shall be the rate per centum obtained:

(A) by adding together:

(1) the present value of all then required future unfunded accrued liability contributions for balance sheet liability purposes (as defined in subparagraph six of this paragraph); and

(2) the present value of all then required future annual contributions, for balance sheet liability purposes, on account of amortization of losses on dispositions of certain securities within the meaning of subdivision six of section seven of the rules and regulations (as defined in subparagraph seven of this paragraph); and

(3) the present value of future member contributions of members subject to article fourteen of the retirement and social security law; and

(4) the amount obtained by adding together the total funds on hand (excluding therefrom the then amount in the annuity savings fund and in the variable annuity savings fund) and the balance sheet liability as of such June thirtieth next preceding the subject fiscal year; and

(B) by subtracting from the amount of the total liability determined pursuant to item (ii) of this subparagraph the sum resulting from the addition prescribed by sub-item (A) of this item; and

(C) by dividing the remainder resulting from the subtraction prescribed by sub-item (B) of this item by one per centum of the then present value of the prospective future salaries of all members, as computed on the basis of the mortality and service tables adopted pursuant to subdivision two of section five of the rules and regulations and in effect on July first, nineteen hundred seventy-seven, and on the basis of interest at the rate of five and one-half per centum per annum.

(iv) The amount of the normal contribution for balance sheet liability purposes hypothetically payable in the subject fiscal year shall be the amount obtained (1) by multiplying such hypothetical normal contribution rate computed with respect to the subject fiscal year by the aggregate annual salaries of the members as of June thirtieth of the subject fiscal year and (2) by adding to the product of such multiplication, interest on such product at the rate of five and one-half per centum per annum for a period of six months.

(6) "Unfunded accrued liability contribution for balance sheet liability purposes". (i) With respect to the city's nineteen hundred seventy-four--nineteen hundred seventy-five fiscal year, such term shall mean a hypothetical amount which, if paid to the contingent reserve fund

in forty equal annual installments, beginning with payment of a first installment in the city's nineteen hundred seventy-four--nineteen hundred seventy-five fiscal year, would be the actuarial equivalent, on the basis of interest at the rate of five and one-half per centum per annum, of the remainder computed in the manner prescribed by items (ii) and (iii) of this subparagraph.

(ii) Upon the basis of the actuarial tables in effect as of July first, nineteen hundred seventy-seven for valuation purposes and interest at the rate of five and one-half per centum per annum, there shall be computed, as of June thirtieth, nineteen hundred seventy-four, the amount of the total liability for all benefits provided by the rules and regulations, in article eleven of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home-pay contributions and the liability for benefits attributable to the annuity savings fund and the variable annuity savings fund.

(iii) From such total liability computed pursuant to item (ii) of this subparagraph there shall be subtracted the sum of:

(A) the present value, as of June thirtieth, nineteen hundred seventy-four, of all future normal costs of the retirement system, computed pursuant to the entry age normal cost method of determining such normal costs; and

(B) the present value, as of June thirtieth, of all required future payments, pursuant to subdivision six of section seven of the rules and regulations (as then in effect), of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(C) the sum obtained by adding together the balance sheet liability as of such June thirtieth, (as such liability is determined pursuant to the provisions of subparagraph seven of paragraph (c) of this subdivision) and the total funds on hand as of such June thirtieth, excluding the amount in the annuity savings fund and the variable annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations.

(iv) With respect to each of the city's fiscal years occurring during the period from July first, nineteen hundred seventy-five to June

thirtieth, nineteen hundred eighty, such term shall mean a hypothetical amount which, if paid to the contingent reserve fund in forty equal annual installments, beginning with payment of a first installment in the city's nineteen hundred seventy-five--nineteen hundred seventy-six fiscal year, would be the actuarial equivalent, on the basis of interest at the rate of five and one-half per centum per annum, of the remainder computed pursuant to items (v) and (vi) of this subparagraph.

(v) Upon the basis of the actuarial tables in effect as of July first, nineteen hundred seventy-seven for valuation purposes and interest at the rate of five and one-half per centum per annum, there shall be computed, as of June thirtieth, nineteen hundred seventy-five, the amount of the total liability for all benefits provided by the rules and regulations, in article eleven of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home-pay contributions and the liability for benefits attributable to the annuity savings fund and the variable annuity savings fund.

(vi) From such total liability computed pursuant to item (v) of this subparagraph, there shall be subtracted the sum of:

(A) the present value, as of June thirtieth, nineteen hundred seventy-five, of all future normal costs of the retirement system, computed pursuant to the entry age normal cost method of determining such normal costs; and

(B) the present value, as of such June thirtieth, of all then required future payments, pursuant to subdivision six of section seven of the rules and regulations (as then in effect), of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(C) the sum obtained by adding together the balance sheet liability as of such June thirtieth, (as such liability is determined pursuant to the provisions of subparagraphs eight to fourteen, inclusive of this sub-item and the total funds on hand, as of such June thirtieth, excluding the amount in the annuity savings fund and the variable annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations.

(7) "Annual contribution, for balance sheet liability purposes, on

account of amortization of losses on dispositions of certain securities within the meaning of subdivision six of section seven of the rules and regulations". A hypothetical annual payment to the contingent reserve fund in each of the city's fiscal year occurring during the period beginning on July first, nineteen hundred seventy-four and ending on June thirtieth, nineteen hundred eighty, of the amount of the excess of installments (payable in such year) of losses on prior dispositions of securities within the meaning of subdivision six of section seven of the rules and regulations (related to graduated crediting of gains and amortization of losses on dispositions of certain securities) over installments (creditable in such year) of gains on such prior dispositions, which annual amount shall be determined in the manner provided for in such subdivision six.

(8) "Annual contribution, for balance sheet liability purposes, on account of reserves-for-increased-take-home-pay". A hypothetical annual payment to the contingent reserve fund in each of the city's fiscal years occurring during the period from July first, nineteen hundred seventy-four to June thirtieth, nineteen hundred eighty, of the amount required to fulfill the public employer obligation, which accrued in such year to make contributions on account of increased-take-home-pay.

(9) "Annual military law contribution for balance sheet liability purposes". A hypothetical annual payment to the contingent reserve fund in each of the city's fiscal years occurring during the period beginning on July first, nineteen hundred seventy-four and ending on June thirtieth, nineteen hundred eighty, of the amount required to fulfill the public employer obligation, which accrued in such year under the provisions of subdivision twenty of section two hundred forty-three of the military law, to pay in behalf of members qualifying for such benefit member contributions with respect to certain periods of military service of such members.

(10) "Deficiency contribution". The annual amount which, under the provisions of paragraph f of subdivision three of section eight of the rules and regulations, the board of education was required to pay to the contingent reserve fund in each of the city's nineteen hundred seventy-four--nineteen hundred seventy-five, nineteen hundred seventy-five--nineteen hundred seventy-six and nineteen hundred seventy-six--nineteen hundred seventy-seven fiscal years.

(11) "Contribution on account of amortization, pursuant to subdivision six of section seven of the rules and regulations, of losses on dispositions of certain securities". The total annual amount by which the sum of the installments of losses, payable pursuant to subdivision six of section seven of the rules and regulations (as in effect prior to July first, nineteen hundred eighty) in each of the city's fiscal years occurring during the period from July first, nineteen hundred seventy-four to June thirtieth, nineteen hundred eighty in relation to dispositions of securities within the meaning of such subdivision six, exceeded the sum of the installments of gains creditable in the same fiscal year in relation to the same disposition of securities.

(b) (1) Notwithstanding any provision of subdivision fifteen of section two of the rules and regulations or any other provision of the rules and regulations or any other provision of law to the contrary, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision sixteen and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund or pension fund of the retirement system in the nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year of the city or in any subsequent fiscal year of the city, "regular interest" shall mean interest as defined in this paragraph and any definition of regular interest in such rules and regulations shall not apply to any such actuarial valuation, determination or appraisal.

(2) Subject to the provisions of item (ii) of subparagraph six of this paragraph, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund or pension fund of the retirement system in the nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year of the city and in each succeeding fiscal year thereof to and including the nineteen hundred seventy-nine--nineteen hundred eighty fiscal year thereof, "regular interest" shall mean interest at five and one-half per centum per annum, compounded annually.

(3) (i) Subject to the provisions of item (ii) of subparagraph six of this paragraph and except as otherwise provided in subparagraphs seven

to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund of the retirement system in the nineteen hundred eighty--nineteen hundred eighty-one fiscal year of the city and in each succeeding fiscal year thereof to and including the nineteen hundred eighty-one--nineteen hundred eighty-two fiscal year thereof, "regular interest" shall mean interest at the rate of seven and one-half per centum per annum, compounded annually.

(ii) Subject to the provisions of item (ii) of subparagraph six of this paragraph and except as otherwise provided in subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund of the retirement system in the nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year of the city and in each succeeding fiscal year thereof to and including the nineteen hundred eighty-seven--nineteen hundred eighty-eight fiscal year thereof, "regular interest" shall mean interest at the rate of eight per centum per annum, compounded annually.

(iii) Subject to the provisions of item (ii) of subparagraph six of this paragraph and except as otherwise provided in subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into

the contingent reserve fund of the retirement system in the nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year of the city and the nineteen hundred eighty-nine--nineteen hundred ninety fiscal year thereof, "regular interest" shall mean interest at the rate of eight and one-quarter per centum per annum, compounded annually.

(4) Subject to the provisions of item (ii) of subparagraph six of this paragraph, and except as otherwise provided in subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund or pension fund of the retirement system in the city's nineteen hundred ninety--nineteen hundred ninety-one fiscal year and in any subsequent fiscal year thereof, "regular interest" shall mean interest at such rate per annum, compounded annually, as shall be prescribed by the legislature in section 13-638.2 of the administrative code of the city.

(5) On or after May first, nineteen hundred eighty-nine and no later than October thirty-first of such year the retirement board of the retirement system shall submit to the governor, the temporary president and minority leader of the senate, the speaker of the assembly, the majority and minority leaders of the assembly, the state superintendent of financial services, the mayor of the city, and the members of the city council thereof, the written recommendations of the retirement board as to the rate of interest and effective period thereof which should be established by law as "regular interest" for the purpose specified in subparagraph four of this paragraph.

(6) (i) Subject to the provisions of item (iv) of subparagraph three of paragraph (c) of this subdivision, nothing contained in subparagraphs one, two, three, four and five of this paragraph shall be construed as prescribing, for the purpose of crediting interest to individual accounts in the annuity savings fund or to reserves-for-increased-take-home-pay or for any other purpose besides that specified in such subparagraphs, a rate of regular interest other

than as prescribed by the applicable provisions of subdivision fifteen of section two of the rules and regulations and subdivision seventeen of this section.

(ii) Subject to the provisions of section 13-638.2 of the administrative code of the city, nothing contained in subparagraphs two, three and four of this paragraph shall be construed as requiring the original unfunded accrued liability contribution, as defined in item (i) of subparagraph five of paragraph (c) of this subdivision, and the revised unfunded accrued liability contribution, as defined in item (ii) of such subparagraph, and the nineteen hundred eighty unfunded accrued liability adjustment, as defined in subparagraph six of such paragraph (c), and the nineteen hundred eighty-two unfunded accrued liability adjustment, as defined in such subparagraph six, to be determined in any manner other than as prescribed by the applicable provisions of such items and such subparagraph six. Subject to the provisions of such section 13-638.2, nothing contained in subparagraphs two, three and four of this paragraph shall be construed as requiring any balance sheet liability or balance sheet liability contribution computed pursuant to the provisions of subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision to be determined in any manner other than as prescribed in such subparagraphs.

(c) (1) (i) Notwithstanding the provisions of paragraphs b and f of subdivision three of section eight of the rules and regulations or any other provision of the rules and regulations or any other provision of law to the contrary;

(A) the provisions of subparagraphs two, three, four and five of this paragraph (c), as in effect during the period from July first, nineteen hundred seventy-seven to June thirtieth, nineteen hundred eighty, shall govern the contributions payable by the board of education to the contingent reserve fund of the retirement system in the city's nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year and in each city fiscal year thereafter to and including the nineteen hundred seventy-nine--nineteen hundred eighty fiscal year, and no contributions shall be payable by the board of education to such fund in any such fiscal year other than the contributions prescribed by the applicable provisions of such subparagraphs two, three, four and five; and

(B) the applicable provisions of this paragraph, as in effect on and

after July first, nineteen hundred eighty, and the provisions of sections 13-638.2, 13-695 and 13-704 of the administrative code of the city and any other applicable laws shall govern the contributions payable by the board of education to the contingent reserve fund in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year and in each city fiscal year thereafter, and no contributions shall be payable by the board of education to such fund in any such fiscal year other than the contributions prescribed by the applicable provisions of this paragraph and such sections and laws.

(ii) The contribution payable by the board of education to such contingent reserve fund in the nineteen hundred seventy-six--nineteen hundred seventy-seven fiscal year of the city, including, without limitation, the contribution required by paragraph f of subdivision three of section eight of the rules and regulations, shall be governed by the applicable provisions of the rules and regulations as in effect immediately prior to July first, nineteen hundred seventy-seven.

(2) Subject to the provisions of law referred to in sub-item (B) of item (i) of subparagraph one of this paragraph, the board of education shall contribute to the contingent reserve fund:

(i) annually an amount computed pursuant to subparagraph four of this paragraph, to be known as the "normal contribution"; and

(i-A) all unfunded accrued liability installments as required by section 13-638.2 of the administrative code of the city of New York or any other provision of law; and

(i-B) any other payments to the contingent reserve fund as required by applicable law; and

(ii) in each city fiscal year during the period beginning with the fiscal year nineteen hundred seventy-seven--nineteen hundred seventy-eight and ending on the last day of fiscal year nineteen hundred seventy-nine--nineteen hundred eighty, one annual installment of an additional amount computed pursuant to item (i) of subparagraph five of this paragraph, which shall be known as the "original unfunded accrued liability contribution"; and

(iii) in each city fiscal year during the period beginning with fiscal year nineteen hundred eighty--nineteen hundred eighty-one and ending on the last day of fiscal year two thousand fourteen--two thousand fifteen, the annual installment, applicable to such fiscal year, of an additional

amount which shall be known as the revised unfunded accrued liability contribution and which shall be determined as provided for in item (ii) of subparagraph five of this paragraph; and

(iv) in each city fiscal year during the period beginning with fiscal year nineteen hundred eighty-one--nineteen hundred eighty-two and ending on the last day of fiscal year two thousand twenty--two thousand twenty-one, the annual installment, applicable to such fiscal year, of an additional amount which shall be known as the balance sheet liability contribution and which shall be determined as provided for in subparagraphs seven to sixteen, inclusive, of this paragraph; and

(v) in fiscal year nineteen hundred eighty--nineteen hundred eighty-one, the amount of one year's interest, at the rate of seven and one-half per centum per annum, on the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty, as determined pursuant to the provisions of subparagraphs seven to fifteen, inclusive, of this paragraph; and

(vi) in each city fiscal year, beginning with fiscal year nineteen hundred eighty--nineteen hundred eighty-one and ending on the last day of fiscal year nineteen hundred ninety-four--nineteen hundred ninety-five, the amount required to fulfill the public employer obligation, which accrued in such fiscal year, to make contributions on account of increased-take-home-pay; and

(vii) in each city fiscal year, beginning with fiscal year nineteen hundred eighty--nineteen hundred eighty-one and ending on the last day of fiscal year nineteen hundred ninety-four--nineteen hundred ninety-five, the amount required to fulfill the public employer obligation, which accrued in such fiscal year under the provisions of subdivision twenty of section two hundred forty-three of the military law, to pay in behalf of members qualifying for such benefit, member contributions with respect to certain periods of the military service of such members.

(3) (i) If the nineteen hundred eighty unfunded accrued liability adjustment determined pursuant to subparagraph six of this paragraph is a credit, the total of the amounts required to be contributed to the contingent reserve fund in each city fiscal year, commencing with the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and ending with the two thousand nine--two thousand ten fiscal year,

pursuant to items (i), (iii), (iv), (v), (vi) and (vii) of subparagraph two of this paragraph shall be reduced by the amount of one annual installment of such nineteen hundred eighty unfunded accrued liability adjustment.

(ii) (A) If the nineteen hundred eighty unfunded accrued liability adjustment determined pursuant to such subparagraph six is a charge, the board of education shall contribute in each city fiscal year, commencing with the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and ending with the two thousand nine--two thousand ten fiscal year, in addition to the amounts required to be contributed under the provisions of subparagraph two of this paragraph (c), one annual installment of such nineteen hundred eighty unfunded accrued liability adjustment.

(B) The total of the amounts required to be contributed to the contingent reserve fund in each city fiscal year commencing with the nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year and ending with the two thousand eleven--two thousand twelve fiscal year pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) and the applicable provisions of item (i) of this subparagraph (3) and sub-item (A) of this item (ii) and otherwise pursuant to law shall be reduced by the amount of one annual installment of the nineteen hundred eighty-two unfunded accrued liability adjustment determined pursuant to item (vi) of subparagraph (6) of this paragraph (c).

(C) The total of the amounts required to be contributed to the contingent reserve fund in each city fiscal year commencing with the nineteen hundred eighty-five--nineteen hundred eighty-six fiscal year and ending with the two thousand fourteen--two thousand fifteen fiscal year pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) and the applicable provisions of item (i) of this subparagraph (3) and sub-item (A) of this item (ii) and otherwise pursuant to law shall be reduced by the amount of one annual installment of the nineteen hundred eighty-five unfunded accrued liability adjustment determined pursuant to item (vii) of subparagraph (6) of this paragraph (c).

(iii) Any amount required by the provisions of items (iii), (iv), (vi) and (vii) of subparagraph two of this paragraph and subdivision six of

section seven of the rules and regulations to be contributed to the contingent reserve fund in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year or any subsequent fiscal year shall be payable with interest on such amount at a rate per centum per annum equal to the rate per centum per annum required to be used for the purpose of any actuarial valuation, determination or appraisal made to determine the amount of the normal contribution payable to the contingent reserve fund in such fiscal year.

(iv) Any amount required to be contributed to the contingent reserve fund in any fiscal year of the city preceding the nineteen hundred eighty--nineteen hundred eighty-one fiscal year shall be deemed to have been required to be paid with interest on such amount at a rate per centum per annum equal to the rate per centum per annum required to be used for the purpose of any actuarial valuation, determination or appraisal made to determine the amount of the normal contribution payable to the contingent reserve fund in such fiscal year.

(v) It is hereby declared that the provisions of items (iii) and (iv) of this subparagraph three, insofar as they relate to provisions of the rules and regulations or of this subdivision or other laws requiring payment of employer contributions to the retirement system prior to the effective date of this subparagraph, express the intent of such provisions of the rules and regulations or this subdivision or other laws requiring such payment.

(vi) For the purpose of effectuating the nineteen hundred eighty-eight unfunded accrued liability adjustment provided for in section 13-638.1 of the administrative code of the city of New York, contributions to the contingent reserve fund on account of charges shall be made by the responsible obligor (as defined in paragraph six of subdivision a of such section) or credits shall be allowed to such obligor against contributions otherwise payable by such obligor, as the case may be, to the extent and in the manner provided for in such section. The annual determination of the normal contribution for fiscal years occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, nineteen hundred ninety-eight shall appropriately take account of the nineteen hundred eighty-eight unfunded accrued liability adjustment and the provisions of subparagraph four of this paragraph (c) shall be deemed to be conformably modified for such

purpose.

(vii) The board of education and all other responsible obligors (as defined in paragraph ten of subdivision a of section 13-638.2 of the administrative code of the city of New York) shall make all payments to the retirement system required by applicable law in accordance with the time of payment requirements set forth in paragraph (j) of this subdivision. Any responsible obligor which does not make all or any portion of such required payments to the retirement system in a timely manner in fiscal year two thousand twelve--two thousand thirteen, or in any fiscal year thereafter, shall be required to pay interest to the retirement system on such overdue amounts, as determined by the actuary. The actuary shall determine, at such time as he or she deems appropriate, interest payments on such overdue amounts using a rate of interest equivalent to the valuation rate of interest (as defined in paragraph eleven of subdivision a of section 13-638.2 of the administrative code of the city of New York). Responsible obligors shall make such interest payments on overdue amounts to the retirement system in the manner and at such time as the actuary deems appropriate.

(4) Normal contribution. (i) Notwithstanding the succeeding provisions of this item or the provisions of item (i-A), (ii), (iii) or (iv) of this subparagraph, for fiscal year two thousand eleven--two thousand twelve, and for each fiscal year thereafter, the amount of the normal contribution payable to the contingent reserve fund shall be determined pursuant to the provisions of item (v) of this subparagraph. Upon the basis of the latest mortality and other tables authorized by the applicable provisions of the rules and regulations and regular interest, the actuary shall determine, as of June thirtieth, nineteen hundred eighty and as of each succeeding June thirtieth, the amount of the total liability for all benefits provided in the rules and regulations, in articles eleven and fourteen of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home-pay contributions, if any, and the liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund, provided, however, that in determining such total liability as of June thirtieth, nineteen hundred ninety-five and as of each succeeding June

thirtieth, the actuary shall include (A) the liability on account of future increased-take-home-pay contributions, if any, (B) the liability on account of future public employer obligations under the provisions of subdivision twenty of section two hundred forty-three of the military law, to pay in behalf of members qualifying for such benefit, member contributions with respect to certain periods of the military service of such members and (C) the liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund, and provided further that in determining such total liability as of June thirtieth, nineteen hundred ninety-nine and as of each succeeding June thirtieth, the actuary shall include any other liability, as determined by the actuary, for benefits attributable to the variable annuity programs, and provided further that in determining such total liability as of June thirtieth, two thousand and as of each succeeding June thirtieth, the actuary shall include the amount, if any, as estimated by the actuary, of the total liability of the retirement system on account of payments which the retirement system may be required to make to any other fund without a corresponding offset in the liabilities of the retirement system.

(i-A) Notwithstanding any other provision of law to the contrary, for the purpose of calculating the amount of the normal contribution annually due from the board of education to the contingent reserve fund pursuant to item (iv) of this subparagraph in fiscal year two thousand five--two thousand six, and in each fiscal year thereafter, both the total liability of the retirement system, as calculated by the actuary in accordance with item (i) of this subparagraph, and the normal rate of contribution, as calculated by the actuary in accordance with items (ii) and (iii) of this subparagraph, shall be determined as of June thirtieth of the second fiscal year preceding the fiscal year in which the normal contribution is payable, provided, however, that (A) the actuary shall use for such calculations the mortality and other tables that are applicable at the time he or she performs such calculations; (B) the total funds on hand, as determined by the actuary pursuant to clause five of sub-item (A) of item (ii) of this subparagraph, shall be adjusted by adding to such amount the present value of all employer contributions required to be paid into the contingent reserve fund in the fiscal year next preceding the fiscal year in which the normal

contribution is payable, as determined by the actuary; and (C) the present value of the prospective future salaries of all members, as computed by the actuary for the purposes of sub-item (C) of item (ii) of this subparagraph, shall be reduced by the present value of the salaries expected to be paid to all members in the fiscal year next preceding the fiscal year in which the normal contribution is payable, as determined by the actuary.

(ii) The normal rate of contribution shall be the rate per centum obtained:

(A) by adding together:

(1) (a) the amount obtained by adding together the present value of all required future revised unfunded accrued liability contributions and the present value of all required future payments of the nineteen hundred eighty unfunded accrued liability adjustment, determined pursuant to subparagraph six of this paragraph, if such adjustment is a charge; or

(b) the remainder obtained by subtracting from the present value of all required future revised unfunded accrued liability contributions, the present value of all future installments of the nineteen hundred eighty unfunded accrued liability adjustment required to be credited, if such nineteen hundred eighty adjustment is a credit;

(c) minus (whether (a) or (b) immediately preceding is applicable) the sum of the present value of all future installments of the nineteen hundred eighty-two unfunded accrued liability adjustment and the present value of all future installments of the nineteen hundred eighty-five unfunded accrued liability adjustment; and

(2) the present value of all required future balance sheet liability contributions, plus, in the case of the determination of the normal contribution payable in fiscal year nineteen hundred eighty--nineteen hundred eighty-one, the present value, as of June thirtieth, nineteen hundred eighty, of the payment of interest on the balance sheet liability as required by item (v) of subparagraph two of this paragraph (c); and

(3) the present value of all required future payments, pursuant to subdivision six of section seven of the rules and regulations, of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(4) in the case of the determination of the normal contribution payable in each fiscal year commencing with fiscal year nineteen hundred ninety-five--nineteen hundred ninety-six, the present value of future member contributions of all members; and

(5) the total funds on hand, including the amount of any unpaid money appropriated pursuant to section nine of the rules and regulations and, in the case of the determination of the normal contribution payable in each fiscal year commencing with fiscal year nineteen hundred ninety-five--nineteen hundred ninety-six, including the amount in the annuity savings fund and in the variable annuity savings fund; and

(6) the present value of all other future installments of accrued liability contributions to the retirement system required by the applicable provisions of section 13-638.2 of the administrative code of the city of New York which are not covered by the preceding paragraphs of this subitem (A); and

(B) by subtracting from the amount of the total liability determined pursuant to item (i) of this subparagraph the sum resulting from the addition prescribed by sub-item (A) of this item; and

(C) by dividing the remainder resulting from the applicable subtraction prescribed by sub-item (B) of this item by one per centum of the present value of the prospective future salaries of all members, as computed by the actuary on the basis of the latest mortality and service tables adopted pursuant to subdivision two of section five of the rules and regulations, and on the basis of regular interest.

(iii) The normal rate of contribution determined by the actuary shall not be less than zero, shall be certified by the actuary after a valuation and shall continue in force until the next succeeding valuation and certification. The actuary shall make a valuation, as of June thirtieth of each year, of the assets and liabilities of the various funds created by the rules and regulations.

(iv)(A) The amount of the normal contribution annually due from the board of education to the contingent reserve fund in each city fiscal year, commencing with the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and ending with the two thousand four--two thousand five fiscal year, shall be the amount obtained by multiplying the normal rate of contribution, as determined by the actuary as of June thirtieth next preceding such fiscal year, by the aggregate annual

salaries of the members on such June thirtieth next preceding such fiscal year in which such amount is due and shall be payable in such fiscal year next following such June thirtieth, together with such regular interest thereon which may be due, if any, as calculated by the actuary.

(B) The amount of the normal contribution annually due from the board of education to the contingent reserve fund in each city fiscal year, commencing with the two thousand five--two thousand six fiscal year, shall be the amount obtained by multiplying the normal rate of contribution, as determined by the actuary as of the second June thirtieth preceding the fiscal year in which the normal contribution is payable, in accordance with the provisions of items (i-A), (ii) and (iii) of this subparagraph, by the aggregate amount of the salaries expected to be paid to the members during the fiscal year in which the normal contribution is payable, as determined by the actuary, and such normal contribution shall be payable in the second fiscal year following the June thirtieth as of which the normal rate of contribution is determined, together with such regular interest thereon which may be due, if any, as calculated by the actuary.

(C) In the case of the normal contribution payable in the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and in any subsequent fiscal year, the term "regular interest," as used in this item (iv) shall mean regular interest as defined by the applicable provisions of subparagraph three or subparagraph four of paragraph (b) of this subdivision.

(v) (A) Notwithstanding the preceding items of this subparagraph or any other provision of law to the contrary, the normal contribution payable to the contingent reserve fund in fiscal year two thousand eleven--two thousand twelve, and in each fiscal year thereafter, shall be the entry age normal contribution, as determined by the actuary pursuant to this item in a manner consistent with the entry age actuarial cost method. The actuary shall determine the entry age normal contribution for each such fiscal year as of June thirtieth of the second fiscal year preceding the fiscal year in which such normal contribution is payable, based on the latest mortality and other tables applicable at the time he or she performs such calculations, and the valuation rate of interest as provided for the retirement system in

paragraph two of subdivision b of section 13-638.2 of the administrative code of the city of New York.

(B) In calculating the entry age normal contribution payable in any such fiscal year pursuant to this item, the actuary, in his or her discretion, may make certain adjustments in the calculation methodology, provided that such adjustments are generally accepted as consistent with the entry age actuarial cost method, and are designed, in general, to fund, on a level basis over the working lifetimes of members from their ages at entry, the actuarial present value of benefits to which such members are expected to become entitled, as determined by the actuary. Such generally accepted adjustments in the calculation methodology, in the discretion of the actuary, may include, but are not limited to, the calculation of the entry age normal contribution (1) on an individual member basis by calculating the amount of the entry age normal contribution attributable to each individual member, and then adding together such individual member amounts, (2) on an aggregate basis for all members or (3) on any combination of an individual member basis and an aggregate basis which is consistent with the entry age actuarial cost method, and the preceding provisions of this sub-item.

(C) For each such fiscal year, the actuary, in his or her discretion, shall determine, in accordance with the provisions of sub-item (B) of this item, the methodology for calculating the entry age normal contribution payable for that particular fiscal year.

(D) The methodology determined by the actuary in accordance with sub-item (C) of this item may provide for the actuary to calculate the entry age normal contribution on an individual member basis by (1) multiplying the entry age normal contribution rate for each individual member, as determined by the actuary, by the salary expected to be paid to that member during the fiscal year in which such normal contribution is payable, and (2) calculating the sum of the individual entry age normal contributions attributable to all such members. The actuary, in his or her discretion, may make any adjustments to such methodology for determining the entry age normal contribution on an individual basis which he or she deems appropriate, and which are consistent with the provisions of sub-item (B) of this item.

(E) In the alternative, the methodology determined by the actuary in accordance with sub-item (C) of this item may provide for the actuary to

calculate the entry age normal contribution on an aggregate basis by multiplying the entry age normal contribution rate for all members in the aggregate, as determined by the actuary, by the aggregate amount of the salaries expected to be paid to all members during the fiscal year in which the normal contribution is payable. The actuary, in his or her discretion, may make any adjustments to such methodology for determining the entry age normal contribution on an aggregate basis which he or she deems appropriate, and which are consistent with the provisions of sub-item (B) of this item.

(F) In the alternative, the methodology determined by the actuary in accordance with sub-item (C) of this item may provide for the calculation of the entry age normal contribution on any other basis which the actuary deems appropriate, and which is consistent with the entry age actuarial cost method and the provisions of sub-item (B) of this item.

(G) (1) Where the methodology determined by the actuary in accordance with sub-item (C) of this item requires the determination of an entry age normal contribution rate for each individual member in order to calculate the entry age normal contribution for each individual member, the actuary shall determine such rate for each such member in accordance with the entry age actuarial cost method, and such rate, as determined by the actuary for each such member, shall be consistent with a method designed, in general, to fund, on a level basis over the working lifetime of that particular member from his or her age at entry, the actuarial present value of benefits to which such member is expected to become entitled, as determined by the actuary.

(2) Where the methodology determined by the actuary in accordance with sub-item (C) of this item requires the determination of an entry age normal contribution rate for all members in the aggregate in order to calculate the entry age normal contribution for all members in the aggregate, the actuary shall determine such rate in accordance with the entry age actuarial cost method, and such rate, as determined by the actuary, shall be consistent with a method designed, in general, to fund, on a level basis over the working lifetimes of members from their ages at entry, the actuarial present value of benefits to which such members are expected to become entitled, as determined by the actuary.

(5) Unfunded accrued liability contributions.--(i) The original

unfunded accrued liability contribution shall be an amount which, if paid to the contingent reserve fund in forty equal annual installments, commencing with payment of a first installment in the city's nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year, would be the actuarial equivalent, on the basis of five and one-half percentum interest and the actuarial tables in effect as of July first, nineteen hundred seventy-seven, of the difference between (A) the accrued liability (excluding the liability for benefits attributable to the annuity savings fund and the variable annuity savings fund) on June thirtieth, nineteen hundred seventy-five and (B) the total funds on hand, excluding the amount in the annuity savings fund and the variable annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations. No contribution or payment to the contingent reserve fund of the retirement system shall be made under the provisions of paragraph f of subdivision three of section eight of the rules and regulations in the nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year of the city or in any subsequent city fiscal year. The provisions of such paragraph f shall cease to be effective on July first, nineteen hundred seventy-seven.

(ii) (A) The revised unfunded accrued liability contribution shall be an amount determined as prescribed in sub-items (B), (C), (D), (E), (F), (G), (H), (I) and (J) of this item.

(B) To the amount of the difference constituting the unfunded accrued liability as of June thirtieth, nineteen hundred seventy-five heretofore determined pursuant to the provisions of this subparagraph, as in effect on July first, nineteen hundred seventy-seven, there shall be added interest thereon at the rate of five and one-half per centum per annum for the period from July first, nineteen hundred seventy-five to June thirtieth, nineteen hundred eighty.

(C) There shall be computed, in the manner provided in sub-item (D) of this item, the discounted value of each of the installments of the unfunded accrued liability contribution which, in the absence of the enactment of chapter nine hundred fifty-seven of the laws of nineteen hundred eighty-one, were payable or would have been payable in the city's nineteen hundred seventy-seven--nineteen hundred seventy-eight, nineteen hundred seventy-eight--nineteen hundred seventy-nine, nineteen

hundred seventy-nine--nineteen hundred eighty, nineteen hundred eighty--nineteen hundred eighty-one and nineteen hundred eighty-one--nineteen hundred eighty-two fiscal years.

(D) Such discounted value of each such installment referred to in sub-item (C) of this item shall be computed as of January first of the city's second fiscal year preceding the fiscal year in which such installment was payable or would have been payable and on the basis of five and one-half per centum interest per annum on the amount of such installment.

(E) There shall be computed with respect to such discounted value of each such installment, interest thereon from January first of such second fiscal year preceding the fiscal year in which such installment was or would have been payable to June thirtieth, nineteen hundred eighty at the rate of five and one-half per centum per annum.

(F) The discounted values of all of such installments with respect to such fiscal years, computed as provided for in sub-items (C) and (D) of this item, together with interest on each such installment as provided for in sub-item (E) of this item, shall be added together.

(G) From the sum computed pursuant to sub-item (B) of this item, the sum computed pursuant to sub-item (F) of this item shall be subtracted.

(H) With respect to each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty and ending on June thirtieth, nineteen hundred eighty-two, the revised unfunded accrued liability contribution shall be the annual installment, applicable to such fiscal year, of an amount which, if paid to the contingent reserve fund in thirty-five equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year, would be the actuarial equivalent, on the basis of seven and one-half per centum interest per annum, of the remainder computed pursuant to sub-item (G) of this item.

(I) With respect to each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight, the revised unfunded accrued liability contribution shall be the annual installment, applicable to such fiscal year, of an amount which, if paid to the contingent reserve fund in thirty-three equal annual installments, commencing with payment of a first installment in the city's nineteen hundred

eighty-two--nineteen hundred eighty-three fiscal year, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-two on the basis of seven and one-half per centum interest per annum, of those installments of the unfunded accrued liability contribution computed pursuant to sub-item (H) of this item (ii), which installments are hypothetically allocated by such sub-item (H) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-two.

(J) With respect to each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand fifteen, the revised unfunded accrued liability contribution shall be the annual installment, applicable to such fiscal year, of an amount which, when paid to the contingent reserve fund in twenty-seven equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the unfunded accrued liability contribution computed pursuant to sub-item (I) of this item (ii), which installments are hypothetically allocated by such sub-item (I) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(6) (i) The nineteen hundred eighty unfunded accrued liability adjustment shall be an amount determined as prescribed in items (ii), (iii), (iv) and (v) of this subparagraph.

(ii) (A) Upon the basis of the actuarial tables in effect as of June thirtieth, nineteen hundred eighty for valuation purposes and interest at the rate of seven and one-half per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty, the amount of the total liability for all benefits provided in the rules and regulations, in articles eleven and fourteen of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home pay

contributions, if any, and the liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund.

(B) From such total liability computed pursuant to sub-item (A) of this item, there shall be subtracted the sum of:

(1) the present value, as of June thirtieth, nineteen hundred eighty, of all future normal costs of the retirement system, computed pursuant to the entry age normal cost method of determining such normal costs; and

(2) the present value, as of such June thirtieth, of all future installments of the balance sheet liability contribution (as defined in subparagraph sixteen of this paragraph); and

(3) the present value, as of such June thirtieth, of all then required future payments, pursuant to subdivision six of section seven of the rules and regulations, of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(4) the present value, as of such June thirtieth, of future member contributions of members subject to article fourteen of the retirement and social security law; and

(5) the total funds on hand as of such June thirtieth, excluding the amount in the annuity savings fund and variable annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations.

(iii) (A) If the amount computed pursuant to sub-item (B) of item (ii) of this subparagraph is larger than the amount computed pursuant to sub-item (G) of item (ii) of subparagraph five of this paragraph, the latter amount shall be subtracted from the former amount and the remainder resulting from such subtraction shall constitute a charge.

(B) If the amount computed pursuant to sub-item (B) of item (ii) of this subparagraph is smaller than the amount computed pursuant to sub-item (G) of item (ii) of subparagraph five of this paragraph, the former amount shall be subtracted from the latter amount and the remainder resulting from such subtraction shall constitute a credit.

(iv) (A) If the remainder computed pursuant to item (iii) of this subparagraph is a charge, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, if paid to the contingent reserve fund in thirty equal annual installments, commencing with

payment of a first installment in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year, would be the actuarial equivalent, on the basis of seven and one-half per centum interest per annum, of such remainder.

(B) If the remainder computed pursuant to item (iii) of this subparagraph is a credit, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, if credited in thirty equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (v), (vi) and (vii) of subparagraph two of this paragraph, would be the actuarial equivalent, on the basis of seven and one-half per centum interest per annum, of such remainder.

(v) (A) With respect to determination of the amount of contributions payable to the contingent reserve fund in each of the city's nineteen hundred eighty--nineteen hundred eighty-one and nineteen hundred eighty-one--nineteen hundred eighty-two fiscal years, the annual installment of the nineteen hundred eighty unfunded accrued liability adjustment computed pursuant to item (iv) of this subparagraph (6), which installment is applicable to such fiscal years, shall be applied as a charge or a credit, as the case may be, in relation to such contributions payable in such fiscal year.

(B) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, if paid (if a charge) or credited (if a credit) in twenty-eight equal annual installments, commencing with a payment or credit, as the case may be, in the city's nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-two on the basis of seven and one-half per centum interest per annum, of those installments of the nineteen hundred eighty unfunded

accrued liability adjustment computed pursuant to item (iv) of this subparagraph (6), which installments are hypothetically allocated by such item (iv) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-two.

(C) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand ten, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, when paid (if a charge) or credited (if a credit) in twenty-two equal annual installments, commencing with a payment or credit, as the case may be, in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the nineteen hundred eighty unfunded accrued liability adjustment computed pursuant to sub-item (B) of this item (v), which installments are hypothetically allocated by such sub-item (B) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(D) With respect to determination of the amount of contributions payable to the contingent reserve fund in each of such city fiscal years referred to in sub-item (B) or sub-item (C) of this item (v), the annual installment of the nineteen hundred eighty unfunded accrued liability adjustment computed pursuant to sub-item (B) or sub-item (C) of this item (v), which installment is applicable to such fiscal year, shall be applied as a charge or credit, as the case may be, in relation to such contributions payable in such fiscal year.

(vi) (A) The nineteen hundred eighty-two unfunded accrued liability adjustment shall be an amount determined as prescribed in sub-items (B), (C), (D) and (E) of this item (vi).

(B) Upon the basis of the actuarial tables in effect as of June thirtieth, nineteen hundred eighty-one for valuation purposes and interest at the rate of seven and one-half per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty-two, the amount of the actuarial accrued liability of the retirement system,

computed pursuant to the entry age normal cost method of ascertaining such actuarial accrued liability.

(C) Upon the basis of the actuarial tables in effect as of June thirtieth, nineteen hundred eighty-two for valuation purposes and interest at the rate of eight per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty-two, the amount of the actuarial accrued liability of the retirement system, computed pursuant to the entry age normal cost method of ascertaining such actuarial accrued liability.

(D) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight, the nineteen hundred eighty-two unfunded accrued liability adjustment shall be the applicable installments of an amount which, if credited in thirty equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of paragraph (c) of this subdivision sixteen or otherwise pursuant to law, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the excess of the amount computed pursuant to sub-item (B) of this item (vi) over the amount computed pursuant to sub-item (C) of this item (vi).

(E) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand twelve, the nineteen hundred eighty-two unfunded accrued liability adjustment shall be an amount which, when credited in twenty-four equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of paragraph (c) of this subdivision sixteen or otherwise pursuant to

law, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the nineteen hundred eighty-two unfunded accrued liability adjustment computed pursuant to sub-item (d) of this item (vi), which installments are hypothetically allocated by such sub-item (D) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(vii) (A) The nineteen hundred eighty-five unfunded accrued liability adjustment shall be an amount determined as prescribed in sub-items (B), (C), (D) and (E) of this item (vii).

(B) Upon the basis of the actuarial tables in effect for valuation purposes with respect to determination of the normal contribution payable to the contingent reserve fund in the city's nineteen hundred eighty-four--nineteen hundred eighty-five fiscal year and interest at the rate of eight per centum per annum, there shall be determined as of June thirtieth, nineteen hundred eighty-five, the amount of the actuarial accrued liability of the retirement system, computed pursuant to the entry age normal cost method of ascertaining such actuarial accrued liability.

(C) Upon the basis of the actuarial tables in effect for valuation purposes with respect to determination of the normal contribution payable to the contingent reserve fund in the city's nineteen hundred eighty-five--nineteen hundred eighty-six fiscal year and interest at the rate of eight per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty-five, the amount of the actuarial accrued liability of the retirement system, computed pursuant to the entry age normal costs method of ascertaining such actuarial accrued liability.

(D) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred eighty-eight, the nineteen hundred eighty-five unfunded accrued liability adjustment shall be the applicable installments of an amount which, if credited in thirty equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-five--nineteen hundred

eighty-six fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) or otherwise pursuant to law, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the excess of the amount computed pursuant to sub-item (B) of this item (vii) over the amount computed pursuant to sub-item (C) of this item (vii).

(E) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand fifteen, the nineteen hundred eighty-five unfunded accrued liability adjustment shall be an amount which, when credited in twenty-seven equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) or otherwise pursuant to law, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the nineteen hundred eighty-five unfunded accrued liability adjustment computed pursuant to sub-item (D) of this item (vii), which installments are hypothetically allocated by such sub-item (D) to designated fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(7) The balance sheet liability as of June thirtieth, nineteen hundred seventy-four shall be the sum of twenty-five million, eight hundred two thousand, nine hundred seventy-two dollars ($25,802,972), consisting of the sum of:

(i) the discounted value, as of June thirtieth, nineteen hundred seventy-four, of the sum of eleven million, fifty thousand, eight hundred eighty-eight dollars ($11,050,888), which constituted the amount payable to the contingent reserve fund in the city's nineteen hundred seventy-four--nineteen hundred seventy-five fiscal year by the board of

education in fulfillment of its obligations to make contributions to the retirement system payable in such fiscal year, such discounting being calculated on the basis of interest at the rate of five and one-half per centum per annum and a discount period of six months extending retroactively from January first, nineteen hundred seventy-five to June thirtieth, nineteen hundred seventy-four and such discounted value being the sum of ten million, seven hundred fifty-eight thousand, nine hundred seventy-nine dollars ($10,758,979); and

(ii) the discounted value, as of June thirtieth, nineteen hundred seventy-four, of the sum of sixteen million, three hundred two thousand, thirty-eight dollars ($16,302,038), which constituted the amount payable into the contingent reserve fund in the city's nineteen hundred seventy-five--nineteen hundred seventy-six fiscal year by the board of education in fulfillment of its obligations to make contributions to the retirement system payable in such fiscal year, such discounting being calculated on the basis of interest at the rate of five and one-half per centum per annum and a discount period of eighteen months extending retroactively from January first, nineteen hundred seventy-six to June thirtieth, nineteen hundred seventy-four, and such discounted value being the sum of fifteen million, forty-three thousand, nine hundred ninety-three dollars ($15,043,993).

(8) The balance sheet liability as of each June thirtieth succeeding June thirtieth, nineteen hundred seventy-four to and including June thirtieth, nineteen hundred eighty, shall be determined as provided for in subparagraphs nine to sixteen, inclusive, of this paragraph.

(9) To the amount of the balance sheet liability as of June thirtieth next preceding the June thirtieth (which last-mentioned June thirtieth is hereinafter referred to as the "subject June thirtieth") as of which the balance sheet liability is being determined as provided for in subparagraph eight of this paragraph, there shall be added one year's interest on such amount at the rate of five and one-half per centum per annum.

(10) With respect to the city's fiscal year ending on the subject June thirtieth (hereinafter referred to as the "subject fiscal year") there shall be added together the contribution components hereinafter specified in this subparagraph, which components, for the purposes of subparagraphs eight to sixteen, inclusive, of this paragraph, are

hypothetically deemed to have accrued in the subject fiscal year and to have been payable therein, as follows:

(i) the amount of the normal contribution for balance sheet liability purposes (as defined in subparagraph five of paragraph (a) of this subdivision); and

(ii) the amount of the applicable installment of the unfunded accrued liability contribution for balance sheet liability purposes (as defined in subparagraph six of paragraph (a) of this subdivision); and

(iii) the amount of the annual contribution, for balance sheet liability purposes, on account of amortization of losses on dispositions of certain securities within the meaning of subdivision six of section seven of the rules and regulations (as defined in subparagraph seven of paragraph (a) of this subdivision); and

(iv) the amount of the annual contribution, for balance sheet liability purposes, on account of reserves-for-increased-take-home pay (as defined in subparagraph eight of paragraph (a) of this subdivision); and

(v) the amount of the annual military law contribution for balance sheet liability purposes (as defined in subparagraph nine of paragraph (a) of this subdivision).

(11) To the amount resulting from the addition prescribed by subparagraph ten of this paragraph (c), there shall be added interest thereon at the rate of five and one-half per centum per annum from January first of the subject fiscal year to June thirtieth of such fiscal year.

(12) The amount computed pursuant to subparagraph nine of this paragraph in relation to the balance sheet liability as of June thirtieth next preceding the subject June thirtieth (together with one year's interest on such balance sheet liability) shall be added to the amount computed pursuant to subparagraph ten of this paragraph in relation to the subject fiscal year.

(13) From the amount computed pursuant to subparagraph twelve of this paragraph, there shall be subtracted the sum of:

(i) The total amount of the sums paid to the contingent reserve fund during the subject fiscal year by the board of education on account of its obligations, which accrued during the city's second fiscal year preceding the subject fiscal year to provide:

(A) the normal contribution payable in the subject fiscal year under the provisions of subparagraphs two and three of this paragraph, as then in effect; and

(B) the installment of the deficiency contribution (as defined in subparagraph ten of paragraph (a) of this subdivision) or the installment of the original unfunded accrued liability contribution (as defined in item (i) of subparagraph five of this paragraph), as the case may be, payable in the subject fiscal year; and

(C) the amount of the contribution on account of amortization, pursuant to subdivision six of section seven of the rules and regulations, of losses on dispositions of certain securities (as defined in subparagraph eleven of paragraph (a) of this subdivision) payable in the subject fiscal year; and

(D) the amount payable in the subject fiscal year on account of reserves-for-increased-take-home pay; and

(E) the amount payable in the subject fiscal year in behalf of members pursuant to subdivision twenty of section two hundred forty-three of the military law; plus

(ii) interest on such total amount referred to in item (i) of this subparagraph thirteen at the rate of five and one-half per centum per annum from January first of the subject fiscal year to June thirtieth thereof.

(14) The remainder resulting from the subtraction prescribed by subparagraph thirteen of this paragraph shall be the balance sheet liability as of June thirtieth of the subject fiscal year.

(15) The balance sheet liability as of June thirtieth, nineteen hundred eighty shall be the amount resulting from the successive computations of the balance sheet liability as of each June thirtieth succeeding June thirtieth, nineteen hundred seventy-four up to and including June thirtieth, nineteen hundred eighty as prescribed by subparagraphs eight to fourteen, inclusive, of this paragraph.

(16) The balance sheet liability contribution payable in the city's nineteen hundred eighty-one--nineteen hundred eighty-two fiscal year shall be the first annual installment of an amount which, if paid to the contingent reserve fund in forty equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty-one--nineteen hundred eighty-two fiscal year, would be the

actuarial equivalent, as of June thirtieth, nineteen hundred eighty-one, on the basis of seven and one-half per centum interest per annum, of an amount equal to the balance sheet liability as of June thirtieth, nineteen hundred eighty.

(16-a) The balance sheet liability contribution payable in each city fiscal year during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight shall be one annual installment of an amount which, if paid to the contingent reserve fund in thirty-nine equal annual installments, commencing with a first payment in the city's nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year, would be the actuarial equivalent, as of June thirtieth, nineteen hundred eighty-two, on the basis of eight per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-two on the basis of seven and one-half per centum interest per annum, of those installments of the balance sheet liability contribution computed pursuant to subparagraph (16) of this paragraph (c), which installments are hypothetically allocated by such subparagraph (16) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-two.

(16-b) The balance sheet liability contribution payable in each city fiscal year during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand twenty-one shall be one annual installment of an amount which, when paid to the contingent reserve fund in thirty-three equal annual installments, commencing with a first payment in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year, shall be the actuarial equivalent, as of June thirtieth, nineteen hundred eighty-eight, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the balance sheet liability contribution computed pursuant to subparagraph (16-a) of this paragraph (c), which installments are hypothetically allocated by such subparagraph (16-a) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(17) Notwithstanding any provision of the rules and regulations or any other provision of law to the contrary, whenever the retirement board,

on the recommendation of the actuary, shall determine that it is necessary to increase the reserves held in the annuity reserve fund, the pension reserve fund or the pension fund, such board may direct that the amount so needed shall be transferred thereto from the contingent reserve fund.

(d) (1) During the period commencing on July first, nineteen hundred seventy-seven and ending on June thirtieth, nineteen hundred eighty, special interest at the rate of one and one-half per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund of the retirement system.

(2) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred eighty and ending on June thirtieth, nineteen hundred eighty-two, special interest at the rate of three and one-half per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(3) (i) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred eighty-two and ending on July thirty-first, nineteen hundred eighty-three, special interest at the rate of four per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(ii) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on August first, nineteen hundred eighty-three and ending on June thirtieth, nineteen hundred eighty-five, special interest at the rate of one per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(iii) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred eighty-eight, special interest at the rate of one per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(iv) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred

eighty-eight and ending on June thirtieth, nineteen hundred ninety, special interest at the rate of one and one-quarter per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(4) Such special interest provided for by subparagraphs (1), (2) and (3) of this paragraph shall be credited to such individual account of each member entitled thereto in the same manner and at the same time as regular interest is required to be credited to such account with respect to the same period of time. Such special interest shall not be considered in determining rates of contributions of members. Nothing contained in this paragraph shall be construed as applicable to any member who is subject to the provisions of article fourteen or article fifteen of the retirement and social security law.

(e) (1) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one and one-half per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred seventy-seven and ending on June thirtieth, nineteen hundred eighty.

(2) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of three and one-half per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty and ending on June thirtieth, nineteen hundred eighty-two.

(3) (i) Subject to the provisions of paragraph (f) of this subdivision in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of four per centum per annum compounded annually shall be included for each city fiscal year and portion thereof occurring during the period beginning on July first, nineteen hundred eighty-two and ending on July thirty-first, nineteen hundred eighty-three.

(ii) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one per

centum per annum compounded annually shall be included for each city fiscal year and portion thereof occurring during the period beginning on August first, nineteen hundred eighty-three and ending on June thirtieth, nineteen hundred eighty-five.

(iii) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred eighty-eight.

(iv) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one and one-quarter per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, nineteen hundred ninety.

(4) Additional interest shall not be considered in determining rates of contribution of members. Nothing contained in this paragraph (e) shall be construed as applicable to any member who is subject to the provisions of article fourteen or article fifteen of the retirement and social security law.

(f) (1) The provisions of subparagraph (2) of paragraph (d) of this subdivision and of subparagraphs (1) and (2) of paragraph (e) of this subdivision, to the extent that any of such provisions grants special or additional interest, as the case may be, for any period prior to July thirty-first, nineteen hundred eighty-two, shall not apply to any person who was not a member on such July thirty-first and shall not apply to any person to whom, on such July thirty-first, a deferred retirement allowance or any part of such a retirement allowance was payable pursuant to the provisions of section thirty-two of the rules and regulations. Nothing contained in paragraphs (d) and (e) of this subdivision shall be construed as granting special or additional interest, as the case may be, to any person with respect to any period wherein such person was not a member entitled to be credited with regular interest for the same period or was not a discontinued member

entitled to be credited, as a discontinued member, with regular interest for the same period.

(2) (i) The provisions of item (i) of subparagraph (3) of paragraph (d) of this subdivision sixteen, to the extent that such item grants special interest for any period prior to December sixteenth, nineteen hundred eighty-two, and the provisions of item (i) of subparagraph (3) of paragraph (e) of this subdivision, to the extent that such item grants additional interest for any period prior to such date, shall not apply to any person who was not a member on such date and shall not apply to any person to whom, on such date, a deferred retirement allowance or any part of such a retirement allowance was payable pursuant to the provisions of section thirty-two of the rules and regulations.

(ii) The provisions of item (iv) of subparagraph (3) of paragraph (d) of this subdivision sixteen, to the extent that such item grants special interest for any period prior to the date of enactment of this item (ii) of this subparagraph (2) of this paragraph (f) (as such date is certified, pursuant to section forty-one of the legislative law), and the provisions of item (iv) of subparagraph (3) of paragraph (e) of this subdivision, to the extent that such item grants additional interest for any period prior to such date shall not apply to any person who was not a member on such date and shall not apply to any person to whom, on such date, a deferred retirement allowance or any part of such a retirement allowance was payable pursuant to the provisions of section thirty-two of the rules and regulations.

(3) Nothing contained in paragraphs (d) and (e) of this subdivision shall be construed as granting special or additional interest, as the case may be, to any person with respect to any period wherein such person was not a member entitled to be credited with regular interest for the same period or was not a discontinued member entitled to be credited, as a discontinued member, with regular interest for the same period.

(g) (1) As used in this paragraph, the term "funds" shall mean the funds created in accordance with the provisions of the rules and regulations other than the variable annuity funds provided for by the rules and regulations.

(2) Subject to the provisions of subparagraph (4) of this paragraph,

in addition to regular interest annually allowed for the period from July first, nineteen hundred seventy-seven to June thirtieth, nineteen hundred eighty on the mean amount for the preceding year in each of the funds created in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one and one-half per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest was credited to such funds with respect to such period.

(3) Subject to the provisions of subparagraph (4) of this paragraph, in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty to June thirtieth, nineteen hundred eighty-two on the mean amount for the preceding year in each of the funds created in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of three and one-half per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(4) (i) Subject to the provisions of subparagraph (5) of this paragraph (g), in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty-two to July thirty-first, nineteen hundred eighty-three on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of four per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(ii) Subject to the provisions of subparagraph (5) of this paragraph, in addition to regular interest annually allowed for the period from August first, nineteen hundred eighty-three to June thirtieth, nineteen hundred eighty-five on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of the rules

and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(iii) Subject to the provisions of subparagraph (5) of this paragraph (g), in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty-five to June thirtieth, nineteen hundred eighty-eight on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(iv) Subject to the provisions of subparagraph (5) of this paragraph (g), in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty-eight to June thirtieth, nineteen hundred ninety on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one and one-quarter per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(5) The provisions of subparagraphs (2), (3) and (4) of this paragraph shall not apply to or affect (i) the allowance of interest on or the crediting of interest to accounts of members or discontinued members in the annuity saving fund or (ii) the allowance of interest on or the crediting of interest to reserves-for-increased-take-home-pay of members or discontinued members or (iii) the determination of the amount of any benefit payable to any member or beneficiary.

(h-1) The allowance of special interest, additional interest and supplementary interest, if any, with respect to any fiscal year of the

city beginning on or after July first, nineteen hundred ninety shall be governed by the applicable provisions of section 13-638.2 of the administrative code of the city.

(h-2) The provisions of paragraph (d) of this subdivision, as such paragraph applies to the contributions made by a member and the benefits provided thereby, shall apply separately and independently to the tax-deferred annuity net contributions, if any, of such member and the benefits provided thereby, except as otherwise provided by section thirty-three of the rules and regulations.

(h-3) The provisions of subdivisions f and h of section 13-638.2 of the administrative code of the city (to the extent that such subdivisions f and h apply to this retirement system), as such subdivisions f and h apply to the contributions made by a member and the benefits provided thereby, shall apply separately and independently to the tax-deferred annuity net contributions, if any, of such member and the benefits provided thereby, except as otherwise specified in section thirty-three of the rules and regulations.

(i) (1) Notwithstanding the provisions of section nine of the rules and regulations or any other provision of the rules and regulations or any other law to the contrary, but subject to the provisions of subparagraphs two, three and four of this paragraph, all income, interest and dividends derived from deposits and investments authorized by the rules and regulations, which income, interest and dividends were heretofore or are hereafter received during any fiscal year commencing on or after July first, nineteen hundred eighty, shall be used in such fiscal year for the purposes hereinafter specified in this subparagraph (to the extent that such income, interest and dividends are sufficient for such purposes), in the order of priority herein stated, as follows:

(A) first, to pay into the funds of the retirement system the amounts of regular interest which are required to be paid into such funds in such fiscal year by reason of being required to be allowed to such funds pursuant to the provisions of paragraph a of subdivision two of section seven of the rules and regulations, and to pay into such funds the amounts of supplementary interest, if any, required to be so paid in such fiscal year under the provisions of paragraph (g) of this subdivision, and to pay into the annuity savings fund the amounts of special interest, if any, required to be so paid in such fiscal year

under the provisions of paragraph (d) of this subdivision, and to pay into the contingent reserve fund the amounts of additional interest, if any, required to be paid in such fiscal year under the provisions of paragraph (e) of this subdivision;

(B) second, to pay into the contingent reserve fund the amount of any losses in excess of gains (i) which net losses the retirement system sustained during such fiscal year by reason of sales or other dispositions of securities, and (ii) for which net losses the retirement system is required to be reimbursed in such fiscal year, and (iii) to which net losses subdivision six of section seven of the rules and regulations, relating to graduated crediting of gains and amortization of losses on dispositions of certain securities, does not apply;

(C) third, if the total amount of such income, interest and dividends received during such fiscal year is in excess of the total amount required to make, in such fiscal year, the payments prescribed by items (A) and (B) of this subparagraph, the amount of such excess shall be paid into the contingent reserve fund and shall become a part of the assets of such fund.

(2) (A) Notwithstanding any other provision of this subdivision or any other law to the contrary, the term "all income, interest and dividends derived from deposits and investments", as used in paragraph (f) of this subdivision (as such subdivision was in effect prior to July first, nineteen hundred eighty), shall be construed, in relation to disposition of all income, interest and dividends received by the retirement system in each of the city's nineteen hundred seventy-six--nineteen-hundred seventy-seven and nineteen hundred seventy-seven--nineteen hundred seventy-eight obligations fiscal years (as such fiscal years were defined by paragraph (a) of this subdivision prior to such July first) as meaning the remainder obtained by subtracting from such income, interest and dividends the sum of (i) the amounts of regular, supplementary and special interest required to be allowed and paid into the appropriate funds of the retirement system in such fiscal year pursuant to the applicable provision of subdivision two of section seven of the rules and regulations and this subdivision and (ii) the amount of any losses in excess of gains (1) which net losses were sustained by the retirement system during such fiscal year and which net losses were sustained by reason of sales or other dispositions of securities, and

(2) to which net losses the provisions of subdivision six of section seven of the rules and regulations do not apply.

(B) for the purposes of the order of priority governing the disposition of such remainder in the payment fiscal year with respect to each such obligations fiscal year (as such disposition was prescribed by the provisions of this subdivision as in effect during each such payment fiscal year) the provisions of items (A) and (B) of subparagraph (i) of such paragraph (f) shall be deemed to have been inapplicable and the order of priority for such disposition shall be first, the use set forth in item (C) of such subparagraph, second, the use set forth in item (D) of such subparagraph, third, the use set forth in item (E) of such subparagraph and fourth, the use set forth in item (F) of such subparagraph, as such items were in effect during such payment fiscal year.

(3) (a) All income, interest and dividends which were derived from deposits and investments authorized by the rules and regulations and which were received during each of the city's nineteen hundred seventy-eight--nineteen hundred seventy-nine and nineteen hundred seventy-nine--nineteen hundred eighty fiscal years shall be used in each such fiscal year for the purposes hereinafter stated in this subparagraph, in the order of priority herein stated, as follows:

(A) first, (i) to pay into the funds of the retirement system the amounts of regular interest which are required to be paid into such funds in such fiscal year wherein such income, interest and dividends were received, which interest is so payable by reason of being required to be allowed to such funds in such fiscal year pursuant to the provisions of paragraph a of subdivision two of section seven of the rules and regulations and (ii) to pay into such funds the amounts of supplementary interest required to be so paid in such fiscal year under the applicable provisions of paragraph (d) of this subdivision, and (iii) to pay into the annuity savings fund the amounts of special interest required to be so paid in such fiscal year under the applicable provisions of paragraph (d) of this subdivision, and (iv) to pay into the contingent reserve fund the amounts of additional interest required to be paid in such fiscal year under the applicable provisions of paragraph (e) of this subdivision;

(B) second, to pay into the contingent reserve fund the amount of any

losses in excess of gains (i) which net losses were sustained by the retirement system during such fiscal year in which such income, interest and dividends were received and which net losses were sustained by reason of sales or other dispositions of securities, and (ii) for which net losses the retirement system is required to be reimbursed in such fiscal year, and (iii) to which net losses subdivision six of section seven of the rules and regulations, relating to graduated crediting of gains and amortization of losses on dispositions of certain securities, does not apply; and

(C) third, to pay into the contingent reserve fund the amount, if any, by which,

(i) the total of all losses which the retirement system sustained during such fiscal year by reason of sales of securities within the meaning of subdivision six of section seven of the rules and regulations and which the board of education would otherwise be required to amortize pursuant to such subdivision, exceeds

(ii) the total of all gains which were realized during such fiscal year by reason of sales of securities within the meaning of such subdivision and which would otherwise be required by such subdivision to be credited in favor of the board of education in installments.

(b) If the total amount of such income, interest and dividends received during each such fiscal year referred to in item (a) of this subparagraph is in excess of the total amount required to make, in the same fiscal year, the payments prescribed by sub-items (A), (B) and (C) of such item (a), the amount of such excess shall be paid into the contingent reserve fund as of June thirtieth of such fiscal year and shall become a part of the assets of such fund as of such date.

(4) Nothing contained in subparagraphs one, two and three of this paragraph shall be construed as applicable to income, interest and dividends resulting from deposits or investments made under the variable annuity program of the retirement system.

(j)(1) The board of education or the New York city school construction authority shall make monthly payments, in twelve equal installments, with respect to the respective obligations which such board or authority incurs to pay sums to the retirement system.

(2) In the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year and in each city fiscal year thereafter, the equal monthly

payments shall be in respect of obligations which accrue in such fiscal year and shall be made in such fiscal year on or before the last day of each month.

(2-a) Where a responsible obligor (as defined in paragraph ten of subdivision a of section 13-638.2 of the administrative code of the city of New York) is required to make payments to the retirement system pursuant to applicable provisions of law in fiscal year two thousand twelve--two thousand thirteen, and in any fiscal year thereafter, and the provisions of this paragraph or the provisions of any other applicable law do not otherwise specifically require such responsible obligor to make such payments by a particular date or dates during such fiscal year, such responsible obligor shall make such payments either (i) in total on or before January first of such fiscal year, or (ii) in twelve equal monthly installments, as determined by the actuary, with each monthly installment to be paid on or before the last day of each month.

(3) The retirement board of the retirement system may waive the requirements of the foregoing provisions of this paragraph with respect to time of payment to such system, provided that any such waiver of time of payment in any instance shall not apply to the time of subsequent payments unless there shall be a subsequent waiver.

17. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section.

(b) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Member." Any person included in the membership of the retirement system as provided in section three of the rules and regulations.

(2) "Actuarial equivalent benefit." Any benefit which pursuant to the rules and regulations or by law is required to be an actuarial equivalent or pursuant to the rules and regulations or by law is required to be determined on the basis of an actuarial equivalent.

(3)(i) "Seven percent member for actuarial equivalent benefit purposes." A member who meets all of the following conditions:

(A) paragraph (c) of this subdivision (relating to the definition of members to whom regular interest at seven per centum per annum, compounded annually, applies) applies to such member; and

(B) an actuarial equivalent benefit (other than a variable annuity program benefit) has become payable by the retirement system to or on account of such member; and

(C) it is provided by a resolution adopted by the retirement board (A) that a mortality table which does not differentiate on the basis of sex shall be used to calculate such actuarial equivalent benefit or a portion of such benefit, or (B) that the modified Option 1 pension computation formula (as defined in subparagraph thirteen of this paragraph) shall be used to calculate such actuarial equivalent benefit.

(ii) Except in cases to which the modified Option 1 pension computation formula applies pursuant to a resolution adopted by the retirement board, nothing contained in sub-item (C) of item (i) of this subparagraph shall be construed as referring to or including any calculation of an actuarial equivalent benefit (or portion of such benefit) payable to any person where such calculation is required by retirement board resolution to be made through the use of a sex-differentiated mortality table.

(4) "Tier I member." A member whose benefits (other than a supplemental retirement allowance) are prescribed by the rules and regulations and who is not subject to the provisions of article eleven, article fourteen or article fifteen of the retirement and social security law.

(5) "Tier II member." A member who is subject to the provisions of article eleven of the retirement and social security law.

(6) "Tier III member." A member who is subject to the provisions of article fourteen of the retirement and social security law.

(7) "Tier IV member." A member who is subject to the provisions of article fifteen of the retirement and social security law.

(8) "Tier III member entitled to a vested benefit." A Tier III member who is entitled to a deferred vested benefit under the provisions of section five hundred sixteen of the retirement and social security law.

(9) "Tier IV member entitled to a vested benefit." A Tier IV member who is entitled to a deferred vested benefit under the provisions of section six hundred twelve of the retirement and social security law.

(10) "Education service." Service as a paid official or employee of the board of education of the city of New York as now constituted, or of any prior board, body or agency of which it is the successor in school affairs in the territory now comprised within the city and school district of New York, or the New York city school construction authority, and allowable as provided in section four of the rules and regulations.

(11) "Discontinued member." A fifty-five-year-increased-service-fraction member (as defined in subdivision thirty-one of section two of the rules and regulations) who has discontinued education-service and has a vested right to a deferred retirement allowance under the provisions of section thirty-two of the rules and regulations.

(12) "Variable annuity program benefit." Any benefit under the variable annuity program of the retirement system which is payable from the variable annuity reserve fund or the variable pension reserve fund.

(13) (i) "Modified Option 1 pension computation formula." The method of computing the pension component of an Option 1 retirement allowance payable to a Tier I member and the amount of the Option 1 benefit payable to the beneficiary or estate of such member who selected or selects (or is deemed to have selected) Option 1 as to such pension component, which method of computation is as prescribed by the succeeding items of this subparagraph.

(ii) The initial reserve for such pension component shall be computed through use of mortality tables which do not differentiate on the basis of sex (hereinafter referred to as "gender-neutral mortality tables") and an interest assumption consisting of regular interest of seven per centum per annum, compounded annually.

(iii) Solely for the purpose of use as the minuend from which the payments of such pension component to such member are subtracted in order to determine the amount of the Option 1 benefit payable, upon such member's death, to such member's beneficiary or estate by reason of such Option 1 selection in relation to such pension component, the present value of such member's maximum pension, as it was at the time of such member's retirement, shall be deemed to be the greatest of:

(A) such present value determined on the basis of gender-neutral nortality tables and an interest assumption consisting of regular interest of seven per centum per annum, compounded annually; or

(B) such present value determined on the basis of the female mortality tables and the regular interest applicable to such member in effect immediately prior to the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision; or

(C) such present value determined on the basis of the male mortality tables and the regular interest applicable to such member in effect immediately prior to the date of enactment of this subdivision.

(iv) The pension component payable to such member shall be computed on the basis of gender-neutral mortality tables and an interest assumption consisting of regular interest of seven per centum per annum, compounded annually, so that:

(A) the present value, as it was at the time of such member's retirement, of such component; plus

(B) the present value, as it was at the time of such member's retirement, of the amount payable to such member's Option 1 beneficiary or estate upon the death of the member as provided for by the applicable provisions of item (v) of this subparagraph;

shall be equal to the Option 1 initial reserve determined for such pension component with respect to such member pursuant to the provisions of item (ii) of this subparagraph.

(v) Where such member dies before he or she has received payments on account of such pension component equal to the present value of such member's maximum pension as computed pursuant to item (iii) of this subparagraph, the Option 1 benefit payable to the beneficiary or estate of such deceased member, by reason of such Option 1 selection in relation to such pension component, shall be the remainder obtained by subtracting from such present value determined pursuant to such item (iii) in relation to such pension component, the total of such Option 1 payments on account of such pension component received by or payable to such member for the period prior to his or her death.

(vi) In relation to the Option 1 benefits determined pursuant to the method of computation set forth in this subparagraph by reason of discontinuance of education service by a discontinued member, the phrase "time of such member's retirement" as set forth in items (iii) and (iv) of this subparagraph, shall be deemed, for the purposes of this subparagraph, to mean the date of commencement of the retirement allowance of such discontinued member.

(14) "Selection of mode of benefit." The choice made by a member (as permitted by and pursuant to the requirements of the rules and regulations or applicable law governing such choice by such member) as to whether the maximum amount of his or her retirement allowance or a component thereof shall be payable or such retirement allowance or a component thereof shall be payable under an option selected by the member. The term "selection of mode of benefit" shall include a case where the maximum retirement allowance or a maximum component thereof becomes payable because of a member's omission, within the time permitted by the rules and regulations or applicable law, to select the maximum benefit or an option.

(15) "Best-of-three-computations method." (i) A method (as prescribed by a resolution of the retirement board of the retirement system) under which a retirement allowance (or portion thereof) payable to a member is required to be determined for such member so that:

(A) if such retirement allowance (or portion thereof) does not include a variable annuity program benefit, such retirement allowance is the greatest of:

(1) such retirement allowance (or portion thereof) determined on the basis of gender-neutral mortality tables and regular interest at the rate of seven per centum per annum; or

(2) such retirement allowance (or portion thereof) determined on the basis of female mortality tables and the regular interest applicable to such member as of a time prescribed in such resolution; or

(3) such retirement allowance (or portion thereof) determined on the basis of male mortality tables and the regular interest applicable to such member as of a time prescribed in such resolution; and

(B) if such retirement allowance (or portion thereof) includes a variable annuity program benefit, then the part of such retirement allowance (or portion thereof) other than any variable annuity program benefit is determined in the manner provided for by sub-item (A) of this item and such variable annuity program benefit (or portion thereof) is the greatest of:

(1) such variable annuity program benefit (or portion thereof) determined on the basis of gender-neutral mortality tables and a uniform rate of interest of four percent, as such rate of interest is provided for in section forty-four of the rules and regulations; or

(2) such variable annuity program benefit (or portion thereof) determined on the basis of female mortality tables and such uniform rate of interest of four percent; or

(3) such variable annuity program benefit (or portion thereof) determined on the basis of male mortality tables and such uniform rate of interest of four percent.

(ii) Where, under the provisions of any such resolution of the retirement board, the modified Option 1 pension computation formula (as defined in subparagraph thirteen of this paragraph) applies to any member, the term, "best-of-three-computations method," where used in relation to such member, shall be deemed to include such modified Option 1 pension computation formula, to the extent that such formula governs the determination of the pension component (or portion thereof) of such member's retirement allowance.

(16) "Person entitled to a recomputation of benefits." Any person who meets all of the conditions stated below in this subparagraph:

(i) such person, during the period beginning on August first, nineteen hundred eighty-three and ending on the date next preceding the date of enactment (as such termination date of eligibility for option re-selection (as defined in subparagraph nineteen of this paragraph), (A) retired or retires for age or service or superannuation or for ordinary or accident disability, or (B) discontinued or discontinues education service so as to become a discontinued member, or (C) terminated or terminates employment so as to become a Tier III member entitled to a vested benefit or a Tier IV member entitled to a vested benefit; and

(ii) such person's retirement allowance (or portion thereof), by reason of such retirement or discontinuance of education service or termination of employment, is required by a resolution adopted by the retirement board to be re-determined pursuant to (A) the best-of-three-computations method (as defined in subparagraph fifteen of this paragraph), or (B) the gender-neutral computations method (as defined in subparagraph eighteen of this paragraph); and

(iii) a first payment (if such person, at the time of retirement, discontinuance of education service or termination of employment, was a Tier I member, Tier II member or Tier III member) on account of his or her retirement allowance (as such retirement allowance was determined

prior to the termination date of eligibility for option re-selection) was made prior to such termination date of eligibility for option re-selection; or (if such person, at the time of retirement, or termination of employment, was a Tier IV member), his or her effective date of retirement (or date of commencement of benefits, if he or she was a Tier IV member entitled to a vested benefit) occurred prior to the termination date of eligibility for option re-selection.

(17) "Joint and survivor option." (i) Any option under which, at the time when such option is selected, a choice is made which includes both:

(A) a benefit payable for the lifetime of the retired or vested member by whom or in whose behalf such option is selected; and

(B) a benefit (1) which consists of an amount equal to or constituting a percentage of such retired or vested member's benefit and (2) which is payable for the lifetime of a designated beneficiary selected at the time when such option is selected.

(ii) In any case where an option described in item (i) of this subparagraph includes a provision prescribing that if the designated beneficiary predeceases such retired or vested member, a maximum benefit shall become payable to such member, such option shall nevertheless be deemed to be a joint and survivor option.

(18) "Gender-neutral computations method." A method (as prescribed by a resolution of the retirement board of the retirement system) under which a retirement allowance (or portion thereof) payable to a member is required to be determined in the following manner:

(i) if such retirement allowance (or portion thereof) does not include a variable annuity program benefit, such retirement allowance (or portion thereof) is determined on the basis of gender-neutral mortality tables and regular interest at the rate of seven per centum per annum, without reference to any other actuarial mortality or interest assumption; or

(ii) if such retirement allowance (or portion thereof) includes a variable annuity program benefit, then the part of such retirement allowance (or portion thereof) other than any variable annuity program benefit is determined in the manner provided for by item (i) of this subparagraph, and such variable annuity program benefit (or portion thereof) is determined on the basis of gender-neutral mortality tables and a uniform rate of interest of four percent (as such rate of interest

is provided for in section forty-four of the rules and regulations), without reference to any other actuarial mortality or interest assumption.

(19) "Termination date of eligibility for option re-selection" shall mean October first, nineteen hundred eighty-seven, provided that if the executive director of the retirement system certifies to the retirement board that as of such October first, or any later termination date which the retirement board may establish pursuant to the provisions of this subparagraph nineteen, it will not be administratively feasible to process benefits (including conversion from fixed to variable benefits and vice versa) under the best-of-three-computations method (as defined in subparagraph fifteen of this paragraph (b)) and/or the gender-neutral computations method (as defined in subparagraph eighteen of this paragraph (b)) for any persons who are entitled, pursuant to law and/or retirement board resolution, to benefits so computed, then the retirement board, by resolution, may extend the termination date of eligibility for option re-selection, as applicable to such persons, to a later date, provided further, however, that any such extension or extensions directed by the retirement board upon such certification or certifications shall not result in any such extended termination date later than eighteen months after October first, nineteen hundred eighty-seven. In the event that any such extension is directed by a resolution of the retirement board adopted prior to the date of enactment of this subparagraph nineteen, such extension, upon the enactment of this subparagraph, shall be valid and effective as of the date of adoption of such resolution in the same manner and to the same extent as if such enactment had occurred before such date of adoption.

(c) Notwithstanding any provision of subdivision fifteen of section two of the rules and regulations or any other law to the contrary, commencing on August first, nineteen hundred eighty-three, and continuing thereafter, "regular interest", in the cases of persons who were members on July thirty-first, nineteen hundred eighty-three or who thereafter became or become members, shall mean, subject to the provisions of paragraphs (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) of this subdivision, interest at seven per centum per annum, compounded annually.

(d) (1) (i) Subject to the provisions of items (ii) and (iii) of this

subparagraph, regular interest at the rate of seven per centum per annum, compounded annually, shall be used as the actuarial interest assumption for determining any actuarial equivalent benefit (other than a variable annuity program benefit) payable to or on account of any seven percent member for actuarial equivalent benefit purposes.

(ii) Where an actuarial equivalent benefit is required by retirement board resolution to be determined for any seven percent member for actuarial equivalent benefit purposes through the use of the modified Option 1 pension computation formula (as defined in subparagraph thirteen of paragraph (b) of this subdivision), the actuarial interest assumptions used in making such determination shall be as prescribed in such formula.

(iii) Where it is provided by board resolution that a portion of an actuarial equivalent benefit shall be determined for any seven percent member for actuarial equivalent benefit purposes on the basis of gender-neutral mortality tables, and that the remainder of such benefit shall be determined on the basis of mortality tables which are not gender-neutral, regular interest at the rate of seven per centum per annum, compounded annually, shall be used as the actuarial interest assumption for determining the portion of such benefit required by such resolution to be determined on the basis of gender-neutral mortality tables and such rate of regular interest shall not apply to the determination of the remainder of such benefit.

(2) Notwithstanding that the process of determining whether a member is a seven percent member for actuarial equivalent benefit purposes may include, for the purpose of ascertaining the highest applicable benefit, alternative hypothetical benefit calculations utilizing a rate of regular interest other than such rate of seven per centum, nothing contained in paragraph (c) of this subdivision or in subparagraph one of this paragraph shall be construed as requiring that in the determination of any actuarial equivalent benefit (other than a variable annuity program benefit) payable to or on account of any member who is not a seven percent member for actuarial equivalent benefit purposes, any rate of interest be used other than regular interest, as prescribed by the applicable provisions of subdivision fifteen of section two of the rules and regulations.

(e) The provisions of subparagraph one of paragraph (d) of this

subdivision shall not apply to any person who, prior to August first, nineteen hundred eighty-three, retired as a member of the retirement system for age or service or superannuation or for ordinary or accident disability and who was such a retiree immediately prior to such August first; provided, however, that where any such retiree retired pursuant to subdivision two of section ten of the rules and regulations or retired for ordinary or accident disability, and such retiree re-entered or re-enters education service and on or after July thirty-first, nineteen hundred eighty-three, was or is restored to membership in the retirement system, the provisions of such subparagraph one, from and after such date of restoration to membership, shall apply to such restored member with respect to determination of any actuarial equivalent benefit which is both (1) a benefit to which he or she became or becomes entitled upon his or her subsequent retirement or subsequent discontinuance of service so as to qualify for benefits, and (2) a benefit which is not a continuation, without change, of a benefit which had previously become payable to him or her by reason of his or her prior retirement; provided further that nothing contained in the preceding provisions of this paragraph shall be construed as making subparagraph one of such paragraph (d) applicable to any such member who was not or is not a seven percent member for actuarial equivalent benefit purposes at such time of subsequent retirement or subsequent discontinuance of service.

(f) (1) Subject to the provisions of subparagraph two of this paragraph, the provisions of subparagraph one of paragraph (d) of this subdivision shall not apply to any Tier I or Tier II member who, (A) prior to August first, nineteen hundred eighty-three discontinued service under such circumstances that such member became a discontinued member and acquired a vested right to receive a retirement allowance pursuant to section thirty-two of the rules and regulations (and, in the case of a Tier II member, article eleven of the retirement and social security law), and (B) was such a discontinued member immediately prior to such August first.

(2) If such a discontinued member returned or returns to education service and on or after July thirty-first, nineteen hundred eighty-three and before payability of his or her retirement allowance as such member began or begins, again became or becomes an active member pursuant to

the applicable provisions of such section thirty-two, the provision of subparagraph one of such paragraph (d) shall apply to him or her on and after the date of such resumption of active membership; provided that nothing contained in the preceding provisions of this subparagraph shall be construed as making the provisions of subparagraph one of such paragraph (d) applicable to any such member who was not or is not a seven percent member for actuarial equivalent benefit purposes at the time of subsequent retirement or subsequent discontinuance of service so as to qualify for benefits.

(3) Subject to the provisions of subparagraph four of this paragraph, the provisions of subparagraph one of paragraph (d) of this subdivision shall not apply to any Tier III or Tier IV member who, (i) prior to August first, nineteen hundred eighty-three, terminated employment under such circumstances that such member became a Tier III member entitled to a vested benefit or a Tier IV member entitled to vested benefit and (ii) had such status immediately prior to such August first.

(4) If a member who became entitled to a vested benefit as described in subparagraph three of this paragraph returned or returns to education-service and, on or after July thirty-first, nineteen hundred eighty-three and before payability of his or her vested benefit began or begins, resumed or resumes status as an active member of the retirement system, the provisions of subparagraph one of paragraph (d) of this subdivision shall apply to him or her on and after the date of such resumption of active membership, providing that nothing contained in the preceding provisions of this subparagraph shall be construed as making the provisions of subparagraph one of such paragraph (d) applicable to any such member who was not or is not a seven percent member for actuarial equivalent benefit purposes at the time of subsequent retirement or of subsequent discontinuance of service so as to qualify for benefits.

(g)(1) Subject to the provisions of subparagraph two of this paragraph and to the provisions of paragraph (i) of this subdivision, the selection of mode of benefit (as defined in subparagraph fourteen of paragraph (b) of this subdivision) which, prior to the termination date of eligibility for option re-selection (as defined in subparagraph nineteen of paragraph (b) of this subdivision), a person entitled to a recomputation of benefits (as defined in subparagraph sixteen of such

paragraph (b)) made or makes in relation to the retirement allowance (or any component thereof) which became or becomes payable to him or her prior to such termination date of eligibility for option re-selection, shall be the selection of mode of benefit applicable to the recomputed retirement allowance (or any corresponding component thereof) to which he or she is entitled under the best-of-three-computations method or the gender-neutral computations method, and any such person entitled to a recomputation of benefits pursuant to the best-of-three-computations method or the gender-neutral computations method shall not be entitled to make any change in such selection of mode of benefit.

(2) (i) Notwithstanding the provisions of subparagraph one of this paragraph, a person entitled to a recomputation of benefits shall be entitled, to the extent and in the manner prescribed in the succeeding items of this subparagraph, to change the original selection of mode of benefit applicable to the retirement allowance (or any component thereof) which became or becomes payable to him or her prior to the termination date of eligibility for option re-selection.

(ii) In any case where the original selection of mode of benefit of a person entitled to a recomputation of benefits was a selection of a joint and survivor option (as defined in subparagraph seventeen of paragraph (b) of this subdivision), no change from such original selection of a joint and survivor option may be made under this subparagraph to any other selection of mode of benefit if the designated beneficiary selected with respect to such joint and survivor option by such person entitled to a recomputation is not alive at the time of filing of the form whereby such person entitled to a recomputation seeks to change, pursuant to this subparagraph, his or her original selection of such joint and survivor option.

(iii) Except for a change of selection of mode of benefit prohibited by item (ii) of this subparagraph, any original selection of mode of benefit may be changed pursuant to this subparagraph to another selection of mode of benefit, provided all of the conditions set forth in items (iv), (vi) and (viii) of this subparagraph are met.

(iv) Subject to the provisions of items (vii) and (viii) of this subparagraph, a person entitled to a recomputation of benefits may, pursuant to this subparagraph, effect any such permissible change of his or her original selection of mode of benefit by executing, acknowledging

and filing with the retirement system, within the applicable period of time prescribed by item (vi) of this subparagraph, a new selection of mode of benefit. If the original selection of mode of benefit of the person filing such new selection was a selection of a joint and survivor option, such new selection shall be void and of no effect unless (a) the designated beneficiary named in such original selection of a joint and survivor option signs and acknowledges, in the form for such new selection of mode of benefit, a consent to such changed selection of mode of benefit, and (b) such original designated beneficiary is alive on the date of filing of such new selection.

(v) The retirement system shall mail to each person entitled to a recomputation of benefits a letter showing amounts of benefits, as recomputed for such person under the best-of-three-computations method or the gender-neutral computations method, for modes of benefit other than joint and survivor options, together with a statement advising such person that upon request, the amounts of recomputed benefits under joint and survivor options will be provided.

(vi) The period of time within which any such person entitled to a recomputation may file a new selection of mode of benefit as provided for in items (iii) and (iv) of this subparagraph shall be sixty days after the date of issuance set forth in such letter mailed to such person pursuant to item (v) of this subparagraph; provided, however, that if, pursuant to the request of such person, a later letter setting forth benefits information in relation to a new selection of a mode of benefit is mailed to such person by the retirement system, such period of time for filing a new selection of mode of benefit shall be thirty days after the date of issuance set forth in such later letter.

(vii) Upon the filing of a new selection of mode of benefit pursuant to this subparagraph by any such person entitled to a recomputation, such new selection shall be irrevocable and such person shall not be entitled to file any other selection of mode of benefit with respect to such retirement allowance (or any component thereof) which became payable to him or her prior to the termination date of eligibility for option re-selection.

(viii) No new selection of mode of benefit filed pursuant to the preceding items of this subparagraph shall be valid or effective as a change of mode of benefit or for any other purpose unless the person

entitled to a recomputation of benefits who files such new selection is alive on the date (hereinafter referred to as the "validating date") three hundred sixty-five days after the date of filing of such new selection of mode of benefit. If such person filing such new selection of mode of benefit is alive on the validating date with respect to such new selection, such new selection shall become valid and effective on such validating date; provided, however, that from and after the effective date of retirement of such person making such valid and effective new selection of mode of benefit (if he or she retired for age or service or superannuation or for ordinary or accident disability) or from and after the date on which payability of the original benefits of such person began (if he or she was a discontinued member or discontinued sanitation member or Tier III member entitled to a vested benefit or Tier IV member entitled to a vested benefit), such new selection of mode of benefit shall supersede such original selection of mode of benefit and shall apply to and govern the amount of benefits payable to such person or to his or her designated beneficiary or estate.

(h) Subject to the provisions of paragraph (i) of this subdivision, in any case where a member of the retirement system who retired before August first, nineteen hundred eighty-three pursuant to subdivision two of section ten of the rules and regulations or for ordinary or accident disability re-entered or re-enters its membership on or after July thirty-first, nineteen hundred eighty-three, nothing contained in paragraphs (c), (d) and (e) of this subdivision shall be construed as authorizing or permitting him or her to change any selection of mode of benefit (as defined in subparagraph fourteen of paragraph (b) of this subdivision) made by him or her with respect to any benefit which, upon his or her subsequent retirement or discontinuance of service so as to qualify for benefits, is payable to him or her as a continuation, without change, of a benefit which had previously become payable to him or her by reason of his or her prior retirement.

(i) Nothing contained in paragraph (g) or paragraph (h) of this subdivision shall be construed as preventing:

(1) any person (A) who, during the period beginning on August first, nineteen hundred eighty-three and ending on the date next preceding the date of enactment (as certified pursuant to section forty-one of the

legislative law) of this paragraph retired or retires pursuant to subdivision two of section ten of the rules and regulations or for ordinary or accident disability and (B) who is subject to such paragraph (g) and (C) who on or after July thirty-first, nineteen hundred eighty-three, re-entered or re-enters education service and again became or becomes a member of the retirement system; or

(2) any re-entered member referred to in such paragraph (h); upon his or her subsequent retirement, from exercising any right, which any other applicable law or any provision of the rules and regulations grants to him or her under such circumstances, to make a selection of mode of benefit (as defined in subparagraph fourteen of paragraph (b) of this subdivision).

(j) Notwithstanding any provisions of paragraph (c) of this subdivision prescribing a rate of regular interest of seven per centum per annum, compounded annually, for specified members described in such paragraph, the rate of regular interest which shall be applied to fix the rate of interest on any loan to any such member eligible to borrow shall be four per centum per annum, compounded annually.

(k) (1) Where any variable annuity program benefit (as defined in subparagraph twelve of paragraph (b) of this subdivision) which is an actuarial equivalent benefit (as defined in subparagraph two of such paragraph (b)) is payable to any person by reason of:

(i) the retirement of a member for age or service or superannuation or for ordinary or accident disability, where such retirement occurred on or after August first, nineteen hundred eighty-three or hereafter occurs; or

(ii) discontinuance of service or termination of employment of a member, where such discontinuance or termination occurred or occurs on or after such August first under such circumstances that such member became or becomes (A) a discontinued member possessing a vested right to receive a retirement allowance pursuant to section thirty-two of the rules and regulations (and, in the case of a Tier II member, article eleven of the retirement and social security law) or (B) a Tier III member entitled to a vested benefit or a Tier IV member entitled to a vested benefit; or

(iii) the death, on or after such August first, of a member:

the rate of interest used to determine such variable annuity program

benefit shall be that prescribed by section forty-four of the rules and regulations.

(2) The retirement board may by resolution direct that different computations, based on different mortality tables, shall be used to determine separate portions of a variable annuity program benefit payable as described in subparagraph one of this paragraph.

(1) In any case where any provision of this subdivision has the effect, in relation to any person, of amending, modifying or supplementing any provision of the rules and regulations referred to in subdivision f of section thirty-three of the rules and regulations (relating to the tax-deferred annuity program of the retirement system), such provisions of the rules and regulations, for the purpose of applying such subdivision f to such person, shall be deemed to include such amendment, modification or supplementation.

(m) Modified Option 1 pension computation formula. (1) The retirement board may by resolution direct that under such circumstances as are designated in such resolution, benefits under Option 1 which consist of or are derived from the pension component of a retirement allowance and which are payable to or on account of members who:

(i) became members prior to the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision; and

(ii) retired or retire on or after August first, nineteen hundred eighty-three, for age or service or superannuation or for ordinary or accident disability, or on or after such August first, discontinued or discontinue service so as to become discontinued members; shall be determined under the modified Option 1 pension computation formula.

(2) If the retirement board makes a direction for use of such formula pursuant to the provisions of subparagraph one of this paragraph, it may also direct by resolution:

(i) that any member who is subject to the modified Option 1 pension computation formula may elect, at such time and in accordance with such procedures as are prescribed in such resolution, that such formula shall not apply to such member and that the initial reserve determined for the purpose of providing the benefits payable by reason of his or her selection of Option 1 and the pension component of his or her Option 1 retirement allowance shall be determined on the basis of gender-neutral

mortality tables and regular interest of seven per centum per annum, compounded annually; and

(ii) that the benefit payable, upon the death of the member making such election, to his or her beneficiary or estate shall be the difference between such Option 1 initial reserve and the total of the payments of such pension component received by or payable to such member for the period prior to his or her death; and

(iii) that where any member subject to the modified Option 1 pension computation formula retired before the effective date of the retirement board resolution adopted pursuant to subparagraph one of this paragraph, and where the first payment on account of the retirement allowance of any discontinued member subject to such formula was made before the effective date of such resolution, such retiree or discontinued member, within such period of time after such effective date and in accordance with such procedures as are prescibed in such resolution, may elect the method of Option 1 benefit determination set forth in items (i) and (ii) of this subparagraph.

(3) In any case where, pursuant to board resolution, a benefit is required to be determined under the modified Option 1 pension computation formula and the determination of such benefit is also required by a board resolution adopted pursuant to item (iii) of subparagraph one of paragraph (d) of this subdivision to reflect different computations of separate portions of such benefits the methods of computation under the modified Option 1 pension computation formula shall be appropriately adjusted so as to give effect to the provisions of such resolution adopted pursuant to such item (iii).

(n) Any reference in this subdivision to retirement for service shall be deemed, for the purpose of this subdivision, to include retirement pursuant to the provisions of subdivision two of section ten of the rules and regulations.

(o) The rate of regular interest applicable to determination of the rate of member contribution of any member whose last membership began prior to the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision shall be the rate of regular interest which was applicable, under the provisions of the rules and regulations in effect prior to such date of enactment, to the determination of the rate of member contribution of such member, and

nothing contained in the preceding paragraphs of this subdivision shall be construed as applicable to the determination of the rate of member contribution of any such member whose last membership so began or as changing or affecting the rate of member contribution of any such member.

(p) (1) In any case where:

(i) a conversion of a fixed benefit or portion thereof to a variable benefit is elected pursuant to section forty-two of the rules and regulations; and

(ii) pursuant to any provision of law and/or the rules and regulations and/or any resolution of the retirement board adopted thereunder, the rate of regular interest and/or the mortality tables which were required to be used in the actuarial determination of such fixed benefit being converted, are different from the rate of regular interest and/or mortality tables would have been required to be used to determine a like variable benefit as of the same date (hereinafter referred to as the "calculation date") as of which such fixed benefit was required to be determined as an actuarial equivalent; the composition of the variable portion of each instalment of benefit for each month of the conversion period shall be determined in the manner prescribed in subparagraph two of this paragraph (p).

(2) The amount, in units, of the variable portion for any such conversion month to which subparagraph one of this paragraph applies shall be equal to the number of units in the previous month's variable portion, if any, plus a number of units which is the actuarial equivalent, as of the calculation date, of the fixed portion converted each month. Such actuarial equivalent units for each such month shall be determined on the basis of the unit value for such month, in accordance with a scientific formula which recognizes the difference in the rates of regular interest and/or mortality tables referred to in subparagraph one of this paragraph.

(3) In any case where:

(i) a conversion of a variable benefit is elected pursuant to section forty-two of the rules and regulations; and

(ii) pursuant to any provision of law and/or the rules and regulations and/or any resolution of the retirement board adopted thereunder, the rate of regular interest and/or mortality tables which were required to

be used in the actuarial determination of such variable benefit being converted are different from the rate of regular interest and/or mortality tables which would have been required to be used to determine a like fixed benefit as of the same date (hereinafter referred to as the "calculation date") as of which such variable benefit was required to be determined as an actuarial equilvalent; the composition of the fixed portion of each instalment of benefit for each month of the conversion period shall be determined in the manner prescribed in subparagraph four of this paragraph.

(4) The amount of the fixed portion for any such conversion month to which subparagraph three of this paragraph applies shall be equal to the previous month's fixed portion, if any, plus a fixed amount which is the actuarial equivalent, as of the calculation date, of the number of units converted each month. Such actuarial equivalent fixed amount for each such month shall be determined on the basis of the unit value for such month, in accordance with a scientific formula which recognizes the difference in the rates of regular interest and/or mortality tables referred to in subparagraph three of this paragraph.

(q) Notwithstanding any other provision of this section, an option selection made pursuant to this subdivision and the rules and regulations governing such choice previously filed by a member or retired member may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever is later.

18. (a) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Board of education". The board of education of a city.

(2) "Board of education retirement system". The board of education retirement system established pursuant to the provisions of this section in a city.

(3) "City". A city having a population of one million or more.

(4) "Rules and regulations". The rules and regulations for the government, management and control of the board of education retirement system adopted pursuant to the provisions of this section.

(5) "Provisional employee". Any person employed by the board of education on the basis of a provisional appointment pursuant to section sixty-five of the civil service law.

(6) "Education service". Service as a paid official or employee of the board of education or the New York city school construction authority, and allowable as provided in section four of the rules and regulations or, in the case of a tier II member or a tier IV member, allowable pursuant to the provisions which respectively govern the service credit of such a member of the board of education retirement system.

(7) "Former provisional employee". Any person permanently employed by the board of education:

(i) who is a transferred contributor in the New York city employees' retirement system pursuant to section B3-57.0 or 13-188 of the administrative code of the city of New York; and

(ii) who first acquired membership in the New York city employees' retirement system as a provisional employee of the board of education; and

(iii) whose last period of permanent employment by the board of education was immediately preceded by his employment by the board of education as a provisional employee.

(8) "Tier II member". A member of a public retirement system who is subject to the provisions of article eleven of the retirement and social security law.

(9) "Tier IV member". A member of a public retirement system who is subject to the provisions of article fifteen of the retirement and social security law.

(b) (1) Notwithstanding the provisions of paragraph (a) of subdivision one of this section or any provision of the rules and regulations or any other provision of law to the contrary, membership in the board of education retirement system shall include any provisional employee in education service who elects to become a member in the manner prescribed by the applicable provisions of subparagraph two, subparagraph three or subparagraph four of this paragraph.

(2) Any such provisional employee who is not a member of the New York

city employees' retirement system at the time he or she elects to become a member of the board of education retirement system may make such an election of membership by filing with the board of education retirement system a duly executed and acknowledged application for membership.

(3) Any such provisional employee who is a member of the New York city employees' retirement system at the time he or she elects to become a member of the board of education retirement system may make such an election of membership by filing simultaneously with the board of education retirement system a duly executed and acknowledged application for membership and a duly executed and acknowledged request that his or her membership and service credit in the New York city employees' retirement system be transferred to the board of education retirement system.

(4)(i) Beginning July first, two thousand twenty-four, upon the entry into employment of any employee eligible to elect membership in the retirement system pursuant to subparagraphs one, two and three of this paragraph or any other applicable provision of law, and provided such employee is not a member in the retirement system or any other public retirement system of the city or state of New York as of such entry date in covered employment, such employee shall be enrolled in the retirement system effective ninety-one days after the commencement of employment. Notwithstanding the preceding, if such employee files with the retirement system an application to opt out of membership within ninety days after commencement of employment, the retirement system shall refrain from enrolling such employee unless and until such employee subsequently files an application for membership with the retirement system, or is otherwise subsequently mandated to enroll by the rules and regulations of the retirement system or any applicable law. The employer and the applicable union for the retirement system shall jointly provide written notice to the employee informing the employee that he or she has the option to opt-out of the automatic enrollment program. Such notice shall be provided to the employee on three occasions: on or before the thirtieth day, the sixtieth day and the ninetieth day prior to automatic enrollment in the retirement system. The automatic enrollment of eligible employees as provided for in this subparagraph shall not be construed to modify the right of eligible employees to join the retirement system as of the first date of covered employment by filing

an application for membership with the retirement system. The employer shall inform the employee in writing of the right to join the system as well as the fact that the employee shall be enrolled in the retirement system on the ninety-first day after commencement of employment, unless such employee files with the retirement system an application to opt out of membership prior to such date. Any eligible employee who elects to opt out of membership in the retirement system within the ninety day period shall retain the right to join such system by subsequently filing an application for membership so long as such employee remains in covered employment.

(ii) Every current employee who is eligible for membership in the retirement system on July first, two thousand twenty-four, and who is not a member in the retirement system or any other public retirement system of the city or state of New York, shall be enrolled in the retirement system effective October first, two thousand twenty-four, unless such employee files with the retirement system an application to opt out of membership before October first, two thousand twenty-four. Such automatic enrollment in the retirement system shall not be construed to waive any of the eligibility requirements for previous service credit.

(iii) The automatic enrollment of eligible employees as provided for in this subparagraph shall not be construed to modify the rights and obligations of any employee whose participation in the retirement system is mandated by the rules and regulations of the retirement system or any applicable law, and such mandated members may not opt out of membership.

(iv) If an employee who is automatically enrolled in the retirement system pursuant to the provisions of this paragraph is a member of a union, the retirement system shall provide written notice to the union of the employee's enrollment within thirty days of the employee's enrollment in the retirement system.

(v) The provisions of this subparagraph shall apply to full-time employees and part-time employees. The provisions of this subparagraph shall not apply to provisional employees.

(c) (1) Notwithstanding the provisions of section B3-57.0 or 13-188 of the administrative code of the city of New York or any provision of the rules and regulations or any other provision of law to the contrary, membership in the board of education retirement system shall include any

former provisional employee who, while employed in education service, elects to become a member in the manner prescribed by subparagraph two of this paragraph.

(2) Any such former provisional employee may make such an election of membership by filing simultaneously with the board of education retirement system, within six months after the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision, a duly executed and acknowledged application for membership and a duly executed and acknowledged request that his or her membership and service credit in the New York city employees' retirement system be transferred to the board of education retirement system.

(d) Any election of membership in the board of education retirement system made pursuant to paragraph (b) or paragraph (c) of this subdivision shall be irrevocable.

(e) (1) Upon the filing of a request for a transfer with the board of education retirement system as provided for in subparagraph three of paragraph (b) of this subdivision or subparagraph two of paragraph (c) of this subdivision, the board of education retirement system shall file such request for a transfer with the New York city employees' retirement system. Upon the filing of such request for a transfer with the New York city employees' retirement system, such retirement system shall make a transfer of reserves and accumulated contributions to the board of education retirement system in the manner required by section forty-three of the retirement and social security law.

(2) Nothing contained in the preceding provisions of this subdivision or of any other law shall be construed (i) as imposing any restriction under the third sentence of subdivision d of such section forty-three on the determination of the salary base for benefit computation purposes with respect to any person whose membership and service credit are transferred to the board of education retirement system pursuant to the applicable preceding provisions of this subdivision, or (ii) as making the last sentence of such subdivision d applicable to any such transferee.

(3) Any employee of the board of education of the city of New York who is a member of the New York city employees' retirement system may elect to transfer membership to the New York city board of education retirement system. Any election pursuant to this section shall be made

no later than the one hundred eightieth day next succeeding the date on which the provisions hereof become effective by filing a written notice thereof with the administrative head of the New York city employees' retirement system, and the New York city board of education retirement system, and, once made and filed, such election shall be irrevocable. Where an employee of the board of education becomes a member of the New York city board of education retirement system pursuant to this section, the New York city employees' retirement system shall make a transfer of reserves, contributions, and credits to the New York city board of education retirement system in the manner required by section forty-three of the retirement and social security law.

(f) Notwithstanding the provisions of paragraph (a) of subdivision one of this section or any provision of the rules and regulations or any other provision of law to the contrary, membership in the board of education retirement system shall include any person employed by the New York city police department in the title of school crossing guard who becomes a member in the manner prescribed by the provisions of subdivision g of section 13-638.4 of the administrative code of the city of New York or by the provisions of subparagraph four of paragraph (b) of this subdivision.

(g)(1) For purposes of this paragraph, the terms "career pension plan member", "career pension plan position" and "fifty-five-year-increased-service-fraction member" shall have the meanings set forth in paragraphs twenty-eight, twenty-nine and thirty-one, respectively, of section two of the rules and regulations.

(2) For purposes of this paragraph, the term "fractional plan member" shall mean a member of the board of education retirement system holding a career pension plan position who is not a career pension plan member or a fifty-five-year-increased-service-fraction member, and who is not subject to the provisions of article eleven, fourteen or fifteen of the retirement and social security law.

(3) Notwithstanding any provision of this section or any other provision of law to the contrary, effective October first, nineteen hundred ninety-three, the rules and regulations shall be deemed to be amended so as to provide that any fractional plan member in education service on such date, who holds a career pension plan position on such date, shall, on such date, be deemed to have elected to become a career

pension plan member under the same terms and conditions, and with the same rights, benefits, privileges and obligations as are applicable to similarly situated members of the New York city employees' retirement system, as provided in subdivision m of section 13-162 of the administrative code of the city of New York, as enacted by the act which added this paragraph.

(h) (1) For the purposes of this paragraph, including, without limitation, the use, pursuant to subparagraph two of this paragraph, of the provisions of paragraphs one, two and three of subdivision c of section 13-162 of the administrative code of the city of New York and subparagraph (a) of paragraph four of such subdivision (as amended by the provisions of the chapter of the laws of nineteen hundred ninety-five which added this paragraph) to prescribe certain of the additional rights, privileges, benefits and obligations hereunder, of career pension plan members and increased-service-fraction members, the following items of this subparagraph one shall apply:

(i) the terms "career pension plan", "career pension plan member", "career pension plan position" and "fifty-five-year-increased-service-fraction-member" shall have the meanings set forth in paragraphs twenty-seven, twenty-eight, twenty-nine and thirty-one, respectively, of section two of the rules and regulations;

(ii) the term "city-service", as used in the provisions of subdivision c of such section 13-162 referred to in the opening paragraph of this paragraph one shall be deemed to mean "education-service", as defined in subparagraph six of paragraph (a) of this subdivision;

(iii) the term "career pension plan qualifying service", as used in such provisions of subdivision c of section 13-162, shall mean "creditable career pension plan service" as defined in paragraph thirty-eight of section two of the rules and regulations;

(iv) the pension referred to in item (ii) of subparagraph (a) of paragraph four of such subdivision c of section 13-162 shall be deemed to mean the pension referred to in subdivision seven of section twelve of the rules and regulations; and

(v) the provisions of subparagraph (b) of paragraph four of subdivision c of such section 13-162 shall be deemed inapplicable to career pension plan members and

fifty-five-year-increased-service-fraction members who are subject to the provisions of this paragraph.

(2) Notwithstanding any provision of the rules and regulations or this section or any other provision of law to the contrary, the rules and regulations shall be deemed to be amended so as to provide that on and after the effective date of this paragraph:

(i) each career pension plan member, subject to the succeeding subparagraphs of this paragraph, shall have the same additional rights, privileges, benefits and obligations and be subject to the same additional terms and conditions with respect to withdrawing his or her election to be a career pension plan member as are provided for in relation to a similarly situated career pension plan member of the New York city employees' retirement system by the chapter of the laws of nineteen hundred ninety-five which added this paragraph; and

(ii) each fifty-five-year-increased-service-fraction member, subject to the succeeding subparagraphs of this paragraph, shall have the same additional rights, privileges, benefits and obligations and be subject to the same additional terms and conditions with respect to electing to be a career pension plan member as are provided for in relation to a similarly situated fifty-five-year-increased-service-fraction member of the New York city employees' retirement system by the chapter of the laws of nineteen hundred ninety-five which added this paragraph.

(3) In any case where a member effects a change in his or her retirement plan pursuant to the preceding subparagraphs of this paragraph, his or her normal rate of member contribution as a member of such changed plan shall be fixed pursuant to the appropriate provisions of the rules and regulations with respect to rates of member contribution of members of such changed plan.

(4) Nothing contained in subparagraph two of this paragraph shall be construed as diminishing or impairing:

(i) any right granted to any career pension plan member by the provisions of paragraph ten of subdivision m of section 13-162 of the administrative code of the city of New York, where the provisions of such paragraph ten are made applicable to such member by paragraph (g) of this subdivision; and

(ii) any right granted to a career pension plan member by subparagraph (a) of paragraph one of subdivision c of section thirty of the rules and

regulations to withdraw from the career pension plan.

(5) Notwithstanding any provision of the rules and regulations or this section or any other provision of law to the contrary, the rules and regulations shall be deemed to be amended so as to provide that:

(i) subject to the provisions of item (ii) of this subparagraph five, in any case where, on or after the effective date of this paragraph, a fifty-five-year-increased-service-fraction member dies in service while such a member, after completing twenty or more years of creditable career pension plan service, such member shall be deemed to have died as a career pension plan member, if status as such a career pension plan member at the time of his or her death would result in a benefit larger than the benefit which would be payable if such member died while a fifty-five-year-increased-service-fraction member; and

(ii) in any case where a member referred to in item (i) of this subparagraph five is a Tier II member at the time of his or her death, any change in the plan membership of such member pursuant to such item (i) shall not change, alter or affect the applicability of article eleven of the retirement and social security law to such member.

(i) A retired member of the board of education retirement system shall have the right, at any time after the retired member's retirement, to execute and file a dues deduction authorization card with such retirement system authorizing the deduction from the retired member's retirement allowance of membership dues and the payment thereof to a retiree organization of which the retired member certifies he or she is then a member and which the retired member certifies is then affiliated with either an employee organization certified or recognized as the collective bargaining representative of all employees in the negotiating unit of which the retired member was a part prior to his or her retirement or an employee organization with which such employee organization is then affiliated. The comptroller shall thereafter deduct from the retirement allowance of such retired member the amount of membership dues required to be paid by such retired member, and shall transmit the sum so deducted to said retiree organization. Such authorization shall continue in effect until revoked in writing by such retired member.

(j) Notwithstanding any other provision of law or rule, a retired member of the board of education retirement system of the city of New

York shall be permitted to repay the outstanding balance of a loan taken pursuant to the rules and regulations of the retirement system at any time. Benefits payable after the repayment of the loan shall not be subject to any actuarial reduction imposed as a result of an outstanding balance.

** 19. Pick up of Tier I and Tier II member contributions by the employer. (a) For the purposes of this subdivision:

(1) The terms "board of education," "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs one, three and four, respectively, of paragraph (a) of subdivision sixteen of this section; and

(2) the terms "member," "Tier I member" and "Tier II member" shall have the meanings set forth in subparagraphs one, four and five, respectively, of subparagraph (b) of subdivision seventeen of this section.

(b) the following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Basic rate of contribution as a Tier I or Tier II member." (i) Subject to the provisions of clauses (ii) and (iii) of this subparagraph one, the term "basic rate of contribution as a Tier I or Tier II member" shall mean the proportion of the earnable compensation of a Tier I member or Tier II member required by the provisions of subparagraph (i) of paragraph f of subdivision one of section eight of the rules and regulations and any other applicable provisions of the rules and regulations or law to be deducted from the personal compensation of such member as his or her member contributions, exclusive of any increase in such contributions resulting from an election by such member pursuant to law to effect such an increase, or any decrease in such contributions on account of any program for increased-take-home-pay or pursuant to subdivision one of section one hundred thirty-eight-b of the retirement and social security law (relating to election to decrease member contributions by contributions due on account of social security coverage).

(ii) In any case where it is provided in the rules and regulations that the deduction from a member's compensation on account of member contributions required to be made by a Tier I member or Tier II member

shall not be in excess of fifteen per centum unless the member so elects, and such member makes such election, any per centum of such deduction in excess of fifteen per centum with respect to such member shall not be included in such member's basic rate of contribution as a Tier I or Tier II member.

(iii) In any case where a Tier I member or Tier II member who is a fifty-five-year-increase-service-fraction member (as defined in subdivision thirty-one of section two of the rules and regulations) has elected or elects, pursuant to paragraph g of subdivision one of section eight of the rules and regulations, to contribute to the retirement system at a rate one per centum less than such member's normal rate of contribution, such member's basic rate of contribution as a Tier I or Tier II member, during any period wherein such election is in effect, shall be one per centum less than such member's normal rate of contribution as a fifty-five-year-increased-service-fraction member. In any case where any such member elects pursuant to such paragraph g to discontinue such reduction, such election to discontinue shall not be deemed, for the purposes of subparagraph four of this paragraph (b) to be an election to increase member contributions above the level prescribed by the member's basic rate of contribution as a Tier I or Tier II member, and upon such discontinuance, such member's basic rate of contribution as a Tier I or Tier II member shall be his or her normal rate of contribution as a fifty-five-year-increased-service-fraction member.

(2) "Contributing Tier I or Tier II member." With respect to any payroll period as to which the status of a Tier I member or Tier II member as to required member contributions is to be determined, the term "contributing Tier I or Tier II member" shall mean any Tier I member or Tier II member other than any Tier I member or Tier II member who is not required to contribute during such payroll period because of his or her then currently effective election, pursuant to subparagraph f of paragraph one of section eight of the rules and regulations, not to contribute.

(3) "Employer responsible for pick up." The public employer by which a Tier I member or Tier II member is employed.

(4) "Tier I or Tier II member contributions eligible for pick up by the employer." (i) With respect to any payroll period for a contributing

Tier I or Tier II member (as defined in subparagraph two of this paragraph (b)), the amount of member contributions which, in the absence of a pick up program applicable to such member pursuant to this subdivision, would be required by law to be deducted, on account of such member's basic rate of contribution as a Tier I or Tier II member (as defined in subparagraph one of this paragraph), from the personal compensation of such member for such payroll period, after (A) giving effect to any reduction in such contributions required under any program for increased-take-home-pay or pursuant to subdivision one of section one hundred thirty-eight-b of the retirement and social security law and (B) excluding any deductions from such compensation (or redeposits, restorations or payments) on account of (1) loans or withdrawal of excess contributions or (2) any election by any such member, pursuant to any applicable provision of the rules and regulations, to increase his or her member contributions above the level prescribed by his or her basic rate of contribution as a Tier I or Tier II member or (3) any other cause not attributable to the member's basis rate of contribution as a Tier I or Tier II member after reduction in such rate, if any, as described in item (A) of this clause (i).

(ii) If no deductions on account of any such member's basic rate of contribution as a Tier I or Tier II member are required by the rules and regulations to be made from the personal compensation of such member for any payroll period, such member shall not have, for such payroll period, any Tier I or Tier II member contributions eligible for pick up by the employer. The amount of Tier I or Tier II member contributions eligible for pick up by the employer of any Tier I member or Tier II member for any payroll period shall be determined solely on the basis of personal compensation paid to such member for such payroll period by his or her public employer. A Tier I member or Tier II member shall not have any Tier I or Tier II member contributions eligible for pick up by the employer with respect to any payroll period for which he or she is not paid personal compensation by his or her public employer.

(5) "Starting date for pickup." The first day of the first whole payroll period commencing after the date which is sixty days after the internal revenue service shall have issued a ruling that member contributions picked up pursuant to this subdivision are not includible as gross income for federal income tax purposes until distributed or

made available.

(c) Notwithstanding any other provision of the law to the contrary, on and after the starting date for pick up, the employer responsible for pick up shall pick up and pay into the annuity savings fund (subject to the provisions of subparagraph four of paragraph (f) of this subdivision) the Tier I or Tier II member contributions eligible for pick up by the employer which each Tier I member and Tier II member would otherwise be required to make on and after such starting date.

(c-1) Notwithstanding any other provision of law to the contrary, the employer responsible for pick up shall, in the case of a member who is a participant in the age fifty-five improved benefit retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-d of the retirement and social security law), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision d of such section four hundred forty-five-d, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three otherwise would require such deductions.

(c-2) Notwithstanding any other provision of law to the contrary, the employer responsible for pick up shall, in the case of a member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision d of section four hundred forty-five-i of the retirement and social security law, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three otherwise would require such deductions.

(d) An amount equal to the amount of such picked up contributions shall be deducted by the employer responsible for pick up from the personal compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member. Such deduction shall be effected by

means of subtraction from such member's current personal compensation (as so defined), or offset against future pay increases, or a combination of such methods.

(e) (1) * The member contributions and additional member contributions picked up pursuant to this subdivision for any Tier I member or Tier II member shall be paid by the employer responsible for pick up in lieu of an equal amount of the member contributions and additional member contributions otherwise required to be paid by such member under the provisions of the rules and regulations or the retirement and social security law, and shall be deemed to be and treated as employer contributions pursuant to subsection h of section four hundred fourteen of the United States internal revenue code, as amended, for the purposes, under federal law, for which such subsection h so classifies such picked up contributions. Subject to the provisions of paragraph (d) of this subdivision, for all other purposes, including but not limited to:

* NB Effective until notice of ruling by Internal Revenue Service per ch. 627/2007 §22

* The member contributions and additional member contributions picked up pursuant to this subdivision for any Tier I member or Tier II member shall be paid by the employer responsible for pick up in lieu of an equal amount of the member contributions and additional member contributions otherwise required to be paid by such member under the provisions of the rules and regulations or the retirement and social security law, including any member contributions required to be made for the purchase of credit for previous service or credit for military service pursuant to subparagraph three of this paragraph, provided, however, that contributions picked up for the purchase of credit for military service shall be deposited in the employer contribution account in accordance with subdivision four of section one thousand of the retirement and social security law, and shall be deemed to be and treated as employer contributions pursuant to subsection h of section four hundred fourteen of the United States internal revenue code, as amended, for the purposes, under federal law, for which such subsection h so classifies such picked up contributions. Subject to the provisions of paragraph (d) of this subdivision, for all other purposes, including but not limited to:

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22

(i) the obligation of such member to pay New York state and New York city income and/or wages or earnings taxes and the withholding of such taxes; and

(ii) the determination of the amount of such member's Tier I or Tier II member contributions eligible for pick up by the employer or additional member contributions required to be picked up pursuant to paragraph c-one or c-two of this subdivision; and

(iii) the determination of the amount of any retirement allowance or other retirement system benefit payable to or on account of such member or any other retirement system right, benefit or privilege of such member;

the amount of the member contributions and additional member contributions picked up pursuant to this subdivision shall be deemed to be a part of the employee personal compensation of such member and such member's gross personal compensation (as it would be in the absence of a pick up program applicable to him or her hereunder) shall not be deemed to be changed by such member's participation in such program.

(2) Nothing contained in subparagraph one of this paragraph (e) shall be construed as superseding the provisions of section four hundred thirty-one of the retirement and social security law or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* (3) Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member eligible to purchase credit for previous service with a public employer pursuant to this section or to purchase credit for military service pursuant to article twenty of the retirement and social security law, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire

only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to the completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of the agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22

(f) (1) For the purpose of determining the retirement system rights, benefits and privileges of any Tier I member or Tier II member whose Tier I or Tier II member contributions eligible for pick up by the employer are picked up pursuant to this subdivision (including the procurement of loans by any such member), such picked up member contributions, subject to the provisions of subparagraph four of this paragraph (f), shall be deemed to be and treated (i) as member contributions made by such member pursuant to law and (ii) as a part of such member's accumulated deductions.

(2) For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the age fifty-five improved benefit retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-d of the retirement and social security law), the additional member contributions of such participant picked up pursuant to paragraph (c-one) of this subdivision shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of such section four hundred fifty-five-d.

(2-a) For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), the additional member contributions of such participant picked up pursuant to paragraph c-two of this subdivision shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of section four hundred forty-five-i of the retirement and social security law.

(3) Interest on contributions picked up for any Tier I member or Tier II member pursuant to this subdivision (other than additional member

contributions picked up pursuant to paragraph c-one or c-two of this subdivision) shall accrue in favor of the member and be payable to the retirement system at the same rate, for the same time periods, in the same manner and under the same circumstances as interest would be required to accrue in favor of the member and be payable to the retirement system on such contributions if they were made by such member in the absence of a pick up program applicable to such member under the provisions of this section.

(4) Where member contributions of any Tier I member or Tier II member are picked up and paid into the annuity savings fund pursuant to this section, such picked up contributions shall be credited to a separate account within the individual account of such member in such fund, so that a separate record of the amount of such picked up contributions is maintained.

(5) For the purpose of determining the retirement system rights, benefits and privileges of any Tier I member or Tier II member who is a participant in a variable annuity program of the retirement system, his or her picked up member contributions shall, to the extent and in the proportions appropriate pursuant to his or her election to participate in such program, be deemed to be and treated as a part of his or her accumulated deductions and/or credits in his or her account in the variable annuity savings fund. A separate record shall be kept showing any such variable annuity savings fund account credits attributable to any such picked up contributions.

(6) Nothing contained in this paragraph (f) shall be construed as granting member contributions or additional member contributions picked up under this subdivision any status, under federal law, other than as employer contributions, pursuant to subsection h of section four hundred fourteen of the United States internal revenue code, for the federal purposes for which such subsection h so classifies such picked up contributions.

(g) No member whose member contributions or additional member contributions are required to be picked up pursuant to this subdivision shall have any right to elect that such pick up, with accompanying deduction from the personal compensation of such member as prescribed by paragraph (d) of this subdivision, shall not be effectuated.

** NB Expires per ch. 681/92 § 16

* 20. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section.

(b) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Tax-deferred annuity program". The tax-deferred annuity program established pursuant to the provisions of section thirty-one hundred nine-A of this chapter and section thirty-three of the rules and regulations.

(2) "Annuity savings fund". The annuity savings fund under the tax-deferred annuity program.

(3) "Annuity reserve fund". The annuity reserve fund under the tax-deferred annuity program.

(4) "Variable annuity savings fund". The variable annuity savings fund under the tax-deferred annuity program.

(5) "Variable annuity reserve fund". The variable annuity reserve fund under the tax-deferred annuity program.

(6) "Tax-deferred annuity account". The tax-deferred annuity account maintained in the tax-deferred annuity program by a participant in such program.

(c) (1) Notwithstanding any provision of the rules and regulations or any other provision of law to the contrary, a participant in the tax-deferred annuity program who, pursuant to the applicable provisions of the rules and regulations and/or the retirement and social security law, retires for service or disability, or who discontinues service with a vested right to receive a deferred retirement allowance, may elect to defer commencement of the distribution of his or her tax-deferred annuity account to the latest date permitted by the provisions of section 403(b) of the internal revenue code pertaining to the commencement of distribution of tax-deferred annuities, by filing an election for such deferral of distribution with the retirement system during the time period which:

(i) for a service retiree, commences on the day such person's application for service retirement is filed with the retirement system, and which ends on the day prior to the effective date of retirement; or

(ii) for a disability retiree, commences on the day such person receives notification from the retirement system that it has approved his or her retirement for disability, and which ends on the thirtieth day after such receipt of notification; or

(iii) for a member who discontinues service with a vested right to receive a deferred retirement allowance, commences thirty days prior to the date of such discontinuance of service, and which ends on the day such retirement allowance becomes payable pursuant to the applicable provisions of the rules and regulations and/or the retirement and social security law.

(2) A participant in the tax-deferred annuity program who, pursuant to the provisions of subparagraph one of this paragraph, has elected to defer commencement of the distribution of his or her tax-deferred annuity account to the latest date for distribution referred to in such subparagraph one may revoke such election by filing a revocation of such election with the retirement system at any time prior to such latest date. Where a participant has made such a revocation, the distribution of his or her tax-deferred annuity account shall be made thereafter in accordance with the applicable provisions of the rules and regulations.

(3) Where a participant in the tax-deferred annuity program has elected, pursuant to the provisions of subparagraph one of this paragraph, to defer commencement of the distribution of his or her tax-deferred annuity account to the latest date for distribution referred to in such subparagraph one, the application of any provision of the rules and regulations which requires the transfer of his or her tax-deferred annuity account from the annuity savings fund to the annuity reserve fund and/or from the variable annuity savings fund to the variable annuity reserve fund upon the retirement of such participant shall be delayed until the commencement of distribution of his or her tax-deferred annuity account pursuant to such retirement and, upon such commencement of distribution, such account shall be so transferred in accordance with such provision.

(4) Where a participant has made an election pursuant to the provisions of subparagraph one of this paragraph, the distribution of the entire amount in such participant's tax-deferred annuity account, including any portion of such amount to be distributed pursuant to an option for the payment of retirement benefits selected by such

participant pursuant to the rules and regulations or an applicable provision of the retirement and social security law, shall not extend beyond the maximum period permitted by the provisions of section 403(b) of the internal revenue code pertaining to the distribution of tax-deferred annuities.

(d) The rules and regulations may be amended pursuant to the procedures set forth in subdivision two of this section to establish rules and regulations governing the borrowing by a participant in the tax-deferred annuity program of contributions accumulated in his or her tax-deferred annuity account, provided that in establishing and administering such rules and regulations, no action shall be taken that would render the tax-deferred annuity program in violation of section 403(b) of the internal revenue code.

(e) Notwithstanding any other provision of law, or any rule or regulation, or the provisions of any retirement board resolution to the contrary:

(1) on or after the first business day immediately following the effective date of this paragraph, interest shall be allowed at the rate of seven percent per annum, compounded annually, on the tax-deferred accounts in the annuity savings fund of participants (i) who hold a position represented by the recognized teacher organization for collective bargaining purposes, or (ii) who held such a position at the time they retired or discontinued service with vested rights to a retirement allowance and elected to defer commencement of distribution of their tax-deferred accounts in accordance with paragraph (c) of this subdivision; and

(2) the provisions of subparagraph one of this paragraph shall not affect the rate of interest being charged on new loans from the tax-deferred annuity program, and the rate of interest that was being charged on such loans immediately prior to the effective date of this paragraph shall be used for new loans from the tax-deferred annuity program made on or after the effective date of this paragraph, unless the rules and regulations governing loans from the tax-deferred annuity program are amended pursuant to paragraph (d) of this subdivision to establish a different rate of interest applicable to such loans; and

(3) where a participant in the tax-deferred annuity program has elected to transfer all or a portion of the amount credited to his or

her tax-deferred account in the annuity savings fund to a tax-deferred account in the variable annuity savings fund, the retirement system shall effectuate such transfer as expeditiously as is administratively feasible.

* NB There are 2 sub 20's

* 20. Eligible rollover distributions. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four of paragraph (a) of subdivision sixteen of this section.

(b) Notwithstanding anything to the contrary contained in section twenty-six of the rules and regulations, in the event that, under the terms of this section or the rules and regulations, a person becomes entitled to a distribution from the retirement system which constitutes an "eligible rollover distribution" within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code, such distributee may elect, subject to any rules and regulations adopted pursuant to paragraph (c) of this subdivision, to have such distribution, or a portion thereof, paid directly to an "eligible retirement plan" within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code.

(c) The retirement board is authorized to adopt such written administrative procedures as it finds to be necessary in administering the provisions of this subdivision, provided that they are not inconsistent with the applicable provisions of the internal revenue code and the rules and regulations thereunder.

* NB There are 2 sub 20's

21. Certain distributions and transfers by participants in the tax-deferred annuity program. (a) For the purposes of this subdivision:

(1) the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four of paragraph (a) of subdivision sixteen of this section; and

(2) the term "tax-deferred annuity program" shall mean the program authorized by section three thousand one hundred nine-A of this chapter as set forth in section thirty-three of the rules and regulations of the retirement system.

(b) (1) Notwithstanding any other provision of law to the contrary, in

the event that a person becomes entitled to a distribution from the tax-deferred annuity program which constitutes an "eligible rollover distribution" within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code (as such section is made applicable to the tax-deferred annuity program by paragraph ten of subsection b of section four hundred three of the internal revenue code), the person may elect, subject to any rules and regulations adopted pursuant to paragraph (c) of this subdivision, to have such distribution, or a portion thereof, paid directly to an eligible retirement plan within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code.

(2) Nothing contained in section twenty-six or section thirty-three of the rules and regulations shall be construed to prohibit a participant in the tax-deferred annuity program from electing to transfer all or a portion of his or her tax-deferred annuity net contributions to another annuity contract described in subsection b of section four hundred three of the internal revenue code where a non-taxable trustee-to-trustee transfer of tax-deferred annuities is permitted by subsection b of section four hundred three of such code and the applicable rules, regulations and rulings thereunder.

(c) The retirement board is authorized to adopt such written administrative procedures as it finds to be necessary in administering the provisions of this subdivision provided that they are not inconsistent with the applicable provisions of the internal revenue code and the rules and regulations thereunder.

22. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section, and the terms "Tier I member", "Tier II member", "education service" and "discontinued member" shall have the meanings set forth in subparagraphs four, five, ten and eleven, respectively, of paragraph (b) of subdivision seventeen of this section, and the term "fifty-five-year-increased-service-fraction member" shall have the meaning set forth in paragraph thirty-two of section two of the rules and regulations.

(b) Notwithstanding any other provision of law, subdivision a of

section thirty-two of the rules and regulations shall be deemed to be amended to provide that any member of the retirement system who:

(1) discontinues education service on or after July first, nineteen hundred sixty-eight, other than by death, retirement or dismissal; and

(2) is a fifty-five-year-increased-service-fraction member at the time of such discontinuance; and

(3) (i) prior to such discontinuance, completed five or more years of allowable service; and

(4) does not withdraw his or her accumulated deductions in whole or in part; shall have a vested right to receive a deferred retirement allowance as provided in section thirty-two of the rules and regulations.

(c) Nothing contained in paragraph (b) of this subdivision shall change, alter or affect the applicability of the provisions of article eleven of the retirement and social security law to any Tier II member who becomes a discontinued member pursuant to the provisions of paragraph (b) of this subdivision.

(d) Notwithstanding any other provision of law, a Tier I discontinued member with ten or more years of credited service in the retirement system who dies before a retirement benefit becomes payable and who is otherwise not entitled to a death benefit from the retirement system shall be deemed to have died on the last day that he or she was in service upon which his or her membership was based for purposes of eligibility for the payment of a death benefit pursuant to the provisions of section twenty of the rules and regulations. The death benefit payable in such case shall be one-half of that which would have been payable had such member died on the last day that service was rendered.

23. (a) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "BERS" or "retirement system". The board of education retirement system of the city of New York established pursuant to the provisions of this section.

(2) "BERS rules and regulations". The rules and regulations for the government, management and control of BERS adopted pursuant to the

provisions of this section.

(3) "Retirement board". The board established as the head of the retirement system pursuant to sections five and five-a of the BERS rules and regulations.

(b)(1) In addition to the powers conferred upon it by the BERS rules and regulations or by any other provision of law, the retirement board shall, on or before April first of each year, establish a budget sufficient to fulfill the powers, duties and responsibilities set forth in the BERS rules and regulations and any other provision of law which sets forth the benefits of members of the retirement system. Said budget shall also include the amounts withheld for the purpose of paying the expenses attributable to the tax-deferred annuity program pursuant to the provisions of subdivision b of section thirty-three of the BERS rules and regulations, and the amounts deposited in the variable annuity expense fund pursuant to the provisions of subdivision 1 of section thirty-six of the BERS rules and regulations. The retirement board shall, if necessary, draw upon the assets of the retirement system to fund the portion of such budget which is not derived from subdivision b of section thirty-three of the BERS rules and regulations and subdivision 1 of section thirty-six of the BERS rules and regulations, provided that such action shall be subject to the provisions of subparagraphs two, three, four and five of this paragraph and paragraphs (c), (d), (e) and (f) of this subdivision. The provisions of this subdivision shall not be applicable to the payment of investment expenses pursuant to section 13-705 of the administrative code of the city of New York and nothing contained herein shall be construed as abolishing, limiting or modifying any power of the retirement board to provide for the payment of investment expenses pursuant to section 13-705 of such code.

(2) If a budget has not been adopted by the commencement of the new fiscal year, the budget for the preceding fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new budget is adopted.

(3) Any budget in effect pursuant to subparagraph one or two of this paragraph shall be modifiable during such succeeding fiscal year.

(4) Notwithstanding any other provision of law, the retirement board shall have the power either directly or by delegation to the executive

director of the retirement system to obtain by employment or by contract the goods, property and services necessary to fulfill its powers within the appropriation authorized by the retirement board pursuant to subparagraph one of this paragraph.

(5) The provisions of chapter seventeen of the New York city charter shall continue to apply to the retirement system and the retirement system shall constitute an agency for the purposes of such chapter seventeen. The retirement board shall not obtain any legal services by the retention of employees or by contract unless the corporation counsel shall consent thereto.

(6) All contracts for goods or services entered into by the retirement system shall be procured as described for school districts in article five-A of the general municipal law. The retirement board shall be the governing body as described in such law.

(7) The provisions of subparagraphs four and six of this paragraph shall not apply to any contract or contracts relating to the variable annuity funds and tax-deferred annuity program pursuant to sections thirty-three and thirty-six of the BERS rules and regulations.

(c) Notwithstanding the provisions of paragraph (a) of subdivision one of this section or any other provision of law or any provision of the BERS rules and regulations to the contrary, any resolution of the retirement board which establishes a budget or modifies a budget pursuant to the provisions of subparagraph one or three of paragraph (b) of this subdivision shall require the concurrence of at least one retirement board member who is appointed to the board of education by the mayor of the city of New York, and as otherwise required by law. The provisions of this paragraph shall apply only to resolutions of the retirement board which establish or modify a budget pursuant to this subdivision, and nothing contained in this paragraph shall be construed to apply to any other vote of the retirement board. No assets of the retirement system shall be drawn upon pursuant to the provisions of subparagraph one of paragraph (b) of this subdivision unless authorized by a budget or budget modification established by a resolution of the retirement board.

(d) Employment by the retirement system shall constitute education service for the purposes of the BERS rules and regulations and any other provision of law which governs the crediting of service for members of

the retirement system; provided, however, that nothing contained herein shall be construed as granting membership rights in the retirement system to a contractor of the retirement system or such contractor's employees.

(e) Whenever the assets of the retirement system are drawn upon pursuant to the provisions of subparagraph one of paragraph (b) of this subdivision, all monies so withdrawn shall be made a charge to be paid by each participating employer otherwise required to make contributions to the retirement system no later than the end of the fiscal year next succeeding the time period during which such assets were drawn upon, provided, however, that where such charge is for assets so withdrawn in fiscal year two thousand four--two thousand five or in any fiscal year thereafter, such charge shall be paid by each such participating employer no later than the end of the second fiscal year succeeding the time period during which such assets were drawn upon. The actuary for the retirement system shall calculate and allocate to each such participating employer its share of such charge by multiplying such charge by a fraction, the numerator of which shall consist of the total salaries of the employees of each participating employer as of the June thirtieth succeeding the withdrawal of assets and the denominator of which shall consist of the total salaries of members of the retirement system as of such June thirtieth. All charges to be paid pursuant to this subdivision shall be paid at the regular rate of interest utilized by the actuary in determining employer contributions to the retirement system pursuant to the provisions of paragraph two of subdivision b of section 13-638.2 of the administrative code of the city of New York.

(f) The funds withdrawn from the retirement system shall not be utilized for any purpose other than the budget established by the retirement board. All expenditures of the retirement system shall be subject to audit by the comptroller of the city of New York, who may make recommendations, including but not limited to, procedures designed to improve accounting and expenditure control. All expenditures of the retirement system shall be reported to the mayor's office of management and budget and the budgetary office of all participating employers.

(g) The executive director of the retirement system, who shall be appointed by the retirement board, shall perform such duties as may be conferred upon him or her by the chairperson of the retirement board, by

resolution adopted by the retirement board, or by law.

* 24. (a) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Board of education". The board of education of a city.

(2) "City". A city having a population of one million or more.

(3) "Retirement system". The board of education retirement system established pursuant to the provisions of this section in a city.

(4) "Rules and regulations". The rules and regulations for the government, management and control of the retirement system adopted pursuant to this section.

(5) "Retirement board". The retirement board of the retirement system provided for in section five-a of the rules and regulations.

(6) "Retirement benefits". Benefits payable to a beneficiary by the retirement system which are subject to the limitations imposed by section 415(b) of the Internal Revenue Code.

(7) "Beneficiary". A person who is receiving retirement benefits from the retirement system.

(8) "Excess benefit plan". The excess benefit plan established by this subdivision for the sole purpose of paying benefits as permitted under section 415(m) of the Internal Revenue Code.

(9) "Eligible participant". A beneficiary who is entitled to replacement benefits from the excess benefit plan for a plan year in accordance with paragraphs (d) and (e) of this subdivision.

(10) "Replacement benefits". The benefits payable by the excess benefit plan to an eligible participant as determined pursuant to paragraph (e) of this subdivision.

(11) "Internal Revenue Code". The Federal Internal Revenue Code of 1986, as amended.

(12) "Plan year". The limitation year of the retirement system as provided in section six hundred twenty of the retirement and social security law.

(b) There is hereby established an excess benefit plan, the sole purpose of which shall be to provide replacement benefits, as permitted by section 415(m) of the Internal Revenue Code, to beneficiaries whose annual retirement benefits have been reduced because such benefits exceed the limitations imposed by section 415(b) of the Internal Revenue

Code. The excess benefit plan shall be administered by the retirement board.

(c) There is hereby established a fund to be known as the excess benefit fund which shall be maintained for the sole purpose of providing replacement benefits to eligible participants in the excess benefit plan established by this subdivision, as permitted under section 415(m) of the Internal Revenue Code. Such fund shall consist of such employer contributions as shall be made thereto pursuant to paragraph (f) of this subdivision. Such contributions to the excess benefit fund shall be held separate and apart from the assets held by the other funds of the retirement system, provided, however, that the assets of the excess benefit fund may be invested with the other retirement system assets, but such excess benefit fund assets shall be accounted for separately from the other retirement system assets.

(d) All beneficiaries of the retirement system whose retirement benefits for a plan year are being reduced because of section 415(b) of the Internal Revenue Code shall be eligible participants in the excess benefit plan for that plan year. Participation in the excess benefit plan shall be determined for each plan year. No beneficiary of the retirement system shall be an eligible participant in the excess benefit plan for any plan year for which his or her retirement benefits are not reduced because of section 415(b) of the Internal Revenue Code.

(e)(1) For each plan year in which a beneficiary is an eligible participant in the excess benefit plan, such eligible participant shall receive replacement benefits from the excess benefit plan equal to the difference between the full amount of the retirement benefits otherwise payable to the eligible participant for that plan year prior to any reduction because of section 415(b) of the Internal Revenue Code, and the retirement benefits payable to the eligible participant for that plan year as reduced because of section 415(b) of the Internal Revenue Code. No replacement benefits for any plan year shall be paid pursuant to this paragraph to any beneficiary who is not receiving retirement benefits from the retirement system for that plan year.

(2) Replacement benefits pursuant to this subdivision shall be paid at the same time and in the same manner as the retirement benefits which are being replaced. At no time shall an eligible participant be permitted directly or indirectly to defer compensation under the excess

benefit plan.

(f)(1) The required employer contributions to the excess benefit fund for each plan year shall be an amount, as determined by the actuary, which is necessary to pay the total amount of replacement benefits that are payable pursuant to this subdivision to eligible participants for that plan year.

(2) Such required employer contributions shall be paid into the excess benefit fund from an allocation of the employer contribution amounts paid by the board of education and other public employers pursuant to the applicable provisions of subdivision sixteen of this section and other applicable provisions of law. Such allocation of employer contribution amounts shall be paid into the excess benefit fund at such times and in such amounts as determined by the actuary.

(3) The benefit liabilities of the excess benefit plan shall be funded on a plan year to plan year basis, provided, however, that any employer contributions to the excess benefit fund, including any investment earnings on such contributions, which are not used to pay replacement benefits for the current plan year shall be used to pay replacement benefits for future plan years.

(g) The right of an eligible participant to receive replacement benefits pursuant to this subdivision, and the replacement benefits received pursuant to this subdivision, shall be exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment or any other process whatsoever, and shall be unassignable, except as otherwise specifically provided for benefits payable by the retirement system.

* NB There are 2 sb 24's

* 24. Notwithstanding any provisions of the rules or regulations or any other provision of law to the contrary, in a city having a population of one million or more, the board of education shall adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to grant a retired member the right, at any time after his or her retirement, to execute and file a dues deduction authorization card with the member's retirement system authorizing the payment of voluntary contributions to the political committee, as defined in section fourteen-one hundred of the election law, of such

member's employee organization; (or a retirees' association chartered by the member's employee organization) provided such organization is certified or recognized pursuant to article fourteen of the civil service law as the representative of employees in the negotiation unit in which such member was employed. Such authorization shall continue in effect until revoked in writing by such member. The comptroller shall determine the cost of administrative deductions for voluntary contributions to the political committees; and the cost incurred by the retirement system in administering such contributions shall be paid from the funds of the political committee.

* NB There are 2 sb 24's

25. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section.

(b) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that a member of the retirement system shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code, and such member died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five while serving on such active military duty or in the uniformed services.

(c) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that any requirement that applications for accidental disability be filed within a limited time period after the happening of such accident shall not apply to a vested member incapacitated as a result of a qualifying World Trade Center condition as defined in section two of the retirement and social security law.

(d)(1)(i) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of the retirement and social security law, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(ii) The New York city board of education retirement board is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

(2)(i) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, a performance of duty disability retirement, or was separated from service with a vested right to deferred payability of a retirement allowance and subsequent to such retirement or separation is determined by the head of the retirement system or applicable medical board to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, upon such determination by the New York city board of education retirement board or applicable medical board, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired or vested had the condition been known and fully developed at the time of the member's retirement or separation from service with vested rights, unless the contrary is proven by competent evidence.

(ii) The New York city board of education retirement board shall consider a reclassification of the member's retirement or vesting as an accidental disability retirement effective as of the date of such

reclassification.

(iii) Such member's retirement option shall not be changed as a result of such reclassification.

(iv) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the New York city board of education retirement board according to procedures developed by the New York city board of education retirement board.

(v) The New York city board of education retirement board is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

(e) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if a retiree or vestee who: (1) has met the criteria of paragraph (d) of this subdivision and retired on a service or disability retirement, would have met the criteria if not already retired on an accidental disability, or was separated from service with a vested right to deferred payability of a retirement allowance; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree or vestee shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's or vestee's part. Such retiree's or vestee's eligible beneficiary, as set forth in title twenty-one of the rules and regulations, shall be entitled to an accidental death benefit as provided by title twenty-one of the rules and regulations, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree or vestee shall be deemed to have died on the date of such retiree's or vestee's retirement or separation from service with vested rights. Upon the retiree's or vestee's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in title twenty-one of the rules and regulations requesting conversion

of such retiree's service, vested right or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, or vested right to such benefit, including any post-retirement death benefits, since the retiree's or vestee's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), or that will be eligible under the vested right the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

(f) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if a member who: (1) has met the criteria of paragraph (d) of this subdivision; (2) dies in active service or after separating from service with a vested right to deferred payability of a retirement allowance, but prior to the payability of that retirement allowance; and (3) dies from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in title twenty-one of the rules and regulations shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system as set forth in title twenty-one of the rules and regulations.