§ 565. Governmental entities. 1. Definition. A governmental entity shall mean the state of New York, municipal corporations and other governmental subdivision and any instrumentality of one or more of the foregoing.

2. Exclusions. In addition to services not included pursuant to the provisions of section five hundred eleven of this article, the term "employment" does not include services rendered for a governmental entity by:

(a) an elected official;

(b) a member of a legislative body or of the judiciary;

(c) a member of the state national guard or air national guard, except a person who renders such services as a regular state employee;

(d) a person serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(e) a person in a major nontenured policymaking or advisory position;

(f) a person in a policymaking or advisory position, the duties of which ordinarily do not require more than eight hours per week to perform; and

(g) an incarcerated individual of a custodial or penal institution.

3. Coverage. A governmental entity shall be liable for contributions under this article unless it becomes liable for payments in lieu of contributions.

4. Election of payments in lieu of contributions. A governmental entity or a group of such entities liable for contribution under this article may elect to become liable for payments in lieu of contributions as of the first day of any calendar year by filing with the commissioner a written notice to this effect before the beginning of such year or, if the governmental entity was not liable in the preceding calendar year, by filing the notice not later than thirty days after the end of the calendar quarter in which it first became liable. The commissioner may for good cause shown extend the time for the filing of such notice.

5. Obligation upon election. (a) A governmental entity which has elected to become liable for payments in lieu of contributions shall pay

into the fund an amount equal to the amount of benefits paid to claimants and charged to its employer's account in accordance with the provisions of paragraph (e) of subdivision one of section five hundred eighty-one of this article on the basis of remuneration paid on or after the date on which such liability became effective. The amount of payments so required shall be determined by the commissioner as soon as practicable after the end of each calendar quarter or any other period. Such amount shall be payable quarterly or at such times and in such manner as the commissioner shall prescribe and, when paid, the employer's account of the governmental entity shall be discharged accordingly.

(b) If governmental entities elect payments in lieu of contributions as a group, the members of the group shall be severally and jointly liable for payments of amounts equal to the amounts of benefits paid to claimants and charged to the employer's accounts of all members of the group. The commissioner may prescribe conditions and methods for such group elections and for the discharge of the obligations and responsibilities of the group and its members.

6. Termination of election. (a) A governmental entity may terminate its election to become liable for payments in lieu of contributions as of the first day of any calendar year by filing a written notice to this effect with the commissioner before the beginning of such year.

(b) The commissioner may cancel at any time the election of a governmental entity which has failed to make any of the payments required hereunder within thirty days after the commissioner has notified it of the liability for and the amount of such payment. Such cancellation shall remain in force and effect until the governmental entity files a new notice of election in accordance with the provisions of subdivision four of this section after having satisfied conditions and requirements prescribed by the commissioner for this purpose.

(c) If such election is terminated by a governmental entity or cancelled by the commissioner, the governmental entity shall remain liable for payments in lieu of contributions with respect to all benefits charged to its account on the basis of remuneration paid before the date on which such termination or cancellation took effect.

7. Joint accounts. Any two or more governmental entities may form a joint account by complying with rules and regulations prescribed by the commissioner for the establishment, maintenance and dissolution of such accounts.

8. Assessment and collection of payments in lieu of contributions. The amount of payments in lieu of contributions due hereunder from governmental entities but not paid upon notice shall be assessed and collected by the commissioner, together with interest and penalties, if any, in the same manner and subject to the same conditions under which contributions due from other employers may be assessed and collected under provisions of this article.

9. Special provisions applicable to the state. (a) In lieu of contributions, the state of New York shall pay into the fund an amount equivalent to the amount of benefits paid to claimants and charged to the account of the state of New York in accordance with the provisions of paragraph (e) of subdivision one of section five hundred eighty-one of this article.

(b) The amount of payments into the fund required shall be ascertained by the commissioner as soon as practicable after the end of each calendar year or any other shorter period and shall be payable from the general funds of the state, except if a claimant to whom benefits were paid remuneration by the state of New York during his base period from a special or administrative fund provided for by law, other than an income fund of the state university or the mental hygiene services fund, the payment into the fund shall be made from such special or administrative fund with the approval of the director of the budget. Such payments by the state shall be made at such times and in such manner as the commissioner, with the approval of the director of the budget, may determine and prescribe.