**§ 319-a. Employer contributions for the two thousand ten - two thousand eleven fiscal year and subsequent fiscal years.** a. In addition to the definitions in section three hundred two of this article, when used in this section:

(1) "Amortizing employer" shall mean an employer that elects to amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand ten - two thousand eleven fiscal year, or any subsequent fiscal year, pursuant to the system graded contribution rate regardless of whether the employer has subsequently paid in full all such amortized amounts, and that does not elect to amortize as an alternative amortizing employer for the two thousand thirteen - two thousand fourteen fiscal year.

(1-a) "Alternative amortizing employer" shall mean a county, city, town or village that, on a form prepared by the comptroller, elects to and does amortize a portion of the employer's annual bill pursuant to paragraph one of subdivision d of this section for the two thousand thirteen - two thousand fourteen fiscal year pursuant to the alternative system graded contribution rate, regardless of whether the employer has subsequently paid in full all such amortized amounts.

(2) "Amount eligible for amortization" for a given fiscal year shall mean the amount by which an employer's actuarial contribution for such fiscal year exceeds the employer's graded contribution for the same fiscal year, less any amount from the employer contribution reserve fund applied to reduce the employer's payment to the retirement system for the fiscal year, provided, however, that if the employer's average actuarial contribution rate for the fiscal year is less than seventeen and one-half percent, then the amount eligible for amortization shall be zero.

(3) "Employer's actuarial contribution" for a given fiscal year shall mean an employer's annual bill for such fiscal year exclusive of the deficiency contributions and payments on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(4) "Employer's annual bill" shall mean for a given fiscal year the sum of the following amounts: (i) an employer's normal contributions for the fiscal year determined in accordance with paragraph one of subdivision b of section three hundred twenty-three of this article and

the comprehensive structural reform program implemented pursuant to subdivision b of section three hundred twenty-three-a of this article, including the provisions of subdivision b of section three hundred twenty-three-a of this article relating to the required minimum annual contribution of four and one-half percent of pensionable salaries; (ii) the employer's deficiency contributions and administration contributions for the fiscal year determined in accordance with paragraphs two and three of subdivision b of section three hundred twenty-three of this article; and (iii) any payments by the employer due in the fiscal year on account of group term life insurance, adjustments relating to prior fiscal years' obligations, retirement incentives and prior amortizations.

(5) "Employer's average actuarial contribution rate" for a given fiscal year shall mean an employer's actuarial contribution for such fiscal year divided by the employer's payroll for the previous fiscal year.

(6) "Employer contribution reserve fund" or "fund" shall mean the employer contribution reserve fund established pursuant to subdivision e of this section.

(7) "Employer's graded contribution" for a given fiscal year shall mean the amount determined by applying the employer's graded contribution rate or the alternative amortizing employer's graded contribution rate for such fiscal year to an employer's payroll for the previous fiscal year.

(8) "Employer's graded contribution rate" for a given fiscal year shall mean (i) the system graded contribution rate for such fiscal year, or (ii) in the case of an individual employer for which a graded contribution rate has been determined pursuant to paragraph three of subdivision c of this section, the graded contribution rate for the individual employer for such fiscal year.

(9) "Employer's graded payment" for a given fiscal year shall mean the amount by which an employer's graded contribution for such fiscal year exceeds the employer's actuarial contribution for the same fiscal year.

(10) "Prior amortization" shall mean with respect to a given fiscal year any payment due in such fiscal year on account of an obligation from a prior fiscal year that an employer is permitted to pay to the retirement system on an amortized basis.

(11) "System average actuarial contribution rate" for a given fiscal year shall mean the sum of all employers' actuarial contributions for such fiscal year, divided by the sum of all employers' payroll for the previous fiscal year.

(12) "System graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to paragraph one or two of subdivision c of this section.

(13) "Alternative system graded contribution rate" for a given fiscal year shall mean the graded contribution rate for the retirement system as a whole determined for such fiscal year pursuant to paragraph one or two of subdivision c-1 of this section.

b. Notwithstanding the provisions of this chapter or any other law to the contrary, the comptroller, in his or her discretion, shall have authority to implement this section. If the comptroller elects to implement this section, the provisions of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand ten, and for subsequent fiscal years. If the comptroller, within his or her discretion, elects to implement the alternative system graded contribution rate as provided by subdivision c-1 of this section, the provisions of paragraph one-a of subdivision d of this section shall apply to the payment of employer contributions for the fiscal year commencing on April first, two thousand thirteen, and for subsequent fiscal years.

c. For each fiscal year to which the provisions of this section apply, the comptroller shall determine a graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand ten - two thousand eleven fiscal year the system graded contribution rate shall be seventeen and one-half percent.

(2) For the two thousand eleven - two thousand twelve fiscal year, and subsequent fiscal years, system graded contribution rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and exceeds the system graded contribution rate for the immediately preceding fiscal

year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year plus one percentage point, provided however, that in no event shall the system graded contribution rate be less than seventeen and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and either equals the system graded contribution rate for the immediately preceding fiscal year or exceeds the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year, provided, however, that in no event shall the system graded contribution rate be less than seventeen and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than seventeen and one-half percent and greater than the system graded contribution rate for the immediately preceding fiscal year, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the system graded contribution rate for the immediately preceding fiscal year by more than one percentage point, then the system graded contribution rate for the given fiscal year shall equal the system graded contribution rate for the immediately preceding fiscal year minus one percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the system graded contribution rate for the immediately preceding fiscal year or is smaller than the system graded contribution rate for the immediately preceding fiscal year by one percentage point or less, then the system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

(3) The comptroller shall determine a graded contribution rate for individual employers as provided in this paragraph. The graded contribution rate for an individual employer is the product of the system's graded contribution rate with the ratio of the employer's

average actuarial contribution rate to the system's average actuarial contribution rate, not to exceed one hundred percent of the system's graded contribution rate.

c-1. For each fiscal year to which the provisions of this section apply, the comptroller shall determine an alternative system graded contribution rate for the retirement system as a whole in the manner provided in this subdivision.

(1) For the two thousand thirteen - two thousand fourteen fiscal year and the two thousand fourteen - two thousand fifteen fiscal year, the alternative system graded contribution rate shall be twenty percent.

(2) For the two thousand fifteen - two thousand sixteen fiscal year and the subsequent fiscal years, alternative system graded contribution rates shall be determined as follows:

(i) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and exceeds the alternative system graded contribution rate for the immediately preceding fiscal year by more than one-half percentage point, then the alternative system graded contribution rate for the given fiscal year shall equal the alternative system graded contribution rate for the immediately preceding fiscal year plus one-half percentage point, provided, however, that in no event shall the alternative system graded contribution rate be less than seventeen and one-half percent;

(ii) if the system average actuarial contribution rate for a given fiscal year is at least seventeen and one-half percent and either equals the alternative system graded contribution rate for the immediately preceding fiscal year or exceeds the alternative system graded contribution rate for the immediately preceding fiscal year by one-half percentage point or less, then the alternative system graded contribution rate for the given fiscal year shall equal the system average actuarial contribution rate for such fiscal year, provided, however, that in no event shall the alternative system graded contribution rate be less than seventeen and one-half percent;

(iii) if the system average actuarial contribution rate for a given fiscal year is less than seventeen and one-half percent and greater than the alternative system graded contribution rate for the immediately preceding fiscal year, then the alternative system graded contribution

rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year;

(iv) if the system average actuarial contribution rate for a given fiscal year is smaller than the alternative system graded contribution rate for the immediately preceding fiscal year by more than one-half percentage point, then the alternative system graded contribution rate for the given fiscal year shall equal the alternative system graded contribution rate for the immediately preceding fiscal year minus one-half percentage point; and

(v) if the system average actuarial contribution rate for a given fiscal year either equals the alternative system graded contribution rate for the immediately preceding fiscal year or is smaller than the alternative system graded contribution rate for the immediately preceding fiscal year by one-half percentage point or less, then the alternative system graded contribution rate for the given fiscal year shall equal the system actuarial contribution rate for such fiscal year.

d. (1) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the employer graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a ten-year period, with interest on the unpaid balance at a rate determined by the comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, and with the first installment due in the immediately succeeding fiscal year. Provided however that, notwithstanding any provision of law to the

contrary and at the sole discretion of the director of the division of the budget, the state as an amortizing employer may prepay to the retirement system the total amount of principal due for any such annual installment or installments for a given fiscal year prior to the expiration of the ten-year amortization period. In the event the state elects to make such prepayment, the director of the division of budget must identify the fiscal year or years for which the total principal amount due for the annual installment is being prepaid. In any fiscal year for which the director of the division of the budget identifies such prepayment is being made, the state (i) shall not be required to make a payment of principal to the retirement system for such fiscal year, and (ii) shall pay to the retirement system annual interest on the remaining principal balance at the rate originally set by the comptroller when the state first elected to amortize in accordance with this paragraph. Nothing contained herein shall permit the state to extend the amortization period originally established in accordance with this paragraph beyond the original ten-year amortization period.

(1-a) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the alternative system graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a twelve year period, with interest on the unpaid balance at a rate determined by the comptroller which shall be the twelve year interpolated rate based on the most recently published yield to maturity of a ten year and twenty year U.S. Treasury Security plus one hundred basis points.

(2) For any given fiscal year for which the employer graded

contribution rate equals or exceeds an amortizing employer's average actuarial contribution rate, the amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order starting with oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(2-a) For any given fiscal year for which the alternative system graded contribution rate equals or exceeds an alternative amortizing employer's average actuarial contribution rate, the alternative amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

(i) If the alternative amortizing employer's annual bill for the fiscal year does not include an amount attributable to a prior amortization, then the employer's graded payment shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(ii) If the alternative amortizing employer's annual bill for the fiscal year includes an amount attributable to a prior amortization, the employer's graded payment shall be used first to eliminate the amount of the employer's unpaid prior amortization balances in chronological order

starting with oldest prior amortization balance. When in any fiscal year the employer's graded payment eliminates all balances owed on the employer's prior amortizations, any remaining portion of the employer's graded payment for such fiscal year, and the employer's graded payment in any subsequent fiscal year in which the amortizing employer has no unpaid prior amortizations, shall be paid into the employer contribution reserve fund provided for in subdivision e of this section and credited to an account within such fund established for the employer.

(3) Nothing in this subdivision shall be construed as prohibiting an employer from pre-paying any prior amortization.

e. (1) Notwithstanding any law to the contrary, there shall be maintained separate and apart from the other funds of the retirement system an employer contribution reserve fund, the assets of which shall not be used or invested in a manner contrary to the provisions of this subdivision. The fund shall consist of all employer contributions required to be deposited into the fund pursuant to subdivision d of this section. Within such fund there shall be a separate account for each employer making such contributions and payments.

(2) For any given fiscal year for which (i) the system actuarial contribution rate exceeds seventeen and one-half percent of payroll as of the end of the previous fiscal year, and (ii) for which an employer's average actuarial contribution rate exceeds the employer's graded contribution rate or the alternative employer's graded contribution rate, the balance in the employer's account within such fund shall be applied to reduce the employer's payment to the retirement system for such fiscal year in an amount not to exceed the difference between the employer's actuarial contribution and the employer's graded contribution for the fiscal year.

(3) Notwithstanding the provisions of paragraph two of this subdivision, if at the close of any given fiscal year the balance of an employer's account within the fund exceeds the employer's actuarial contribution for the previous fiscal year, no graded payment shall be required or allowed.

(4) The assets of the fund shall be invested in only the following types of investments:

(i) obligations of the United States of America or in obligations

guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America or in obligations of the state of New York;

(ii) general obligation bonds and notes of any state other than this state, provided that such bonds and notes receive the highest rating of at least one independent rating agency;

(iii) obligations of, or instruments issued by or fully guaranteed as to principal and interest by, any agency or instrumentality of the United States acting pursuant to a grant of authority from the congress of the United States, including, but not limited to, any federal home loan bank or banks, the Tennessee valley authority, the federal national mortgage association, the federal home loan mortgage corporation and the United States postal service;

(iv) certificate of deposits that are fully secured by the issuer by depositing with the comptroller direct or indirect obligations of the United States or its agencies or a letter of credit issued by the Federal Home Loan Bank; and

(v) obligations of any corporation organized under the laws of any state in the United States maturing within two hundred seventy days provided that such obligations receive the highest rating of two independent rating services designated by the comptroller.

(5) At the close of each fiscal year, the amount of interest and earnings attributable to each employer's account shall be computed by the actuary and certified to the comptroller, who shall thereupon credit each employer's account in accordance therewith.

(6) The assets of the fund shall be excluded from the annual valuation of the assets and liabilities of the funds of the retirement system required by section three hundred eleven of this title. The assets of the fund shall not finance increases in pension benefits.

f. (1) An amortizing employer may elect to terminate participation in the contribution stabilization program provided that such employer shall have paid in full all such prior year amortization amounts including interest as determined by the comptroller. Furthermore, any amortizing employer that has terminated participation in the contribution stabilization program may re-enter the program in a year in which the employer is eligible to amortize and their employer contribution reserve

fund has been depleted.

(2) An alternative amortizing employer may elect to terminate participation in the alternative contribution stabilization program provided that such employer shall have paid in full all such prior year amortization amounts including interest as determined by the comptroller. Furthermore, any alternative amortizing employer that has terminated participation in the alternative contribution stabilization program may not re-enter the alternative contribution stabilization program; provided, however, such employer may enter the regular contribution stabilization program as set forth in paragraph one of this subdivision.

(3) In order to terminate participation in the contribution stabilization or alternative contribution stabilization program, such employer must file an election on a form prescribed by the comptroller. Such election is subject to review and approval by the comptroller.

(4) Termination shall take effect for the fiscal year billing cycle following the fiscal year of approval. An employer who has been approved to terminate from the contribution stabilization or alternative contribution stabilization program pursuant to this section shall not be required to make a graded payment starting in the following fiscal year billing cycle.

(5) In the event an employer in the contribution stabilization program or alternative contribution stabilization program terminates participation pursuant to this section, any such balance in their employer contribution reserve fund shall be applied to the employer's annual bill in the maximum amount permitted under paragraph two of subdivision e of this section, for the following fiscal year and continue to be applied to future annual bills until the reserve fund is depleted.