§ 445-a. Optional twenty-year improved benefit retirement program for New York city correction members below the rank of captain. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "New York city correction officer below the rank of captain" shall mean a member of the uniformed force of the New York city department of correction who holds the rank of correction officer below the rank of captain in the correction service of the classification of the department of personnel of such city.

3. "New York city correction member below the rank of captain" shall mean a member of the retirement system who is subject to the provisions of this article, who is a New York city correction officer below the rank of captain and who has elected to contribute to the retirement system on the basis of a minimum retirement period of twenty years of credited service pursuant to the optional retirement provisions of section 13-155 of the administrative code.

4. "Twenty-year improved benefit retirement program" shall mean all the terms and conditions of this section.

5. "Starting date of the twenty-year improved benefit retirement program" shall mean the effective date of this section, as such date is certified pursuant to section forty-one of the legislative law.

6. "Participant in the twenty-year improved benefit retirement program" shall mean any New York city correction member below the rank of captain who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-year improved benefit retirement program, as applicable to him or her.

7. "Administrative code" shall mean the administrative code of the city of New York.

8. "Accumulated deductions" shall mean accumulated deductions as defined in subdivision eleven of section 13-101 of the administrative code.

9. "New York city correction officer of the rank of captain or above" shall have the same meaning as set forth in paragraph two of subdivision a of section four hundred forty-five-c of this article.

10. "Twenty-year improved benefit retirement program for captains and above" shall mean all the terms and conditions of section four hundred forty-five-c of this article.

11. "Starting date of the twenty-year improved benefit retirement program for captains and above" shall have the same meaning as set forth in paragraph five of subdivision a of section four hundred forty-five-c of this article.

b. Election of twenty-year improved benefit retirement program. 1. Subject to the provisions of paragraph five of this subdivision, any person who is a New York city correction member below the rank of captain on the starting date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a correction member below the rank of captain on the date such application is filed.

2. Subject to the provisions of paragraph five of this subdivision, any person who becomes a New York city correction member below the rank of captain after the starting date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within one hundred eighty days after becoming such a correction member, a duly executed

application for such participation with the retirement system, provided he or she is such a correction member below the rank of captain on the date such application is filed.

3. Any election to be a participant in the twenty-year improved benefit retirement program shall be irrevocable.

4. Where any participant in the twenty-year improved benefit retirement program shall cease to hold the position of New York city correction officer below the rank of captain, he or she shall cease to be such a participant and, during any period in which such person does not hold the position of New York city correction officer below the rank of captain, he or she shall not be a participant in the twenty-year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-year improved benefit retirement program terminates service as a New York city correction officer below the rank of captain and returns to such service as a New York city correction member below the rank of captain at a later date, he or she shall again become such a participant on that date.

6. Where any participant in the twenty-year improved benefit retirement program terminates service as a correction officer below the rank of captain, attains the rank of captain in the uniformed force of the New York city department of correction and thereafter terminates such service and immediately returns to service in the rank of correction officer below the rank of captain, he or she shall be eligible to purchase service credit for the period during which he or she held the rank of captain, provided he or she shall be charged with a contribution deficiency based upon his or her compensation as a captain and pay additional member contributions as provided in subdivision d of this section at the same rate he or she would have had to contribute if he or she held the rank of correction officer below the rank of captain during such time and had no such break in service; provided further that he or she shall be permitted to purchase such credit if he or she immediately returns to service in the rank of correction officer below

the rank of captain only during the eighteen month probationary period, or such greater probationary period as may be applicable, unless he or she is involuntarily transferred from the position of captain to correction officer below the rank of captain in which event he or she shall be authorized to purchase such service credit.

c. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to section 13-155 of the administrative code, has made and/or paid, while he or she is a New York city correction member below the rank of captain, all additional member contributions and interest (if any) required by subdivision d of this section, then:

1. That participant, while he or she remains a participant, shall not be subject to the provisions of subdivision a of section four hundred forty-five of this article; and

2. If that participant, while such a participant, retires for service, he or she shall not be subject to the provisions of section four hundred forty-four of this article; and

3. The maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

4. Notwithstanding any other provision of this article to the contrary, a participant in the twenty-year improved benefit retirement program shall be entitled to the application of the same provisions with respect to credited service as now or hereinafter apply to a similarly situated correction officer under this article who is not a participant in such retirement program.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-155 of the administrative code, each participant in the twenty-year improved benefit retirement

program shall contribute (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional six and thirty-seven one-hundredths percent of his or her compensation earned from all service as a New York city correction member below the rank of captain rendered on and after the starting date of the twenty-year improved benefit retirement program. A participant in the twenty-year improved benefit retirement program shall contribute additional member contributions only until he or she is eligible to retire with twenty years of credited service under such retirement program.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-year improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

3. (i) Subject to the provisions of subparagraph (ii) of this paragraph, where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to paragraph two of this subdivision:

(A) that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon, compounded annually; and

(B) such interest on each amount of undeducted contributions shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period, until such amount is paid to the retirement system; and

(C) the rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(ii) Except as provided in subparagraph (iii) of this paragraph, no

interest shall be due on any unpaid additional contributions which are not attributable to the period prior to the first full payroll period referred to in paragraph two of this subdivision.

(iii) Should any person who, pursuant to paragraph seven of this subdivision, has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-year improved benefit retirement program pursuant to paragraph five of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (i) of this paragraph) as if such additional contributions had never been made.

4. The board of trustees of the retirement system may, consistent with the provisions of this subdivision, promulgate regulations for the payment of such additional member contributions, and any interest thereon, by a participant in the twenty-year improved benefit retirement program (including the deduction of such contributions, and any interest thereon, from his or her compensation).

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a New York city correction member below the rank of captain, that participant shall not be entitled to the benefits provided in subdivision c of this section.

6. Where a participant has not paid in full any contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, and a benefit, other than a refund of a member's accumulated deductions or a refund of additional member contributions pursuant to paragraph seven of this subdivision, becomes payable by the retirement system to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and

shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be accumulated deductions of a member of the retirement system while he or she is a participant in the twenty-year improved benefit retirement program or otherwise.

(ii) Except as otherwise provided in subparagraph (iii) of this paragraph, should a participant in the twenty-year improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold the position of New York city correction officer below the rank of captain for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon equal to eight and one-quarter percent per annum, compounded annually.

(iii) (A) Notwithstanding any other provision of law to the contrary, any person who has been promoted directly from the position of New York city correction officer below the rank of captain to the position of New York city correction officer of the rank of captain or above, who withdraws any portion of his or her accumulated additional member contributions pursuant to subparagraph (ii) of this paragraph on or after the starting date of the twenty-year improved benefit retirement program for captains and above, shall not be eligible to elect to become a participant in the twenty-year improved benefit retirement program for captains and above.

(B) Notwithstanding any other provision of law to the contrary, any former participant in the twenty-year improved benefit retirement program who becomes a participant in the twenty-year improved benefit retirement program for captains and above, and who has additional member contributions on deposit in the contingent reserve fund of the retirement system at the time he or she becomes a participant in the twenty-year improved benefit retirement program for captains and above, shall not be permitted to withdraw any portion of such accumulated additional member contributions pursuant to the provisions of subparagraph (ii) of this paragraph at any time while he or she is a participant in the twenty-year improved benefit retirement program for

captains and above.

(iv) Except as otherwise provided in subparagraph (ii) of this paragraph, no member of the retirement system, while he or she is a participant in such retirement program or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

8. No member of the retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon) which are subject to this subdivision.

9. Notwithstanding any other provision of law to the contrary, the provisions of section one hundred thirty-eight-b of this chapter shall not be applicable to the additional member contributions which are required by this subdivision.

10. Notwithstanding any other provision of law to the contrary, the additional member contributions which are required by this subdivision shall not be reduced under any program for increased-take-home-pay.

e. The provisions of subdivision b of section four hundred forty of this article shall apply to participants under this section.