

# STATE OF NEW YORK

8055

2017-2018 Regular Sessions

## IN ASSEMBLY

May 25, 2017

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to the definition of additional member contributions and basic member contributions for certain New York city employees' retirement system members who are subject to certain retirement plans under articles 14 and 15 of the retirement and social security law, to allow such additional member contributions to be used, to offset a deficit of basic member contributions, or to allow an excess of basic member contributions to offset a deficit of additional member contributions upon retirement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (i) of paragraph 8 of subdivision e of section  
2 504-a of the retirement and social security law, as amended by chapter  
3 631 of the laws of 1993, is amended to read as follows:

4 (i) Such additional member contributions (and any interest thereon)  
5 shall be paid into the contingent reserve fund of the retirement system  
6 of which the participant is a member and shall not for any purpose be  
7 deemed to be member contributions or accumulated contributions of a  
8 member under section five hundred seventeen of this article or otherwise  
9 while he or she is a participant in the twenty-year retirement program  
10 or otherwise, except that, upon the participant's separation from city  
11 service as a result of retirement, a surplus of such additional member  
12 contributions that are paid into the retirement system's contingent  
13 reserve fund may be used for the sole purpose of offsetting a deficit of  
14 basic member contributions.

15 § 2. Subparagraph (i) of paragraph 12 of subdivision e of section  
16 504-b of the retirement and social security law, as added by chapter 631  
17 of the laws of 1993, is amended to read as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (i) All additional member contributions required by this subdivision  
2 (and any interest thereon) which are received by the retirement system  
3 of which the participant is a member shall be paid into its contingent  
4 reserve fund and shall not for any purpose be deemed to be member  
5 contributions or accumulated contributions of a member under section  
6 five hundred seventeen of this article or otherwise while he or she is a  
7 participant in the twenty-year retirement program for captains and above  
8 or otherwise, except that, upon the participant's separation from city  
9 service as a result of retirement, a surplus of such additional member  
10 contributions that are paid into the retirement system's contingent  
11 reserve fund may be used for the sole purpose of offsetting a deficit of  
12 basic member contributions.

13 § 3. Subparagraph (i) of paragraph 9 of subdivision e of section 504-d  
14 of the retirement and social security law, as added by chapter 622 of  
15 the laws of 2004, is amended to read as follows:

16 (i) All additional member contributions required by this subdivision  
17 (and any interest thereon) which are received by the retirement system  
18 of which the participant is a member shall be paid into its contingent  
19 reserve fund and shall not for any purpose be deemed to be member  
20 contributions or accumulated contributions of a member under section  
21 five hundred seventeen of this article or otherwise while he or she is a  
22 participant in the twenty-year retirement program or otherwise, except  
23 that, upon the participant's separation from city service as a result of  
24 retirement, a surplus of such additional member contributions that are  
25 paid into the retirement system's contingent reserve fund may be used  
26 for the sole purpose of offsetting a deficit of basic member contrib-  
27 utions.

28 § 4. Subdivision d of section 517 of the retirement and social securi-  
29 ty law, as added by chapter 890 of the laws of 1976, is amended to read  
30 as follows:

31 d. Notwithstanding any other provision of this article, a member shall  
32 be entitled to withdraw any excess contributions within six months of  
33 becoming subject to this article. Thereafter, such contributions, and  
34 interest thereon, may only be withdrawn upon separation from service.  
35 Upon retirement, such excess contributions, and any interest thereon,  
36 may be withdrawn in a single lump sum, or at the election of the member  
37 may be paid as an annuity under an option authorized pursuant to section  
38 five hundred fourteen of this article, or at the election of the partic-  
39 ipant may be used to offset a deficit of additional member contributions  
40 as required pursuant to sections five hundred four-a, five hundred  
41 four-b, and five hundred four-d of this article. The use of basic member  
42 contributions to offset a deficit of additional member contributions  
43 does not affect the contributions' tax designation pursuant to section  
44 414(h) of the Internal Revenue Code.

45 § 5. Subparagraph (i) of paragraph 8 of subdivision e of section 604-a  
46 of the retirement and social security law, as added by chapter 547 of  
47 the laws of 1992, is amended to read as follows:

48 (i) Such additional member contributions (and any interest thereon)  
49 shall be paid into the contingent reserve fund of the retirement system  
50 of which the participant is a member and shall not for any purpose be  
51 deemed to be member contributions or accumulated contributions of a  
52 member under section six hundred thirteen of this article or otherwise  
53 while he or she is a participant in the twenty-year retirement program  
54 or otherwise, except that, upon the participant's separation from city  
55 service as a result of retirement, a surplus of such additional member  
56 contributions that are paid into the retirement system's contingent

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1 reserve fund may be used for the sole purpose of offsetting a deficit of  
2 basic member contributions.

3 § 6. Subparagraph (i) of paragraph 8 of subdivision e of section 604-b  
4 of the retirement and social security law, as added by chapter 529 of  
5 the laws of 1994, is amended to read as follows:

6 (i) Such additional member contributions (and any interest thereon)  
7 shall be paid into the contingent reserve fund of the retirement system  
8 of which the participant is a member and shall not for any purpose be  
9 deemed to be member contributions or accumulated contributions of a  
10 member under section six hundred thirteen of this article or otherwise  
11 while he or she is a participant in the twenty-five-year and age fifty-  
12 five retirement program or otherwise, except that, upon the partic-  
13 ipant's separation from city service as a result of retirement, a  
14 surplus of such additional member contributions that are paid into the  
15 retirement system's contingent reserve fund may be used for the sole  
16 purpose of offsetting a deficit of basic member contributions.

17 § 7. Subparagraph (i) of paragraph 7 of subdivision d of section 604-c  
18 of the retirement and social security law, as added by chapter 96 of the  
19 laws of 1995, is amended to read as follows:

20 (i) All additional member contributions required by this subdivision  
21 (and any interest paid thereon) which are received by the retirement  
22 system of which the participant is a member shall be paid into its  
23 contingent reserve fund and shall not for any purpose be deemed to be  
24 member contributions or accumulated contributions of a member under  
25 section six hundred thirteen of this article or otherwise while he or  
26 she is a participant in the twenty-five-year early retirement program or  
27 otherwise, except that, upon the participant's separation from city  
28 service as a result of retirement, a surplus of such additional member  
29 contributions that are paid into the retirement system's contingent  
30 reserve fund may be used for the sole purpose of offsetting a deficit of  
31 basic member contributions.

32 § 8. Subparagraph (i) of paragraph 8 of subdivision e of section 604-c  
33 of the retirement and social security law, as added by chapter 472 of  
34 the laws of 1995, is amended to read as follows:

35 (i) Such additional member contributions (and any interest thereon)  
36 shall be paid into the contingent reserve fund of the retirement system  
37 of which the participant is a member and shall not for any purpose be  
38 deemed to be member contributions or accumulated contributions of a  
39 member under section six hundred thirteen of this article or otherwise  
40 while he or she is a participant in the twenty-year/age fifty retirement  
41 program or otherwise, except that, upon the participant's separation  
42 from city service as a result of retirement, a surplus of such addi-  
43 tional member contributions that are paid into the retirement system's  
44 contingent reserve fund may be used for the sole purpose of offsetting a  
45 deficit of basic member contributions.

46 § 9. Subparagraph (i) of paragraph 6 of subdivision f of section 604-d  
47 of the retirement and social security law, as added by chapter 96 of the  
48 laws of 1995, is amended to read as follows:

49 (i) All additional member contributions required by this subdivision  
50 (and any interest paid thereon) which are received by the retirement  
51 system of which the participant is a member shall be paid into its  
52 contingent reserve fund and shall not for any purpose be deemed to be  
53 member contributions or accumulated contributions of a member under  
54 section six hundred thirteen of this article or otherwise while he or  
55 she is a participant in the age fifty-seven retirement program or other-  
56 wise, except that, upon the participant's separation from city service

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1 as a result of retirement, a surplus of such additional member contribu-  
2 tions that are paid into the retirement system's contingent reserve  
3 fund may be used for the sole purpose of offsetting a deficit of basic  
4 member contributions.

5 § 10. Subparagraph (i) of paragraph 10 of subdivision e of section  
6 604-e of the retirement and social security law, as added by chapter 576  
7 of the laws of 2000, is amended to read as follows:

8 (i) Such additional member contributions (and any interest thereon)  
9 shall be paid into the contingent reserve fund of the retirement system  
10 of which the participant is a member and shall not for any purpose be  
11 deemed to be member contributions or accumulated contributions of a  
12 member under section six hundred thirteen of this article or otherwise  
13 while he or she is a participant in the twenty-five year retirement  
14 program or otherwise, except that, upon the participant's separation  
15 from city service as a result of retirement, a surplus of such addi-  
16 tional member contributions that are paid into the retirement system's  
17 contingent reserve fund may be used for the sole purpose of offsetting a  
18 deficit of basic member contributions.

19 § 11. Subparagraph (i) of paragraph 10 of subdivision e of section  
20 604-e of the retirement and social security law, as added by chapter 577  
21 of the laws of 2000, is amended to read as follows:

22 (i) Such additional member contributions (and any interest thereon)  
23 shall be paid into the contingent reserve fund of the retirement system  
24 of which the participant is a member and shall not for any purpose be  
25 deemed to be member contributions or accumulated contributions of a  
26 member under section six hundred thirteen of this article or otherwise  
27 while he or she is a participant in the twenty-five year retirement  
28 program or otherwise, except that, upon the participant's separation  
29 from city service as a result of retirement, a surplus of such addi-  
30 tional member contributions that are paid into the retirement system's  
31 contingent reserve fund may be used for the sole purpose of offsetting a  
32 deficit of basic member contributions.

33 § 12. Subparagraph (i) of paragraph 10 of subdivision e of section  
34 604-f of the retirement and social security law, as added by chapter 559  
35 of the laws of 2001, is amended to read as follows:

36 (i) Such additional member contributions (and any interest thereon)  
37 shall be paid into the contingent reserve fund of the retirement system  
38 of which the participant is a member and shall not for any purpose be  
39 deemed to be member contributions or accumulated contributions of a  
40 member under section six hundred thirteen of this article or otherwise  
41 while he or she is a participant in the twenty-five year retirement  
42 program or otherwise, except that, upon the participant's separation  
43 from city service as a result of retirement, a surplus of such addi-  
44 tional member contributions that are paid into the retirement system's  
45 contingent reserve fund may be used for the sole purpose of offsetting a  
46 deficit of basic member contributions.

47 § 13. Subparagraph (i) of paragraph 10 of subdivision e of section  
48 604-f of the retirement and social security law, as added by chapter 582  
49 of the laws of 2001, is amended to read as follows:

50 (i) Such additional member contributions, and any interest thereon,  
51 shall be paid into the contingent reserve fund of the retirement system  
52 of which the participant is a member and shall not for any purpose be  
53 deemed to be member contributions or accumulated contributions of a  
54 member under section six hundred thirteen of this article or otherwise  
55 while he or she is a participant in the twenty-five year retirement  
56 program or otherwise, except that, upon the participant's separation

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1 from city service as a result of retirement, a surplus of such addi-  
2 tional member contributions that are paid into the retirement system's  
3 contingent reserve fund may be used for the sole purpose of offsetting a  
4 deficit of basic member contributions.

5 § 14. Subparagraph (i) of paragraph 10 of subdivision e of section  
6 604-g of the retirement and social security law, as added by chapter 414  
7 of the laws of 2002, is amended to read as follows:

8 (i) Such additional member contributions (and any interest thereon)  
9 shall be paid into the contingent reserve fund of the retirement system  
10 of which the participant is a member and shall not for any purpose be  
11 deemed to be member contributions or accumulated contributions of a  
12 member under section six hundred thirteen of this article or otherwise  
13 while he or she is a participant in the twenty-five year/age fifty  
14 retirement program or otherwise, except that, upon the participant's  
15 separation from city service as a result of retirement, a surplus of  
16 such additional member contributions that are paid into the retirement  
17 system's contingent reserve fund may be used for the sole purpose of  
18 offsetting a deficit of basic member contributions.

19 § 15. Subparagraph (i) of paragraph 10 of subdivision e of section  
20 604-h of the retirement and social security law, as added by chapter 682  
21 of the laws of 2003, is amended to read as follows:

22 (i) Such additional member contributions (and any interest thereon)  
23 shall be paid into the contingent reserve fund of the retirement system  
24 of which the participant is a member and shall not for any purpose be  
25 deemed to be member contributions or accumulated contributions of a  
26 member under section six hundred thirteen of this article or otherwise  
27 while he or she is a participant in the twenty-five year retirement  
28 program or otherwise, except that, upon the participant's separation  
29 from city service as a result of retirement, a surplus of such addi-  
30 tional member contributions that are paid into the retirement system's  
31 contingent reserve fund may be used for the sole purpose of offsetting a  
32 deficit of basic member contributions.

33 § 16. Section 613 of the retirement and social security law is amended  
34 by adding a new subdivision h to read as follows:

35 h. Notwithstanding any other provision of law to the contrary, upon  
36 the participant's separation from city service as a result of retire-  
37 ment, a participant may use any excess basic member contributions to  
38 offset a deficit of additional member contributions as required pursuant  
39 to sections six hundred four-a, six hundred four-b, six hundred four-c,  
40 as added by chapter 96 of the laws of 1995, six hundred four-c, as added  
41 by chapter 472 of the laws of 1995, six hundred four-d, six hundred  
42 four-e, as added by chapter 576 of the laws of 2000, six hundred four-e,  
43 as added by chapter 577 of the laws of 2000, six hundred four-f, as  
44 added by chapter 559 of the laws of 2001, six hundred four-f, as added  
45 by chapter 582 of the laws of 2001, six hundred four-g, and six hundred  
46 four-h of this article. The use of basic member contributions to offset  
47 a deficit of additional member contributions does not affect the  
48 contributions' tax designation pursuant to section 414(h) of the Inter-  
49 nal Revenue Code.

50 § 17. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend the contribution provisions applicable to certain New York City Employees' Retirement System (NYCERS) Special Plans subject to Retirement and Social Security Law (RSSL) Article 14 and Article 15 to allow,

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upon retirement, using any excess basic or additional member contributions to offset any deficits in such other contribution account.

The Effective Date of the proposed legislation would be the date of enactment.

**PLANS IMPACTED BY THE PROPOSED LEGISLATION:** The proposed legislation would cover those members of NYCERS who are participants in the following special plans requiring the payment of additional member contributions (Special Plans):

Article 14 Special Plans:

Twenty-Year Retirement Program for New York City Correction Members below the Rank of Captain

Twenty-Year Retirement Program for New York City Correction Members of the Rank of Captain or above

Twenty-Year Retirement Program for New York City Correction Members

Article 15 Special Plans:

Twenty-Year Retirement Program for New York City Sanitation Members

Twenty-Five-Year and Age Fifty-Five Retirement Program for New York City Transit Authority Members

Optional Twenty-Five-Year Early Retirement Program for Certain New York City Members

Twenty-Year/Age Fifty Retirement Program for Triborough Bridge and Tunnel Members

Age Fifty-Seven Retirement Program for Certain New York City Members

Twenty-Five Year Retirement Program for Dispatcher Members

Twenty-Five Year Retirement Program for EMT Members

Twenty-Five Year Retirement Program for Deputy Sheriff Members

Twenty-Five Year Retirement Program for Special Officer, Parking Control Specialist, School Safety Agent, Campus Peace Officer or New York City Taxi and Limousine Inspector Members

Twenty-Five Year/Age Fifty Retirement Program for Automotive Members

Twenty-Five Year Retirement Program for Police Communications Members

**IMPACT ON BENEFITS PAYABLE:** The proposed legislation would not materially affect the benefits payable to participants in the Special Plans. Rather, the proposed legislation would help reduce the administrative burdens associated with requiring the return of excess basic or additional member contributions, and requiring the return of excess basic or additional member contributions, and requiring a separate payment for any contribution deficits in such accounts (or the calculation of an actuarial reduction based such deficits) upon retirement.

**FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS:** The enactment of this proposed legislation would not result in any change in employer contributions.

**STATEMENT OF ACTUARIAL OPINION:** I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Pension Funds and Retirement Systems. I am a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

**FISCAL NOTE IDENTIFICATION:** This Fiscal Note 2017-10 dated April 25, 2017, was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2017 Legislative Session.

**NEW YORK STATE ASSEMBLY  
MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, Sec 1(f)**

**BILL NUMBER:** A8055

**SPONSOR:** Abbate

**TITLE OF BILL:** An act to amend the retirement and social security law, in relation to the definition of additional member contributions and basic member contributions for certain New York city employees' retirement system members who are subject to certain retirement plans under articles 14 and 15 of the retirement and social security law, to allow such additional member contributions to be used, to offset a deficit of basic member contributions, or to allow an excess of basic member contributions to offset a deficit of additional member contributions upon retirement

**SUMMARY OF PROVISIONS:**

This bill amends Retirement and Social Security Law ("RSSL") §§ 504-a(e)(8)(i); 504-b(e)(12)(i); 504-d(e)(9)(i); 517(d); 604-a(e)(8)(i); 604-b(e)(8)(i); 604-c(d)(7)(i) (as added by Chapter 96 of the Laws of 1995); 604-c(e)(8)(i) (as added by Chapter 472 of the Laws of 1995); 604-d(f)(6)(i); 604-e(e)(10)(i) (as added by Chapter 576 of the Laws of 2000); 604-e(e) (as added by Chapter 577 of the Laws of 2000); 504-f(e)(10)(i) (as added by Chapter 559 of the Laws of 2001); 604-f(e)(10)(i) (as added by Chapter 582 of the Laws of 2001); 604-g(e) and 604-h(e)(10)(i); (the "Special Plans") and adds subdivision (h) to RSSL § 613 to allow New York City Employees' Retirement System ("NYCERS") members who are subject to the Special Plans in Articles 14 and 15 of the RSSL and required to pay additional member contributions, to, upon the separation from New York City service as a result of retirement, use a surplus of additional member contributions paid into the retirement system to offset a deficit in the member's basic member contributions account, and vice versa.

**REASONS FOR SUPPORT:**

The proposed legislation expands the definition of additional member contributions and basic member contributions by allowing a participant of one of the Special Plans ("Special Plan participant") to, upon retirement, use a surplus in his or her additional member contributions account to offset a deficit in his or her basic member contributions account, and, likewise, to use a surplus in his or her basic member contributions account to offset a deficit in his or her additional member contributions account.

Currently, under the Special Plans additional member contributions and basic member contributions must only be used to satisfy the requirements of the type of contributions that it was originally collected for. The law specifically states that the contributions cannot be used for any other purpose. Further, where a Special Plan requires that all addi-

tional member contributions be paid prior to retirement and the Special Plan participant has a deficit, the participant will either not be eligible for a retirement benefit under the Plan or the participant must retire with an actuarial reduction. Consequently, if a Special Plan participant has a deficit at retirement in a Plan that does not allow for an actuarial reduction, he or she must first pay the retirement system the balance of a deficit in additional member contributions before the participant may retire. Due to the limitation in the law regarding the use of additional member contributions and basic contributions, the retirement system cannot use one type of contribution to remedy a deficit of the other type of contribution. Rather, the retirement system and Special Plan participant must undergo a series of costly and timely administrative steps that require the retirement system to process the surplus and the deficit separately. The retirement system must process a check to refund money from a surplus in one account, only to make the participant pay back the deficit in another account before the member may retire under his or her respective Special Plan.

The proposed legislation cures these administrative ailments. Indeed, this bill eliminates the need for all of the separate processing steps by expanding the definition and use of additional member contributions and basic member contributions for the sole purpose of remedying a deficit upon retirement. This bill does not change the use of additional member contributions and basic member contributions for any other purpose. Instead, it eliminates the need for the retirement system to request payment from the participant before he or she may retire, thus expediting the retirement process and reducing the risk of a Special Plan participant being ineligible for a retirement benefit or receiving a reduced retirement benefit under his or her respective Special Plan. By allowing the retirement system to, solely upon the member's retirement, use a surplus of additional member contributions to remedy a deficit in the member's basic member contributions, and vice versa, this legislation aides in the administrative efficiency of the retirement system and eliminates some burdens on Special Plan participant.

Accordingly, the NYCERS Board of Trustees urges the favorable consideration of this proposal by the Legislature.

**EFFECTIVE DATE OF THE BILL:**

This act shall take effect immediately.



# STATE OF NEW YORK

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2017-2018 Regular Sessions

## IN SENATE

May 23, 2017

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to the definition of additional member contributions and basic member contributions for certain New York city employees' retirement system members who are subject to certain retirement plans under articles 14 and 15 of the retirement and social security law, to allow such additional member contributions to be used, to offset a deficit of basic member contributions, or to allow an excess of basic member contributions to offset a deficit of additional member contributions upon retirement

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5 shall be paid into the contingent reserve fund of the retirement system  
6 of which the participant is a member and shall not for any purpose be  
7 deemed to be member contributions or accumulated contributions of a  
8 member under section five hundred seventeen of this article or otherwise  
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10 or otherwise, except that, upon the participant's separation from city  
11 service as a result of retirement, a surplus of such additional member  
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14 basic member contributions.  
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1 (i) All additional member contributions required by this subdivision  
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4 reserve fund and shall not for any purpose be deemed to be member  
5 contributions or accumulated contributions of a member under section  
6 five hundred seventeen of this article or otherwise while he or she is a  
7 participant in the twenty-year retirement program for captains and above  
8 or otherwise, except that, upon the participant's separation from city  
9 service as a result of retirement, a surplus of such additional member  
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12 basic member contributions.

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14 of the retirement and social security law, as added by chapter 622 of  
15 the laws of 2004, is amended to read as follows:

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18 of which the participant is a member shall be paid into its contingent  
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27 utions.

28 § 4. Subdivision d of section 517 of the retirement and social securi-  
29 ty law, as added by chapter 890 of the laws of 1976, is amended to read  
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31 d. Notwithstanding any other provision of this article, a member shall  
32 be entitled to withdraw any excess contributions within six months of  
33 becoming subject to this article. Thereafter, such contributions, and  
34 interest thereon, may only be withdrawn upon separation from service.  
35 Upon retirement, such excess contributions, and any interest thereon,  
36 may be withdrawn in a single lump sum, or at the election of the member  
37 may be paid as an annuity under an option authorized pursuant to section  
38 five hundred fourteen of this article, or at the election of the partic-  
39 ipant may be used to offset a deficit of additional member contributions  
40 as required pursuant to sections five hundred four-a, five hundred  
41 four-b, and five hundred four-d of this article. The use of basic member  
42 contributions to offset a deficit of additional member contributions  
43 does not affect the contributions' tax designation pursuant to section  
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50 of which the participant is a member and shall not for any purpose be  
51 deemed to be member contributions or accumulated contributions of a  
52 member under section six hundred thirteen of this article or otherwise  
53 while he or she is a participant in the twenty-year retirement program  
54 or otherwise, except that, upon the participant's separation from city  
55 service as a result of retirement, a surplus of such additional member  
56 contributions that are paid into the retirement system's contingent

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1 reserve fund may be used for the sole purpose of offsetting a deficit of  
2 basic member contributions.

3 § 6. Subparagraph (i) of paragraph 8 of subdivision e of section 604-b  
4 of the retirement and social security law, as added by chapter 529 of  
5 the laws of 1994, is amended to read as follows:

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11 while he or she is a participant in the twenty-five-year and age fifty-  
12 five retirement program or otherwise, except that, upon the partic-  
13 ipant's separation from city service as a result of retirement, a  
14 surplus of such additional member contributions that are paid into the  
15 retirement system's contingent reserve fund may be used for the sole  
16 purpose of offsetting a deficit of basic member contributions.

17 § 7. Subparagraph (i) of paragraph 7 of subdivision d of section 604-c  
18 of the retirement and social security law, as added by chapter 96 of the  
19 laws of 1995, is amended to read as follows:

20 (i) All additional member contributions required by this subdivision  
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25 section six hundred thirteen of this article or otherwise while he or  
26 she is a participant in the twenty-five-year early retirement program or  
27 otherwise, except that, upon the participant's separation from city  
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33 of the retirement and social security law, as added by chapter 472 of  
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39 member under section six hundred thirteen of this article or otherwise  
40 while he or she is a participant in the twenty-year/age fifty retirement  
41 program or otherwise, except that, upon the participant's separation  
42 from city service as a result of retirement, a surplus of such addi-  
43 tional member contributions that are paid into the retirement system's  
44 contingent reserve fund may be used for the sole purpose of offsetting a  
45 deficit of basic member contributions.

46 § 9. Subparagraph (i) of paragraph 6 of subdivision f of section 604-d  
47 of the retirement and social security law, as added by chapter 96 of the  
48 laws of 1995, is amended to read as follows:

49 (i) All additional member contributions required by this subdivision  
50 (and any interest paid thereon) which are received by the retirement  
51 system of which the participant is a member shall be paid into its  
52 contingent reserve fund and shall not for any purpose be deemed to be  
53 member contributions or accumulated contributions of a member under  
54 section six hundred thirteen of this article or otherwise while he or  
55 she is a participant in the age fifty-seven retirement program or other-  
56 wise, except that, upon the participant's separation from city service

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1 as a result of retirement, a surplus of such additional member contribu-  
2 utions that are paid into the retirement system's contingent reserve  
3 fund may be used for the sole purpose of offsetting a deficit of basic  
4 member contributions.

5 § 10. Subparagraph (i) of paragraph 10 of subdivision e of section  
6 604-e of the retirement and social security law, as added by chapter 576  
7 of the laws of 2000, is amended to read as follows:

8 (i) Such additional member contributions (and any interest thereon)  
9 shall be paid into the contingent reserve fund of the retirement system  
10 of which the participant is a member and shall not for any purpose be  
11 deemed to be member contributions or accumulated contributions of a  
12 member under section six hundred thirteen of this article or otherwise  
13 while he or she is a participant in the twenty-five year retirement  
14 program or otherwise, except that, upon the participant's separation  
15 from city service as a result of retirement, a surplus of such addi-  
16 tional member contributions that are paid into the retirement system's  
17 contingent reserve fund may be used for the sole purpose of offsetting a  
18 deficit of basic member contributions.

19 § 11. Subparagraph (i) of paragraph 10 of subdivision e of section  
20 604-e of the retirement and social security law, as added by chapter 577  
21 of the laws of 2000, is amended to read as follows:

22 (i) Such additional member contributions (and any interest thereon)  
23 shall be paid into the contingent reserve fund of the retirement system  
24 of which the participant is a member and shall not for any purpose be  
25 deemed to be member contributions or accumulated contributions of a  
26 member under section six hundred thirteen of this article or otherwise  
27 while he or she is a participant in the twenty-five year retirement  
28 program or otherwise, except that, upon the participant's separation  
29 from city service as a result of retirement, a surplus of such addi-  
30 tional member contributions that are paid into the retirement system's  
31 contingent reserve fund may be used for the sole purpose of offsetting a  
32 deficit of basic member contributions.

33 § 12. Subparagraph (i) of paragraph 10 of subdivision e of section  
34 604-f of the retirement and social security law, as added by chapter 559  
35 of the laws of 2001, is amended to read as follows:

36 (i) Such additional member contributions (and any interest thereon)  
37 shall be paid into the contingent reserve fund of the retirement system  
38 of which the participant is a member and shall not for any purpose be  
39 deemed to be member contributions or accumulated contributions of a  
40 member under section six hundred thirteen of this article or otherwise  
41 while he or she is a participant in the twenty-five year retirement  
42 program or otherwise, except that, upon the participant's separation  
43 from city service as a result of retirement, a surplus of such addi-  
44 tional member contributions that are paid into the retirement system's  
45 contingent reserve fund may be used for the sole purpose of offsetting a  
46 deficit of basic member contributions.

47 § 13. Subparagraph (i) of paragraph 10 of subdivision e of section  
48 604-f of the retirement and social security law, as added by chapter 582  
49 of the laws of 2001, is amended to read as follows:

50 (i) Such additional member contributions, and any interest thereon,  
51 shall be paid into the contingent reserve fund of the retirement system  
52 of which the participant is a member and shall not for any purpose be  
53 deemed to be member contributions or accumulated contributions of a  
54 member under section six hundred thirteen of this article or otherwise  
55 while he or she is a participant in the twenty-five year retirement  
56 program or otherwise, except that, upon the participant's separation

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1 from city service as a result of retirement, a surplus of such addi-  
2 tional member contributions that are paid into the retirement system's  
3 contingent reserve fund may be used for the sole purpose of offsetting a  
4 deficit of basic member contributions.

5 § 14. Subparagraph (i) of paragraph 10 of subdivision e of section  
6 604-g of the retirement and social security law, as added by chapter 414  
7 of the laws of 2002, is amended to read as follows:

8 (i) Such additional member contributions (and any interest thereon)  
9 shall be paid into the contingent reserve fund of the retirement system  
10 of which the participant is a member and shall not for any purpose be  
11 deemed to be member contributions or accumulated contributions of a  
12 member under section six hundred thirteen of this article or otherwise  
13 while he or she is a participant in the twenty-five year/age fifty  
14 retirement program or otherwise, except that, upon the participant's  
15 separation from city service as a result of retirement, a surplus of  
16 such additional member contributions that are paid into the retirement  
17 system's contingent reserve fund may be used for the sole purpose of  
18 offsetting a deficit of basic member contributions.

19 § 15. Subparagraph (i) of paragraph 10 of subdivision e of section  
20 604-h of the retirement and social security law, as added by chapter 682  
21 of the laws of 2003, is amended to read as follows:

22 (i) Such additional member contributions (and any interest thereon)  
23 shall be paid into the contingent reserve fund of the retirement system  
24 of which the participant is a member and shall not for any purpose be  
25 deemed to be member contributions or accumulated contributions of a  
26 member under section six hundred thirteen of this article or otherwise  
27 while he or she is a participant in the twenty-five year retirement  
28 program or otherwise, except that, upon the participant's separation  
29 from city service as a result of retirement, a surplus of such addi-  
30 tional member contributions that are paid into the retirement system's  
31 contingent reserve fund may be used for the sole purpose of offsetting a  
32 deficit of basic member contributions.

33 § 16. Section 613 of the retirement and social security law is amended  
34 by adding a new subdivision h to read as follows:

35 h. Notwithstanding any other provision of law to the contrary, upon  
36 the participant's separation from city service as a result of retire-  
37 ment, a participant may use any excess basic member contributions to  
38 offset a deficit of additional member contributions as required pursuant  
39 to sections six hundred four-a, six hundred four-b, six hundred four-c,  
40 as added by chapter 96 of the laws of 1995, six hundred four-c, as added  
41 by chapter 472 of the laws of 1995, six hundred four-d, six hundred  
42 four-e, as added by chapter 576 of the laws of 2000, six hundred four-e,  
43 as added by chapter 577 of the laws of 2000, six hundred four-f, as  
44 added by chapter 559 of the laws of 2001, six hundred four-f, as added  
45 by chapter 582 of the laws of 2001, six hundred four-g, and six hundred  
46 four-h of this article. The use of basic member contributions to offset  
47 a deficit of additional member contributions does not affect the  
48 contributions' tax designation pursuant to section 414(h) of the Inter-  
49 nal Revenue Code.

50 § 17. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend the contribution provisions applicable to certain New York City Employees' Retirement System (NYCERS) Special Plans subject to Retirement and Social Security Law (RSSL) Article 14 and Article 15 to allow,

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upon retirement, using any excess basic or additional member contributions to offset any deficits in such other contribution account.

The Effective Date of the proposed legislation would be the date of enactment.

PLANS IMPACTED BY THE PROPOSED LEGISLATION: The proposed legislation would cover those members of NYCERS who are participants in the following special plans requiring the payment of additional member contributions (Special Plans):

Article 14 Special Plans:

Twenty-Year Retirement Program for New York City Correction Members below the Rank of Captain

Twenty-Year Retirement Program for New York City Correction Members of the Rank of Captain or above

Twenty-Year Retirement Program for New York City Correction Members

Article 15 Special Plans:

Twenty-Year Retirement Program for New York City Sanitation Members

Twenty-Five-Year and Age Fifty-Five Retirement Program for New York City Transit Authority Members

Optional Twenty-Five-Year Early Retirement Program for Certain New York City Members

Twenty-Year/Age Fifty Retirement Program for Triborough Bridge and Tunnel Members

Age Fifty-Seven Retirement Program for Certain New York City Members

Twenty-Five Year Retirement Program for Dispatcher Members

Twenty-Five Year Retirement Program for EMT Members

Twenty-Five Year Retirement Program for Deputy Sheriff Members

Twenty-Five Year Retirement Program for Special Officer, Parking Control Specialist, School Safety Agent, Campus Peace Officer or New York City Taxi and Limousine Inspector Members

Twenty-Five Year/Age Fifty Retirement Program for Automotive Members

Twenty-Five Year Retirement Program for Police Communications Members

IMPACT ON BENEFITS PAYABLE: The proposed legislation would not materially affect the benefits payable to participants in the Special Plans. Rather, the proposed legislation would help reduce the administrative burdens associated with requiring the return of excess basic or additional member contributions, and requiring the return of excess basic or additional member contributions, and requiring a separate payment for any contribution deficits in such accounts (or the calculation of an actuarial reduction based such deficits) upon retirement.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: The enactment of this proposed legislation would not result in any change in employer contributions.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Pension Funds and Retirement Systems. I am a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2017-10 dated April 25, 2017, was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2017 Legislative Session.

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S6460

**SPONSOR:** SAVINO

**TITLE OF BILL:**

An act to amend the retirement and social security law, in relation to the definition of additional member contributions and basic member contributions for certain New York city employees' retirement system members who are subject to certain retirement plans under articles 14 and 15 of the retirement and social security law, to allow such additional member contributions to be used, to offset a deficit of basic member contributions, or to allow an excess of basic member contributions to offset a deficit of additional member contributions upon retirement

**SUMMARY OF PROVISIONS:**

This bill amends Retirement and Social Security Law ("RSSL") §§ 504-a(e)(8)(i); 504-b(e)(12)(i); 504-d(e)(9)(i); 517(d); 604-a(e)(8)(i); 604-b(e)(8)(i); 604-c(d)(7)(i) (as added by Chapter 96 of the Laws of 1995); 604-c(e)(8)(i) (as added by Chapter 472 of the Laws of 1995); 604-d(f)(6)(i); 604-e(e)(10)(i) (as added by Chapter 576 of the Laws of 2000); 604-e(e) (as added by Chapter 577 of the Laws of 2000); 504-f(e)(10)(i) (as added by Chapter 559 of the Laws of 2001); 604-f(e)(10)(i) (as added by Chapter 582 of the Laws of 2001); 604-g(e) and 604-h(e)(10)(i); (the "Special Plans") and adds subdivision (h) to RSSL § 613 to allow New York City Employees' Retirement System ("NYCERS") members who are subject to the Special Plans in Articles 14 and 15 of the RSSL and required to pay additional member contributions, to, upon the separation from New York City service as a result of retirement, use a surplus of additional member contributions paid into the retirement system to offset a deficit in the member's basic member contributions account, and vice versa.

**REASONS FOR SUPPORT:**

The proposed legislation expands the definition of additional member contributions and basic member contributions by allowing a participant of one of the Special Plans ("Special Plan participant") to, upon retirement, use a surplus in his or her additional member contributions account to offset a deficit in his or her basic member contributions account, and, likewise, to use a surplus in his or her basic member contributions account to offset a deficit in his or her additional member contributions account.

Currently, under the Special Plans additional member contributions and basic member contributions must only be used to satisfy the requirements of the type of contributions that it was originally collected for. The

law specifically states that the contributions cannot be used for any other purpose. Further, where a Special Plan requires that all additional member contributions be paid prior to retirement and the Special Plan participant has a deficit, the participant will either not be eligible for a retirement benefit under the Plan or the participant must retire with an actuarial reduction. Consequently, if a Special Plan participant has a deficit at retirement in a Plan that does not allow for an actuarial reduction, he or she must first pay the retirement system the balance of a deficit in additional member contributions before the participant may retire. Due to the limitation in the law regarding the use of additional member contributions and basic contributions, the retirement system cannot use one type of contribution to remedy a deficit of the other type of contribution. Rather, the retirement system and Special Plan participant must undergo a series of costly and timely administrative steps that require the retirement system to process the surplus and the deficit separately. The retirement system must process a check to refund money from a surplus in one account, only to make the participant pay back the deficit in another account before the member may retire under his or her respective Special Plan.

The proposed legislation cures these administrative ailments. Indeed, this bill eliminates the need for all of the separate processing steps by expanding the definition and use of additional member contributions and basic member contributions for the sole purpose of remedying a deficit upon retirement. This bill does not change the use of additional member contributions and basic member contributions for any other purpose. Instead, it eliminates the need for the retirement system to request payment from the participant before he or she may retire, thus expediting the retirement process and reducing the risk of a Special Plan participant being ineligible for a retirement benefit or receiving a reduced retirement benefit under his or her respective Special Plan. By allowing the retirement system to, solely upon the member's retirement, use a surplus of additional member contributions to remedy a deficit in the member's basic member contributions, and vice versa, this legislation aides in the administrative efficiency of the retirement system and eliminates some burdens on Special Plan participant.

Accordingly, the NYCERS Board of Trustees urges the favorable consideration of this proposal by the Legislature.

**EFFECTIVE DATE OF THE BILL:**

This act shall take effect immediately.

**BUDGETARY IMPLICATIONS OF THE BILL:**

FISCAL NOTE