

[N.Y. Civ. Serv. Law §§ 160 through 179.]

§ 160. Regulations governing the health benefit plan; advisory committee: Health Benefits for State and Retired State Employees

Regulations governing the health benefit plan; advisory committee. 1. The president, subject to the provisions of this article, is hereby empowered to establish regulations relating to:

- (1) the eligibility of (a) active and (b) retired employees to participate in the health benefit plan authorized by this article,
- (2) the terms and conditions of the insurance and/or plan administrator contract or contracts, as applied to (a) active employees and (b) retired employees, and
- (3) the purchase of such insurance and/or plan administrator contract or contracts and the administration of such health benefit plan.

The president shall adopt such further regulations as may be required for the effective administration of this article, including the right to require advance payments of any portion of the amount required to be paid by any participating employer as its share in connection with the operation of the health benefit plan hereunder.

2. The president, in his discretion, is hereby empowered to make, amend and rescind, from time to time, regulations establishing a dental insurance plan which shall be a part of the health insurance plan authorized by this article. Such regulations may provide for negotiating unit, employee and employer participation or nonparticipation, employee, dependent and retiree eligibility or noneligibility and such contribution rates as the president may determine even though such regulations establish standards which differ from those applicable by law to other parts of such health insurance plan. The president is hereby authorized and directed to provide in such regulations for participation in the dental insurance plan by retirees; provided, however, that the claims experience for retirees shall be separately rated and premiums established separate from other participants in the plan and provided further that the full costs of participation in such plan, including all administrative costs, shall be borne by such retirees. Considering the dental insurance plan as a whole, no regulation enacted pursuant to this subdivision shall provide or permit a benefit structure inconsistent with the most efficient and economical administration of such plan.

3. Notwithstanding any inconsistent provision of this article, no rule or regulation shall be adopted, repealed or amended, and no other action taken with respect to state employees affecting the rate of or eligibility for benefits under this article, without the approval of the director of employee relations.

§ 161. Health insurance: Health Benefits for State and Retired State Employees

1. The president is hereby authorized and directed to establish a health benefit plan for state officers and employees and their dependents and officers and employees of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York and their dependents which, subject to the conditions and limitations contained in this article, and in the regulations of the president, will provide for group hospitalization, surgical and

medical insurance against the financial costs of hospitalization, surgery, medical treatment and care, and may include, among other things prescribed drugs, medicines, prosthetic appliances, hospital in-patient and out-patient service benefits and medical expense indemnity benefits.

2. Such health insurance shall not include expenses incurred by or on account of an individual prior to the effective date of the plan as to him or her; cosmetic surgery or treatment except to the extent necessary for correction of damage caused by accidental injury while covered by the plan or as direct result of diseases covered by the plan; services received because of illness or injury arising out of or in the course of employment and entitling the individual to benefits under a workers' compensation or occupational disease law; services received in a hospital owned or operated by the United States government for which no charge is made; services received for injury or sickness due to war or any act of war, whether declared or undeclared, which war or act of war shall have occurred after the effective date of this plan; expenses for which the individual is not required to make payment; expenses to the extent of benefits provided under any employer group plan other than this plan, and such other expenses as may be excluded by regulations of the president.

3. The health benefit plan shall be designed by the president (1) to provide a reasonable relationship between the hospital, surgical and medical benefits to be included, and the expected distribution of expenses of each such type to be incurred by the covered employees and dependents, and (2) to include reasonable controls, which may include deductible and coinsurance provisions applicable to some or all of the benefits, to reduce unnecessary utilization of the various hospital, surgical and medical services to be provided and to provide reasonable assurance of stability in future years of the plan, and (3) to provide benefits on a non-discriminatory basis to the extent

§ 161-A. Implementation of negotiated agreements: Health Benefits for State and Retired State Employees

1. Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter provides for health benefits, the president, after receipt of written directions from the director of employee relations, shall implement the provisions of such agreement consistent with the terms thereof and to the extent necessary shall adopt regulations providing for the benefits to be thereunder provided. The president, with the approval of the director of the budget, may extend such benefits, in whole or in part, to employees not subject to the provisions of such agreement.

2. Insofar as the provisions of this section are inconsistent with any other act, general or special, or any rule or regulation adopted thereunder, the provisions of this section shall be controlling and insofar as the regulations promulgated by the president pursuant to subdivision one of this section are inconsistent with any rule or regulation, the provisions of such regulations shall be controlling.

3. There is hereby created a council on employee health insurance to supervise the administration of changes to the health benefit plan negotiated in collective negotiations and to provide continuing policy direction to insurance plans administered by the state the provisions of any other law to the contrary notwithstanding. The council shall consist of the president, the director of the division of the budget, and the director of employee relations.

§ 162. Contract for health benefits: Health Benefits for State and Retired State Employees

1. The president is hereby authorized and directed to purchase a contract or contracts to provide the benefits under the plan of health benefits determined upon in accordance with the provisions of this article. Such contract or contracts shall be purchased from one or more corporations licensed to transact accident and health insurance business in this state or subject to article forty-three of the insurance law.

(a) Alternatively, the president may provide health benefits directly to plan participants, in which case the president is hereby authorized to purchase a contract or contracts with one or more firms qualified to administer, on New York state health benefit plan's behalf, the plan of benefits required under this article.

(b) In the event the president elects to provide health benefits directly to plan participants in accordance with paragraph (a) of this subdivision:

(i) Any and all health insurance coverage mandated by any law, rule or regulation, including but not limited to coverage mandated pursuant to article forty-three of the insurance law, applicable to contracts for health insurance entered into under this section shall be provided in a manner assuring uninterrupted continuance of coverage for all covered persons. For the purposes of this paragraph "coverage" shall include but shall not be limited to all benefits, services, rights, privileges and guarantees allowed by law;

(ii) Plan participants shall be afforded all internal and external review and appeal rights as described in article forty-nine of the insurance law;

(iii) A plan participant receiving covered services rendered by a health care provider prior to the date upon which the president elects to provide health benefits directly to plan participants in accordance with paragraph (a) of this subdivision shall be permitted to continue receiving services from such health care provider after the effective date of the election at the discretion of such plan participant. Services provided by such health care provider after the effective date of the election as described in this paragraph shall be covered in a manner consistent with covered services provided directly to plan participants in accordance with paragraph (a) of this subdivision; and

(iv) Notwithstanding the provisions of this subdivision, the president's election to provide health benefits directly to plan participants shall not constitute the doing of insurance business within the meaning of article eleven of the insurance law; provided however, the provision of direct benefits as per this subdivision shall be subject to review by the superintendent of financial services for the purposes of ensuring compliance with applicable insurance law and any and all associated insurance rules and regulations as noted in this subdivision.

(c) All of the benefits to be provided under this article may be included in one or more similar contracts, or the benefits may be classified into different types with each type included under one or more similar contracts issued by the same or different companies.

2. A reasonable time before entering into any insurance contract or contract with an administrator or administrators hereunder, the president shall invite proposals from such qualified insurers or administrators as in his or her opinion would desire to accept any part of the insurance coverage or administrative services authorized by this article.

3. The president may arrange with any corporation licensed to transact accident and health insurance business in this state or subject to article forty-three of the insurance law issuing any such contract to reinsure portions of such contract with any other such corporation which elects to be a reinsurer and is legally competent to enter into a reinsurance agreement.
4. The president may designate one or more of such corporations as the administering corporation or corporations.
5. Each employee who is covered under any such contract or contracts shall receive a certificate setting forth the benefits to which the employee and his dependents are entitled thereunder, to whom such benefits shall be payable, to whom claims should be submitted, and summarizing the provisions of the contract principally affecting the employee and his dependents. Such certificate shall be in lieu of the certificate which the corporation or corporations issuing such contract or contracts would otherwise issue.
6. The corporations eligible to participate as reinsurers, and the amount of coverage under the contract or contracts to be allocated to each issuing corporation or reinsurer, may be redetermined by the president for and in advance of any contract year after the first year on a basis consistent with subdivision three of this section, and with any modifications thereof he deems appropriate to carry out the intent of such subdivision.
7. The president shall not purchase any contract or contracts for any period except upon the prior approval of the director of the budget.
8. The president may, on March thirty-first, nineteen hundred fifty-seven or at the end of any fiscal year thereafter, discontinue any contract or contracts he has purchased from any corporation or corporations and replace it or them with a contract or contracts in any other corporation or corporations meeting the requirements of this section.
9. As soon as is practicable, but no later than the first of September, two thousand fourteen, the department shall, upon request, but no more frequently than semi-annually, provide to any participating employer a standard report which contains data relating to the use of benefits by persons covered under the plan by such employer. Such report shall include: premiums paid by month for each month covered in the report and paid claims by month for the following categories of services: inpatient hospital, outpatient hospital, in network medical, out of network medical, prescription drugs, and treatment of behavioral conditions, each reported separately. To the extent allowed by state and federal privacy laws, such report shall also contain claims information for individual claimants for claims in excess of fifty thousand dollars that were paid in any of the months covered by the report.

The department shall provide such reports to any participating employer, upon request submitted on or after the first of April for data from the first of January through the thirty-first of December of the prior year, and on or after the first of September for data from the first of June of the prior year through the thirty-first of May of the current year, within thirty days of receipt of said request. However, requests submitted in the two thousand fourteen calendar year shall be provided as soon as practicable, but no later than the first of September two thousand fourteen, or within thirty days after said request if request is submitted on or after the first of August two thousand fourteen.

§ 163. Eligibility for benefits: Health Benefits for State and Retired State Employees

1. All persons in the service of the state, whether elected, appointed or employed, who elect to participate in such health benefit plan shall be eligible to participate therein, provided, however, that the president may

adopt such regulations as he or she may deem appropriate excluding temporary, part time or intermittent employment.

2. The contract or contracts shall provide for health benefits for retired employees of the state and of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, and their spouses and dependent children as defined by the regulations of the president, on such terms as the president may deem appropriate, and the president may authorize the inclusion in the plan of the employees and retired employees of public authorities, public benefit corporations, school districts, special districts, district corporations, municipal corporations excluding active employees and retired employees of cities having a population of one million or more inhabitants whose compensation is or was before retirement paid out of the city treasury, or other appropriate agencies, subdivisions or quasi-public organizations of the state, including active members of volunteer fire and volunteer ambulance companies serving one or more municipal corporations pursuant to subdivision seven of section ninety-two-a of the general municipal law, and their spouses and dependent children as defined by the regulations of the president. Any such corporation, district, agency or organization electing to participate in the plan shall be required to pay its proportionate share of the expenses of administration of the plan in such amounts and at such times as determined and fixed by the president. All amounts payable for such expenses of administration shall be paid to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for such purposes. Neither the state nor any other participant in the plan shall be charged with the particular experience attributable to the employees of the participant, and all dividends or retroactive rate credits shall be distributed pro-rata based upon the number of employees of such participant covered by the plan.

3. The president shall adopt regulations prescribing the conditions under which an employee or retired employee may elect to participate in or withdraw from the plan. Such regulations may also prescribe conditions under which an employee whose service terminates and who is entitled to a vested retirement allowance may continue to participate in the plan; such condition shall include a requirement that such person pay the full cost of such coverage following termination of his employment and prior to commencement of the payment of his retirement allowance, unless such person becomes currently entitled to, but defers receipt of, a retirement allowance or pension from a retirement or pension plan or system administered and operated by the state of New York, or a civil division thereof, including the New York state teachers' retirement system and the optional retirement programs established under article three, part V, and article eight-B of the education law.

4. Any public authority, public benefit corporation, school district, special district, district corporation, municipal corporation, or other agency, subdivision or quasi-public organization of the state, whose employees and retired employees are authorized to be included in the plan as provided by subdivision two, may elect to participate in such plan. Any such election shall be exercised by the adoption of a resolution by its governing body and, in the case of any municipal corporation where a resolution of its governing body is required by law to be approved by any other body or officer, such resolution shall also be approved by such other body or officer. Any such election may be made with respect to inclusion in the plan of both its employees and its retired employees at the same time, or may be made only with respect to its employees alone and at another time with respect to its retired employees. Any such authority, corporation, district,

agency, subdivision or organization making such election shall become a participating employer under such plan, subject to and in accordance with the regulations of the president relating thereto.

5. The chief fiscal officer of any such participating employer shall be authorized to deduct from the wages or salary paid to its employees who are participants in such health benefit plan the sums required to be paid by them under such plan. Each such participating employer is authorized to appropriate such sums as are required to be paid by it as its share in connection with the operation of such plan.

6. The president shall have power and authority to make such inspection of the employment and payroll records of any participating employer concerning any of its employees who are participants in the health insurance fund as he may deem necessary.

7. For purposes of eligibility for participation in the health benefit plan no person shall be deemed to be a state officer or employee or to be in the service of the state unless his salary or compensation is paid directly by the state, and no person shall be deemed to be a retired officer or employee of the state unless his salary or compensation immediately preceding his retirement was paid directly by the state; provided, however, that all active and retired justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city shall be eligible for participation in the health benefit plan whether or not their salaries are paid or before retirement were paid directly by the state.

8. Notwithstanding any other law, rule or regulation to the contrary, where the state and an employee organization representing state officers and employees who are in positions which are in the collective negotiating unit established by chapter four hundred three of the laws of nineteen hundred eighty-three enter into a collectively negotiated agreement pursuant to article fourteen of this chapter providing that officers and employees who hold positions in such unit on or after April first, nineteen hundred eighty-four and who immediately upon termination from such position are eligible to receive a retirement benefit from either the New York state or New York city retirement systems shall continue to be eligible to participate in the employee benefit fund established by section two hundred six-a of the state finance law, such officers and employees upon retirement shall continue to participate in and receive the benefits of such fund as provided in such collectively negotiated agreement and shall not be eligible to receive and shall not receive from the statewide health benefit plan established pursuant to this article coverage for benefits covered by such employee benefit fund.

§ 163-A. Supplementary plan: Health Benefits for State and Retired State Employees

1. For the purposes of this section, the term "supplementary plan" shall mean a health benefit plan which provides an adjustment to the deductible or co-insurance liability or to the benefits provided by the statewide health benefit plan purchased pursuant to section one hundred sixty-two of this article.

2. The president may require the insurer of a supplementary plan to the statewide health benefit plan, provided as a result of a collectively negotiated agreement pursuant to article fourteen of this chapter, to make a comparable supplementary plan available to participating employers as of the implementation date of the state employees' supplementary plan. The comparable supplementary plan shall be experience rated as to those participating employers electing it, with the costs thereof allocated equitably among them.

3. Every participating employer which, on or before July first, nineteen hundred eighty-five, entered into a collectively negotiated agreement pursuant to article fourteen of this chapter with employee organizations representing its employees to provide the statewide health benefit plan shall provide such comparable supplementary plan on the date established by the president until the expiration of such negotiated agreement.

§ 164. Coverage for dependents: Health Benefits for State and Retired State Employees

1. Each employee shall be entitled to have his spouse and dependent children, as defined by the regulations of the president, included in the coverage upon agreeing to pay his contribution, if any, to the cost of such coverage for such dependents. The president shall adopt regulations governing the discontinuance and resumption by employees of coverage for dependents.

2. During the fiscal year ending March thirty-first, two thousand sixteen, the president may establish an amnesty period not to exceed sixty days. During this amnesty period when any employee enrolled in the plan voluntarily identifies any ineligible dependent:

(a) the termination of the ineligible dependent's coverage resulting from such employee's timely compliance shall be made on a current basis;

(b) the plan shall not seek recovery of any claims paid based on the coverage of the ineligible dependent;

(c) the employee shall not be entitled to any refund of premium paid on behalf of any such ineligible dependent; and

(d) the employee shall not be subject to any disciplinary, civil or criminal action, directly as a result of the coverage of the ineligible dependent.

§ 165. Termination of active employment: Health Benefits for State and Retired State Employees

1. The health benefit coverage of any employee and his or her dependents, if any, shall cease upon the discontinuance of his or her term of office or employment, subject to regulations which may be prescribed by the president for extension of coverage and for conversion to an individual contract providing for such of the benefits provided under this article as may be provided under such individual contracts, under terms approved by the president, the total cost of any such contract to be borne by the employee.

2. In the event of death of an employee having coverage at the time of death for himself or herself and his or her dependents, and where the circumstances of death are such that beneficiaries or dependents of such deceased employee are entitled to an accidental death benefit payable by a retirement system or pension plan administered by the state or a civil division thereof on account of death resulting from an accident sustained in the performance of his or her duties or to death benefits provided for under the workers' compensation law, the unmarried spouse of such employee covered at the time of his or her death and his or her covered dependents, for so long as they would otherwise qualify as dependents eligible for coverage under the regulations of the president, shall be eligible to continue full coverage under the health benefit plan upon payment at intervals determined by the president of the full cost of such coverage; provided, however, that the state shall pay and any participating employer may elect to pay the full cost of such coverage, except

that in the case of those enrolled in an optional benefit plan, the employer shall contribute not more than the same dollar amount which would be paid if such unremarried spouse and dependents were enrolled in the basic statewide health benefit plan. The president shall adopt such regulations as may be required to carry out the provisions of this subdivision which shall include, but need not be limited to, provisions for filing application for continued coverage, including reasonable time limits therefor, and provisions for continued coverage of spouse and dependents pending determination of an application for accidental death benefits from a retirement system or pension plan administered by the state or a civil division thereof or pending determination of a claim for death benefits under the workers' compensation law.

§ 165-A. Continuation of state health benefit plans for survivors of employees of the state and/or of a political subdivision or of a public authority: Health Benefits for State and Retired State Employees

Continuation of state health benefit plans for survivors of employees of the state and/or of a political subdivision or of a public authority. Notwithstanding any other provision of law to the contrary, the president shall permit the unremarried spouse and the dependents, otherwise qualified as eligible for coverage under regulations of the president, of a person who was an employee of the state and/or of a political subdivision thereof or of a public authority for not less than ten years, provided however, that the ten-year service requirement shall not apply to such employees on active military duty in connection with the Persian Gulf conflict who die on or after August second, nineteen hundred ninety while in the Persian Gulf combat zone or while performing such military duties, who had been a participant in any of the state health benefit plans, to continue under the coverage which such deceased employee had in effect at the time of death, upon the payment at intervals determined by the president of the full cost of such coverage, provided, however, that the unremarried spouse of an active employee of the State who died on or after April first nineteen hundred seventy-five and before April first nineteen hundred seventy-nine who timely elected to continue dependent coverage, or such unremarried spouse who timely elected individual coverage shall continue to pay at intervals determined by the president one-quarter of the full cost of dependent coverage and provided further, that, with regard to employees of the State, where and to the extent that an agreement pursuant to article fourteen of this chapter so provides, or where the director of employee relations, with respect to employees of the State who are not included within a negotiating unit so recognized or certified pursuant to article fourteen of this chapter whom the director of employee relations determines should be declared eligible for the continuation of health benefit plans for the survivors of such employees of the State, the president shall adopt regulations providing for the continuation of such health benefit or benefits by the unremarried spouse of an active employee of the State who died on or after April first nineteen hundred seventy-nine who elects to continue dependent coverage, or such unremarried spouse who elects individual coverage, and upon such election shall pay at intervals determined by the president one-quarter of the full cost of dependent coverage and, provided further with respect to enrolled employees of a political subdivision or public authority in a negotiating unit recognized or certified pursuant to article fourteen of this chapter, where an agreement negotiated pursuant to said article so provides, and with respect to enrolled employees of a political subdivision or public authority not included within a negotiating unit so recognized or certified, at the discretion of the appropriate political subdivision or public authority, the unremarried spouse of an active employee of the political subdivision or of the public authority who died on or after April first nineteen hundred seventy-five, may elect to continue dependent coverage or such unremarried spouse may elect

individual coverage and upon such election shall pay at intervals determined by the president one-quarter of the full cost of dependent coverage.

The president shall adopt such regulations as may be required to carry out the provisions of this subdivision which shall include, but need not be limited to, provisions for filing application for continued coverage.

Notwithstanding any law to the contrary, the survivors of any employee subject to this section shall be entitled to the health benefits granted pursuant to this section, provided that such employee died while on active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code, and such member died on such active duty or service in the uniformed services on or after June fourteenth, two thousand five as a result of injuries, disease or other medical condition sustained or contracted in such active duty with the armed forces of the United States or in the uniformed services.

§ 166. Payment of benefits: Health Benefits for State and Retired State Employees

Any benefits payable under the plan may be made either directly to the attending physicians, hospitals, medical groups, or others furnishing the services upon which a claim is based, or to the covered employee, upon presentation of valid bills for such services, subject to such provisions to facilitate payment as may be made by the president.

§ 167. Contributions: Health Benefits for State and Retired State Employees

1. (a) The full cost of premium or subscription charges for the coverage of retired state employees who are enrolled in the statewide and the supplementary health benefit plans established pursuant to this article and who retired prior to January first, nineteen hundred eighty-three shall be paid by the state. Nine-tenths of the cost of premium or subscription charges for the coverage of state employees and retired state employees retiring on or after January first, nineteen hundred eighty-three who are enrolled in the statewide and supplementary health benefit plans shall be paid by the state. Three-quarters of the cost of premium or subscription charges for the coverage of dependents of such state employees and retired state employees shall be paid by the state. Except as provided in paragraph (b) of this subdivision, the state shall contribute toward the premium or subscription charges for the coverage of each state employee or retired state employee who is enrolled in an optional benefit plan and for the dependents of such state employee or retired state employee the same dollar amount which would be paid by the state for the premium or subscription charges for the coverage of such state employee or retired state employee and his or her dependents if he or she were enrolled in the statewide and the supplementary health benefit plans, but not in excess of the premium or subscription charges for the coverage of such state employee or retired state employee and his or her dependents under such optional benefit plan. For purposes of this subdivision, employees of the state colleges of agriculture, home economics, industrial labor relations, and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and employees of the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, shall be deemed to be state employees whose salaries or compensation are paid directly by the state.

(b) Effective January first, nineteen hundred eighty-nine, notwithstanding any other law, rule or regulation, and where, and to the extent that, an agreement between the state and an employee organization entered

into pursuant to article fourteen of this chapter so provides or where and to the extent the employee health insurance council so directs with respect to any other state employees and for retired state employees retiring on or after January first, nineteen hundred eighty-three, the state shall contribute nine-tenths of the cost of premiums or subscription charges for coverage of each such state employee or retired state employee who is enrolled in an optional benefit plan and three-fourths of such premium or subscription charges for dependents of such state employees or retired state employees enrolled in such optional benefit plan; provided, however, effective January first, nineteen hundred ninety-six, the contribution rates for the hospitalization and medical components of each optional benefit plan shall not exceed one hundred percent of the dollar amount of the state's contribution toward the hospitalization and medical components of individual and dependent coverage, respectively, in the Empire Plan. In the case of state employees retiring prior to January first, nineteen hundred eighty-three, the state shall contribute one hundred percent of the individual premium and three-fourths of such premium for dependents of such retired employees enrolled in such optional benefit plan; however, these contribution rates shall not exceed one hundred percent of the employer dollar amount contribution for individual and dependent coverage respectively in the Empire Plan.

2. Each participating employer shall be required to pay not less than fifty percentum of the cost of premium or subscription charges for the coverage of its employees and retired employees who are enrolled in the statewide only or the statewide and comparable supplementary health benefit plans established pursuant to this article. Such employer shall be required to pay not less than thirty-five percentum of the cost of premium or subscription charges for the coverage of dependents of such employees and retired employees. Such employer shall contribute toward the premium or subscription charges for the coverage of each employee or retired employee who is enrolled in an optional benefit plan and for the dependents of such employee or retired employee the same dollar amount which would be paid by such employer for the premium or subscription charges for the coverage of such employee or retired employee and his or her dependents if he or she were enrolled in the statewide health benefit plan, but not in excess of the premium or subscription charges for the coverage of such employee or retired employee and his or her dependents under such optional benefit plan. Such employer shall not be required to pay the cost of premium or subscription charges for the coverage of unpaid elected officials, or unpaid board members of a public authority, or their dependents, provided, however that no unpaid board member of a public authority shall be eligible to participate in such benefit plan until he or she has served in such position for at least six months. Subject to such regulations as the president may prescribe, any participating employer may elect to pay higher rates of contribution for the coverage of employees, retired employees and their dependents; provided, however, that if a participating employer elects to pay a higher or lower rate of contribution for its retired employees or their dependents, or both, than that paid by the state for its retired employees or their dependents, or both, amounts withheld from the retirement allowances of such retired employees for their share of premium or subscription charges, if any, shall, if the president so requires, be paid to such participating employer which shall pay into the health insurance fund the full cost of premium or subscription charges for the coverage of such retired employees and their dependents. Such election shall be exercised by the adoption of a resolution by its governing body which, if required by law to be approved by any other body or officer, shall have been so approved.

3. Contributions, if any, required to be paid by an employee or a retired employee for his or her coverage and for the coverage of his or her dependents, if any, shall be deducted from his or her salary payments or from his or her retirement allowance, as the case may be. Upon the written request of a survivor of such retirees or

employees, such contribution required to be paid for continued insurance coverage shall be deducted from any retirement allowance to which he or she is entitled.

4. Upon the retirement, on or after July first, nineteen hundred sixty-five, of a state employee whose salary or compensation is paid directly by the state, who is subject to a plan established by law, rule, regulation, written order or written policy which provides for the regular earning and accumulation of sick leave, and who is eligible to continue coverage under the health benefit plan after retirement, the department shall determine, based on the employee's age at the time of retirement, the actuarial equivalent in monthly installments for the remaining life expectancy of such retired employee, of the dollar value of the earned and accumulated but unused sick leave standing to his or her credit at the time of retirement, without interest. Such dollar value shall be based on the employee's salary at the time of retirement. In addition to regular employer contributions, contributions in the amount of such monthly installments shall be paid from the state's appropriation to the health insurance fund and applied towards the charges for health benefits on account of such retired employee and his or her dependents, to the extent necessary to pay such charges. The remaining amount, if any, necessary to pay such charges shall be contributed by such retired employee. On or after October first, nineteen hundred seventy when such dollar value of such sick leave amounts to less than one hundred dollars for a particular retired employee, in lieu of contributions which would otherwise be required from such retired employee, additional contributions shall be paid for the state's appropriation to the health insurance fund and applied towards the charges for health benefits on account of such retired employee and his or her dependents until the sum of such additional contributions equals such dollar value of such sick leave. The remaining amount, if any, necessary to pay such charges shall be contributed by such retired employee. For purposes of this subdivision, employees of the state colleges of agriculture, home economics, industrial labor relations, and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and employees of the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York, shall be deemed to be state employees whose salaries or compensation is paid directly by the state.

5. Subject to such regulations as the president may prescribe, any participating employer may elect to make additional contributions towards charges for health benefit coverage on account of its retired employees and their dependents, based on the dollar value of their sick leave accumulated but unused at the time of retirement. Such election shall apply to employees in the service of the participating employer who retire on or after the effective date of such election, who are subject to a plan established by law, rule, regulation, written order or written policy which provides for the regular earning and accumulation of sick leave, and who are eligible to continue coverage under the health benefit plan after retirement. The participating employer shall certify to the department the dollar value of earned and accumulated but unused sick leave standing to the credit of an employee at the time of his or her retirement. Additional contributions shall be paid by such participating employer and applied towards charges for health benefits on account of its retired employees and their dependents in the same manner as provided in subdivision four of this section with respect to retired state employees and their dependents.

6. There is hereby created a health insurance fund which shall be available without fiscal year limitation for premium or subscription charge payments, for payment of health benefits to plan participants, and for administrative services under any contract or contracts purchased in accordance with this article. The amounts withheld from employees and retired employees under subdivision three of this section, all amounts

appropriated by the state to such health insurance fund, and all amounts contributed by any participating employer pursuant to subdivision two of this section, shall be credited to such health insurance fund. The income derived from any dividends, premium rate adjustments or other refunds under any such contract or contracts shall be credited to such fund and retained therein as a special reserve for adverse fluctuation in future charges under any such contract or contracts. Any interest earned by the investment of moneys in such health insurance fund shall be added to such special reserve, become a part of such special reserve, and be used for the purpose of such special reserve.

7. The amounts required to be paid to any contracting corporation under any contract entered into pursuant to the provisions of this article shall be payable from such health insurance fund as audited by and upon the warrant of the comptroller on vouchers certified or approved by the president.

8. Notwithstanding any inconsistent provision of law, where and to the extent that an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides, the state cost of premium or subscription charges for eligible employees covered by such agreement may be modified pursuant to the terms of such agreement. The president, with the approval of the director of the budget, may extend the modified state cost of premium or subscription charges for employees or retirees not subject to an agreement referenced above and shall promulgate the necessary rules or regulations to implement this provision.

9. Any interest earned by the investment of moneys in the dental insurance fund shall be added to such fund, become a part of such fund, be used for the purpose of such fund, and be available without fiscal year limitation.

§ 167-A. Reimbursement for medicare premium charges: Health Benefits for State and Retired State Employees

Upon exclusion from the coverage of the health benefit plan of supplementary medical insurance benefits for which an active or retired employee or a dependent covered by the health benefit plan is or would be eligible under the federal old-age, survivors and disability insurance program, an amount equal to the premium charge for such supplementary medical insurance benefits for such active or retired employee and his or her dependents, if any, shall be paid monthly or at other intervals to such active or retired employee from the health insurance fund. Where appropriate, such amount may be deducted from contributions payable by the employee or retired employee; or where appropriate in the case of a retired employee receiving a retirement allowance, such amount may be included with payments of his or her retirement allowance. All state employer, employee, retired employee and dependent contributions to the health insurance fund, including contributions from public authorities, public benefit corporations or other quasi-public organizations of the state eligible for participation in the health benefit plan as authorized by subdivision two of section one hundred sixty-three of this article, shall be adjusted as necessary to cover the cost of reimbursing federal old-age, survivors and disability insurance program premium charges under this section. This cost shall be included in the calculation of premium or subscription charges for health coverage provided to employees and retired employees of the state, public authorities, public benefit corporations or other quasi-public organizations of the state; provided, however, the state, public authorities, public benefit corporations or other quasi-public organizations of the state shall remain obligated to pay no less than its share of such increased cost consistent with its share of premium or subscription charges provided for by this article. All other employer contributions to the health insurance fund shall be adjusted as necessary to provide for such payments.

§ 168. Assessment of certain costs: Health Benefits for State and Retired State Employees

1. If the salary or compensation of any officers and employees of the state is paid from a special or administrative fund or funds, other than the state purposes fund or the local assistance fund of the general fund of the state or the capital construction fund or an income fund of the state university or the mental hygiene services fund, such fund or funds shall be charged, and there shall be paid therefrom as provided in this section the employer's share of the premium for the coverage of such officers and employees under the health benefit plan. If the amounts appropriated or allocable from such special or administrative fund or funds are insufficient for such purpose, the director of the budget is hereby authorized to allocate such additional sums from such fund or funds as may be necessary therefor; provided, however, that no transfer shall be made between two or more of such funds. Such amounts shall be paid, at such times as shall be required by the president, to the commissioner of taxation and finance and shall be credited to the health insurance fund to pay, or reimburse the health insurance fund for the payment of, the employer's share of the premium for coverage of such officers and employees under the health benefit plan.

2. If the salary or compensation of any officers and employees of the state is payable from a special or administrative fund or funds, other than the state purposes fund or the local assistance fund of the general fund of the state or the capital construction fund or an income fund of the state university or the mental hygiene services fund, a proportionate share of the expenses of administration of the health benefit plan, on account of coverage of such officers and employees, shall be payable from such fund or funds. If the amounts appropriated or allocable from such special or administrative fund or funds are insufficient for such purpose, the director of the budget is hereby authorized to allocate such additional sums from such funds or funds as may be necessary therefor; provided, however, that no transfer shall be made between two or more of such funds. The proportionate share of the expenses of administration of the health benefit plan chargeable pursuant to this subdivision to any special or administrative fund shall be determined by the president and shall be payable at such times as may be fixed by him or her. Such sums shall be payable to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for the expenses of administration of the health benefit plan.

3. (a) If the salary or compensation of any justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city is not paid in whole or in part from the treasury of the state, but is paid directly from the treasury of a civil division, such civil division shall be required to pay the employer's share of the premium charges for the coverage of such justices, judges, officers and employees under the state health benefit plan. The appropriate fiscal officer of such civil division shall deduct from the salary or wages paid to such justices, judges, officers and employees the sums required to be paid by them under such plan. Such deductions and the corresponding employer's share of premium charges shall be paid, at such times as required by the president, to the commissioner of taxation and finance and shall be credited to the health insurance fund.

(b) If the salary or compensation of any retired justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city prior to retirement was not paid in whole or in part from the treasury of the state but was paid directly from the treasury of a civil division, such civil division shall be required to pay the employer's share of

the premium charges for the coverage of such retired justices, judges, officers and employees under the state health benefit plan. If such retired justices, judges, officers and employees are receiving retirement allowances from a pension or retirement plan or system administered by such civil division, the amounts required to be paid by such retired justices, judges, officers and employees as their share of premium charges shall be deducted from their retirement allowances. Such deductions and the employer's share of premium charges shall be paid, at such times as required by the president, to the commissioner of taxation and finance and shall be credited to the health insurance fund.

(c) Any civil division required by this subdivision to pay the employer's share of the premium charges for the coverage of active or retired justices, judges, officers and employees of the supreme court, surrogate's court, county court, family court, civil court of the city of New York, criminal court of the city of New York and district court in any county, officers and employees of the office of probation for the courts of New York city shall also be assessed and required to pay a proportionate share of the expenses of administration of the health benefit plan in such amounts and at such times as determined by the president. Such sums shall be payable to the commissioner of taxation and finance and shall be applied to the reimbursement of funds previously advanced for the expenses of administration of the health benefit plan.

§ 170. Separability: Health Benefits for State and Retired State Employees

If any clause, sentence, paragraph, subdivision or section or part of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this article directly involved in the controversy in which such judgment shall have been rendered.

§ 171. Regulations governing the long term care insurance plan: Health Benefits for State and Retired State Employees

1. The president, subject to the provisions of this article, is hereby empowered to establish such regulations as may be required for the effective administration of this article.
2. Notwithstanding any inconsistent provision of this article, no rule or regulation shall be adopted, repealed or amended, and no other action taken with respect to state employees affecting the rate or eligibility for benefits under this article, without the approval of the director of employee relations.

§ 172. Long term care insurance: Health Benefits for State and Retired State Employees

1. The president is hereby authorized and directed to establish a long term care insurance plan for state officers and employees and their dependents and officers and employees of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural station at Geneva, and any other institution or agency under the management and control of Cornell University as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred University as the representative of the board of trustees of the state university of New York and their dependents, and for the employees and retired employees of public authorities, public benefit corporations, school districts, special districts, district corporations, municipal corporations excluding active employees and retired employees of cities having a population of one million or more inhabitants whose compensation is or was before retirement paid out of the city treasury, or other

appropriate agencies, subdivisions or quasi-public organizations of the state and their dependents as defined by the regulations of the president, which, subject to the conditions and limitations contained in this article, and in the regulations of the president, will provide for insurance against the financial costs of long term care.

2. Participation in the long term care insurance plan shall be at the option of the employee and shall be paid for solely by the employee in accordance with this article.

§ 173. Contract for long term care insurance: Health Benefits for State and Retired State Employees

1. The president is hereby authorized and directed to purchase a contract or contracts to provide long term care benefits under the long term care insurance plan established in accordance with the provisions of this article. Such long term care contract or contracts shall be purchased from one or more corporations authorized under section one thousand one hundred seventeen of the insurance law to issue long term care insurance contracts in this state.

2. A reasonable time before entering into any long term care insurance contract or contracts hereunder, the president shall invite proposals from such qualified insurers as in his or her opinion would desire to accept any part of the long term care insurance coverage authorized by this article.

3. The president may designate one or more of such corporations as insurers from which employees may select to provide long term care insurance.

4. Each employee who is covered under any such long term care insurance contract or contracts shall receive a certificate setting forth the benefits to which the employee and his or her dependents are entitled thereunder, to whom such benefits shall be payable, to whom claims should be submitted, and summarizing the provisions of the contract principally affecting the employee and his or her dependents.

5. The president may, at the end of any fiscal year, discontinue any long term care insurance contract or contracts he or she has purchased from any corporation or corporations; provided, however, nothing in this article nor in any regulations promulgated hereunder shall affect or impair any employees' continuation of coverage or conversion rights with respect to long term care insurance as defined in the regulations of the New York state department of financial services.

§ 174. Eligibility for participation: Health Benefits for State and Retired State Employees

1. All persons who, as of the effective date of this article, are or shall become eligible to participate in the state health benefit plan established under article eleven of this chapter, shall be eligible to participate in the long term care insurance plan established under this article. The president shall adopt regulations prescribing the conditions under which an eligible individual may elect to participate in the long term care insurance plan.

2. The president shall adopt regulations prescribing the conditions under which an individual participating in the long term care insurance plan may elect to withdraw from the plan.

§ 175. Termination of active employment: Health Benefits for State and Retired State Employees

The president shall adopt regulations prescribing the terms and conditions under which an employee may continue coverage under the long term care insurance plan following termination of active employment; provided, however, that such regulations are consistent with any regulations established by the New York state department of financial services concerning an individual's continuation of coverage or conversion rights with respect to long term care insurance.

§ 176. Contributions: Health Benefits for State and Retired State Employees

1. The full cost of premium or subscription charges for the long term care insurance plan established pursuant to this article shall be paid by the employee.
2. The chief fiscal officer of a participating employer shall be authorized to deduct from the wages or salary paid to its employees who are participants in such long term care insurance plan the sums required to be paid by them under such plan.
3. The president shall have power and authority to make such inspection of the employment and payroll records of any participating employer concerning any of its employees who are participants in such long term care insurance plan, as he or she may deem necessary.

§ 177. Severability: Health Benefits for State and Retired State Employees

If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this article directly involved in the controversy in which such judgment shall have been rendered.

§ 178. Medical examination of public protection officials to detect and identify the human immunodeficiency virus (HIV): Health Benefits for State and Retired State Employees

Medical examination of public protection officials to detect and identify the human immunodeficiency virus (HIV). 1. Definitions. For the purposes of this section:

- (a) "Assailant" means a person arrested and charged with a crime, as defined in section 10.00 of the penal law, or a person committed to, certified to, or placed in the custody of the department of corrections and community supervision or any other correctional facility or county jail.
- (b) "Medical examination" includes a physical examination or test performed by a physician or other appropriate health care worker to determine if a public protection official has been exposed to or infected by the human immunodeficiency virus (HIV). Tests may include, but need not be limited to, the most accurate, sensitive, and timely tests available used for the early identification of the human immunodeficiency virus (HIV).
- (c) "Public protection official" means any state, county or municipal police officer, peace officer, firefighter, emergency medical technician, corrections officer, or sheriff who is acting under the scope of authority of his or her official position.

(d) "Significant risk of transmission" means the alleged conduct of or actions taken by an assailant or any other action, situation or event that occurs while a public protection official is performing his or her official duties that has created a recognized and significant risk of infection of a public protection official with the human immunodeficiency virus (HIV), as determined by the commissioner of health, consistent with guidelines, protocols, and findings of the United States centers for disease control and prevention.

2. Examination of public protection officials. (a) Whenever a public protection official has been exposed to a significant risk of transmission of the human immunodeficiency virus (HIV) while performing his or her official duties, the employer of such official shall provide to such public protection official an appropriate medical examination to determine if such official has been exposed to or infected with the human immunodeficiency virus (HIV). Such medical examination of a public protection official should be provided within eight hours of notification to the employer or designated agent of the employer of an incident that has created an exposure risk to the official.

(b) Should it be determined by the examining physician or other attending health care worker that a significant risk of transmission has occurred, or should any medical examination conclude that a public protection official has been exposed to or infected with the human immunodeficiency virus (HIV), then such official shall be offered counseling and additional testing, as appropriate and consistent with treatment guidelines issued by the commissioner of health. Such counseling may include a discussion of the risk of the transmission of the human immunodeficiency virus (HIV) from the exposure he or she may have experienced and the spectrum of tests commercially available for the prompt and reliable diagnosis of such infection. Information from any such medical examination of a public protection official shall be confidential information pursuant to article twenty-seven-F of the public health law and shall not be made available to the employer without the written authorization of the affected public protection official.

3. Payment for medical examinations. Payment for medical examinations, additional testing, treatment services, counseling services, and any other additional services provided pursuant to subdivision two of this section shall be covered by subdivision three of section ten of the workers' compensation law; provided that any employer which is not required to and does not provide coverage pursuant to subdivision three of section ten of the workers' compensation law may finance such payments for all of the foregoing services provided for by this section from municipal funding sources, including, but not limited to, employee accident and disability benefit programs, workers' compensation funds, health insurance benefits, accident and disability retirement plans, or any other source of funds that the municipal employer deems appropriate.

4. Guidelines. The commissioner of health shall issue guidelines to facilitate the identification of circumstances potentially exposing a public protection official to a significant risk of transmission of the human immunodeficiency virus (HIV). Such guidelines shall be consistent with criteria accepted by the federal centers for disease control and prevention. Such guidelines shall also provide information regarding related counseling and testing procedures available to such individuals.

5. Confidentiality. Any information gathered pursuant to the provisions of this article which is deemed confidential under any other provision of law shall be treated in a confidential manner and shall not be distributed, be made available or be disclosed by the employer.