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OFFICE OF THE MAYOR

EXECUTIVE ORDER NO. 82
MARCH 31, 1977

MONETARY LUMP SUM PAYMENT

- (I) IN LIEU OF CERTAIN UNUSED TERMINAL LEAVE ACCRUING PRIOR TO APRIL 1, 1977 TO NON-JUDICIAL OFFICERS AND EMPLOYEES WHO FILE FOR RETIREMENT; AND
- (II) IN LIEU OF CERTAIN UNUSED VACATION LEAVE AND COMPENSATORY TIME (a) WHICH ACCRUED PRIOR TO APRIL 1, 1977 TO NON-JUDICIAL OFFICERS AND EMPLOYEES TRANSFERRED TO STATE SERVICE AND (b) WHICH IS NOT TRANSFERRED TO THEIR CREDIT AS STATE EMPLOYEES.

Whereas, Under the provisions of Section 220 of the Judiciary Law, added by Chapter 966 of the Laws of Nineteen hundred seventy-six, certain non-judicial officers and employees of the courts and court-related agencies of the unified court system will become officers or employees of the State as of April 1, 1977; and

Whereas, Certain of such non-judicial officers and employees who are members of the New York City Employees' Retirement System have filed or prior to April 1, 1977 will file applications for retirement as members of such Retirement System; and

Whereas, Certain of such non-judicial officers and employees, under the rules, regulations, orders governing them or pursuant to collective bargaining agreements, would be entitled upon retirement to terminal leave as provided for in such rules, regulations, orders or agreements; and

Whereas, Certain of such non-judicial officers and employees, under the rules, regulations or orders governing them or pursuant to collective bargaining agreements, would be entitled to vacation leave and compensatory time as provided for in such rules, regulations, orders or agreements.

Now, therefore, by the power vested in me as Mayor of The City of New York, it is hereby ordered as follows:

I. MONETARY LUMP SUM PAYMENTS TO RETIRING NON-JUDICIAL OFFICERS AND EMPLOYEES IN LIEU OF CERTAIN UNUSED TERMINAL LEAVE.

(a) Each such non-judicial officer or employee who:

(i) will become or would, if he had not retired in March, 1977, become an officer or employee of the State as of April 1, 1977; and

(ii) has already filed or on or before March 31, 1977 files an application for retirement as a member of the New York City Employees' Retirement System or has not filed an application for retirement as a member of that system because he will not be eligible to retire under the plan he has elected and to receive a retirement allowance by March 31, 1977, but who is on March 31, 1977, using accrued vacation leave or compensatory time or terminal leave in anticipation of filing an application for such retirement as soon as he is eligible to do so and who will retire before or by the end of any such leave; and

(iii) as of March 31, 1977 is entitled, under such rules, regulations, orders or collective bargaining agreements to terminal leave which accrued in his favor prior to April 1, 1977; and

(iv) as of April 1, 1977, has not used the whole of such terminal leave to which he is entitled as of March 31, 1977;

shall be entitled to receive from The City of New York a monetary lump sum payment for such unused terminal leave, and payment of such lump sum is hereby authorized.

(b) For the purpose of this Executive Order, terminal leave shall consist only of leave as provided for in the applicable provisions of paragraph (i) or (ii) of this subdivision (b) as follows:

(i) in the case of any such retiring non-judicial officer or employee who, as of March 31, 1977, has completed at least ten (10) years of service, terminal leave shall be on the basis of one (1) day terminal leave for each two (2) days of accumulated sick leave as credited on March 31, 1977, up to a maximum of one hundred twenty (120) days of terminal leave; provided that such leave shall be computed on the basis of work days rather than calendar days; or

(ii) any such retiring non-judicial officer or employee who, as of March 31, 1977,

is credited with a minimum of fifteen (15) years of service rendered prior to April 1, 1977, may elect to receive a terminal leave of one (1) calendar month for every ten (10) years of service rendered prior to April 1, 1977, and credited to him as of March 31, 1977, prorated for a fractional part thereof, in lieu of any other terminal leave. However, any sick leave taken by any such non-judicial officer or employee subsequent to July 1, 1974, in excess of an average annual usage of six (6) days per year shall be deducted from the number of days of terminal leave to which such officer or employee would otherwise be entitled under this paragraph (ii).

(c) Such monetary lump sum payment for terminal leave shall be payable at the basic salary rate earnable by such non-judicial officer or employee immediately prior to April 1, 1977.

II. MONETARY LUMP SUM PAYMENT IN LIEU OF CERTAIN UNUSED VACATION LEAVE AND/OR COMPENSATORY TIME: (a) WHICH ACCRUED PRIOR TO APRIL 1, 1977 TO NON-JUDICIAL OFFICERS AND EMPLOYEES TRANSFERRED TO STATE SERVICE; AND (b) WHICH WAS NOT TRANSFERRED TO THEIR CREDIT AS STATE EMPLOYEES.

(a) Subject to the provisions of subdivision (c) of this Part II of this Executive Order, each non-judicial officer or employee who:

(i) will become or would, if he had not retired in March, 1977, become an officer or employee of the State as of April 1, 1977, pursuant to the provisions of Section 220 of the Judiciary Law; and

(ii) as of March, 1977, is entitled, under the rules, regulations, orders or collective bargaining agreements governing his rights as to such matters, to vacation leave and/or compensatory time which accrued in his favor prior to April 1, 1977; and

(iii) prior to April 1, 1977, has not used the whole of such vacation leave and compensatory time to which he is entitled as of March 31, 1977;

shall be entitled to receive from The City of New York a monetary lump sum payment for that part of such unused vacation leave remaining, if any, after there is deducted from such vacation leave the amount of vacation leave (not exceeding forty (40) days) which is transferred to his credit as a State employee pursuant to the provisions of section 220 of the Judiciary Law and he shall also be entitled to receive from The City of New York a monetary lump sum payment for any such compensatory time remaining unused as of April 1, 1977, and payment of such lump sums is hereby authorized.

(b) Any such monetary lump sum payment for unused vacation leave and/or compensatory time shall be payable at the basic salary rate earnable by such non-judicial officer or employee immediately prior to April 1, 1977.

(c) The provisions of this Part II of this Executive Order shall not take effect and shall be void and no monetary lump sum payments shall be made thereunder unless Senate bill number 4590-A, or Assembly bill number 7309, each entitled "An act to amend the judiciary law, in relation to establishing a unified court budget," or a substantially identical bill shall first become law.

III. GENERAL PROVISIONS APPLICABLE TO PARTS I AND II OF THIS EXECUTIVE ORDER.

(a) Any monetary lump sum paid to any such nonjudicial officer or employee hereunder for unused terminal leave, added to any additional monetary lump sum paid to him hereunder for unused vacation leave and/or compensatory time, shall not exceed the basic salary rate which would have been earnable in the twelve-month period following March 31, 1977 had such officer or employee remained in City service at the basic salary rate applicable on March 31, 1977.

(b) Any monetary lump sum paid hereunder for unused terminal leave and/or unused vacation leave and/or compensatory time shall not increase the salary base used to determine a retirement allowance.

(c) Any such lump sum payments shall be payable upon the request of the agency head, subject to written approval of the Director of Management and Budget of the City.

(d) The Director of Management and Budget of the City is hereby designated and empowered to transfer, in accordance with Section 124(a) or 124(b) of the City Charter, such funds as may be required for payment of the monetary lump sums herein authorized to eligible nonjudicial officers and employees.

(e) The Comptroller of The City of New York is hereby requested to make such payments to the affected officers and employees.

(f) The Comptroller of The City of New York, the Director of Management and Budget, the City Personnel Director and all other officers or agencies of the City having any jurisdiction over the matters provided in this Executive Order are hereby requested, pursuant to the powers vested in them, to take the steps necessary to effectuate the provisions of this Executive Order.

(g) This Executive Order, except as otherwise provided by subdivision (c) of Part II hereof with respect to such Part, shall take effect immediately.