

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL SERVICE AND VETERANS

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October 24, 2008

Start: 1:07 pm

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HELD AT: Council Chambers  
City Hall

B E F O R E:  
JOSEPH P. ADDABBO, JR.  
TONY AVELLA  
Chairperson

COUNCIL MEMBERS:  
Michael C. Nelson  
Larry B. Seabrook  
Michael E. McMahon  
Hiram Monserrate  
Letitia James

## A P P E A R A N C E S (CONTINUED)

Penina Schoenfeld  
Acting Deputy Director of Operations Analysis  
Department of Citywide Administrative Services

Mitch Paluszek  
Deputy General Counsel for Personnel

David Goodman  
American Legion Post 460

Joseph Strong  
New York City PBA

Amy Maniscalco

Isaiah Benjamin  
369<sup>th</sup> Veteran's Association

Michael Williamson

1  
2 CHAIRPERSON ADDABBO: I'm on. Good  
3 afternoon, everyone, welcome to today's hearing,  
4 Civil Service and Labor and Committee on Veterans.  
5 My name is Joe Addabbo and I have the honor of  
6 chairing the Civil Service and Labor Committee. I  
7 want to thank you all for being here. I'm sitting  
8 here with my colleague, Tony Avella, who is  
9 sitting in for the Chair Hiram Monserrate and he--  
10 Council Member Monserrate is Chair of the  
11 Committee on Veterans and we will be doing a joint  
12 hearing today. First, let me thank the staff that  
13 has put this hearing together for the Civil  
14 Service and Labor Committee, we have Tracy Udell,  
15 our counsel, and Shauneequa Owusu, our policy  
16 analyst. For the Committee on Veterans, we have  
17 Megan Annitto, Annitto?

18 MEGAN ANNITTO: Annitto.

19 CHAIRPERSON ADDABBO: Annitto, our  
20 legal counsel; Joan Povolny, policy analyst. I'd  
21 like to thank the Sergeant-of-Arms, of course, for  
22 making sure there's law and order in this room.  
23 We've also been joined by Council Member Mike  
24 Nelson, a member of the Civil Service and Labor  
25 Committee.

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2 COUNCIL MEMBER NELSON: And  
3 Veterans.

4 CHAIRPERSON ADDABBO: And Veterans  
5 committee. Yes, two attendance checks today.

6 COUNCIL MEMBER NELSON: Yeah, that's  
7 two checks for the price of one [off mic].

8 [Laughter]

9 CHAIRPERSON ADDABBO: Today, the  
10 committee, along with the Committee on Veterans,  
11 will hold an oversight hearing to examine the  
12 city's Operation Enduring Freedom Extended  
13 Benefits Package and the new Citizen Soldier Pact  
14 [phonetic] Act signed by Governor Patterson this  
15 past July, which takes effect this November 4th.  
16 Today's hearing is a follow-up to a hearing that  
17 both of these committees had in September of 2006  
18 and today we will discuss how the city and state  
19 have addressed the issues raised back then and how  
20 we're going to address them going forward. At  
21 that hearing back in 2006, issues relating to the  
22 calculation of how much is to be repaid and how  
23 the process to repay arose. The Extended Military  
24 Benefits Package was designed to ensure that city  
25 employees called to active military service would

1 not suffer any undue financial hardship and would  
2 continue to receive health care coverage and  
3 pensions. From September 11, 2001, to pretty much  
4 currently, there has been almost 2,000 city  
5 employees that have been called to military  
6 service. At the 2006 hearing, issues regarding  
7 different--the different city agencies and their  
8 procedures and responsibilities to administer  
9 repayment plans were questioned. Also many city  
10 employees who are now retired had a different  
11 issue with regards to repayment and that became a  
12 bigger issue. Subsequent to the 2006 hearing, the  
13 City thankfully made some changes. DCAS was named  
14 the central oversight agency for the  
15 administration of the benefits package and  
16 definition of military pay was changed and  
17 calculation of repayment was changed to not  
18 include food and housing in their allowances.  
19 Also the repayment amount was reduced by 7.65% to  
20 account for FICA taxes already being paid by the  
21 employees and the repayment period was extended to  
22 five years. More progress was made on this issue  
23 when Governor Patterson signed the Citizen Soldier  
24 Act this past July. The act, which takes effect  
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1  
2 this coming November 4<sup>th</sup>, will address the many  
3 issues that were discussed at our 2006 hearing.  
4 The biggest change in the new act is that, for  
5 those called in for active duty after the  
6 enactment of the new law, there will be no  
7 required payment city employees and we would then  
8 utilize the differential pay system that has been  
9 utilized on the state level, which as in the past,  
10 the pay is calculated as the difference between  
11 military pay and city pay. Under the new law  
12 there is also a hardship relief under certain  
13 situations that they will consider factors, such  
14 as injuries during the military leave and, of  
15 course, economic situations. Today we will  
16 discuss how the city plans to implement the new  
17 state Act and of course the new requirements and  
18 the new provisions. At this point, Council Member  
19 Tony Avella again sitting in for Chairman Hiram  
20 Monserrate.

21 CHAIRPERSON AVELLA: Thank you,  
22 Council Member. I was just--we were just sort of  
23 laughing because--

24 [Off mic]

25 CHAIRPERSON AVELLA: --yeah. Staff

1  
2 had prepared an opening statement for Council  
3 Member Monserrate, but you basically went over all  
4 the issues that we were going to bring up. On  
5 behalf of Council Member Monserrate, who will be  
6 here shortly, I'm happy to temporarily chair this  
7 meeting with you and it is an important meeting  
8 for the veterans of the city so with that...

9 CHAIRPERSON ADDABBO: Thank you very  
10 much. We have our first panel today and it is  
11 from the Department of Citywide Administrative  
12 Services, DCAS, which I have said on the record  
13 many times before, it is, in my opinion, one of  
14 the most important city agencies, but quite--kept  
15 secret in city government, but we thank them for  
16 being here, we thank them for being here. Please  
17 state your name for the record and identify who's  
18 with you in the panel and then please give your  
19 testimony.

20 PENINA SCHOENFELD: Sure. Good  
21 afternoon, Chair Addabbo, Chair Member Avella, and  
22 members of the Veterans and Civil Service and  
23 Labor Committees. I'm Penina Schoenfeld, Acting  
24 Deputy Director of Operations Analysis for the  
25 Department of Citywide Administrative Services and

1  
2 Division of Citywide Personnel Services. I am  
3 joined by my colleagues, Jennifer Blum, who is  
4 Director of Special Projects and Mitch Paluszek,  
5 Deputy General Counsel for Personnel. On behalf  
6 of Commissioner Martha Hirst, I would like to  
7 thank you for the opportunity to update you on the  
8 New York City Extended Military Benefits Program,  
9 which was established to assist city employees  
10 called to serve in the military following the  
11 events of September 11, 2001. We sit here today  
12 as flags fly at half staff at all city buildings  
13 to pay tribute to Police Officer Dean--Deon  
14 Taylor, who was killed in action this past  
15 Wednesday while serving in the United States Army  
16 in Afghanistan. It is a poignant reminder of the  
17 thousands of employees who honorably serve our  
18 city here at home and our nation overseas. The  
19 New York City Extended Military Benefits Program  
20 was first implemented by Mayor Rudolph Giuliani  
21 through Personnel Order number four of 2001 on  
22 October 15, 2001, to ensure that city employees  
23 called up to active military service in response  
24 to the attack on September 11 would not suffer any  
25 undue financial hardship and that employees and

1  
2 their families would not experience an  
3 interruption in health care, pension, and other  
4 benefits as a consequence of military service in  
5 Operation Enduring Freedom. Mayor Michael  
6 Bloomberg continued the program after entering  
7 office by executing Personnel Order number one of  
8 2002 and is subsequently extended to city  
9 employees called to serve in Operation Iraqi  
10 Freedom. The city created the EMBP to supplement  
11 New York State Military Law. The State Military  
12 Law was designed, among other things, to protect  
13 public employees with respect to reemployment upon  
14 their return from military service. However, it  
15 provides relatively modest benefits and protection  
16 regarding the continuation of an affected  
17 employee's city salary and benefits while they're  
18 on active military duty. The Military Law  
19 obligates public employers to pay employees the  
20 first 22 work days or 30 calendar days of their  
21 military leave, whichever is greater. Once  
22 employees are paid for this time, the state law  
23 only requires that a public employer treat the  
24 employee as if he or she took a leave of absence.  
25 The employer is not, for example, required to

1  
2 provide any additional salary, health care,  
3 pension, accrual of annual leave, or other benefit  
4 protection. Public employers are not obligated to  
5 continue health benefits beyond offering a  
6 variation of the Federal Consolidation Omnibus  
7 Budget Reconciliation Act of 1985, or COBRA  
8 program, which provides many employees a limited  
9 opportunity to continue on an employer's group  
10 health plan even after coverage would otherwise  
11 end at a somewhat higher cost than the cost to the  
12 employer. The Extended Military Benefits Program  
13 has been a voluntary program since its inception  
14 in 2001. Prior to program modifications  
15 legislated through the recent passage of the  
16 Public Servant Soldier Salary Act, which I will  
17 discuss in more detail later, EMBP was a full pay  
18 and repayment program whereby city employee  
19 reservists and members in the National Guard could  
20 choose to continue to receive their city salary  
21 and benefits while deployed in one of the  
22 aforementioned military operations. Enrollees  
23 were required to submit a signed, notarized  
24 agreement that committed these employees to  
25 repaying the lesser of the military pay or city

1 salary upon returning to city jobs after  
2 completing their military service. Under the  
3 Mayoral Personnel Orders establishing the Extended  
4 Military Benefits Program, it was the  
5 responsibility of individual agencies to  
6 administer the program, including repayment plans  
7 for returning employees. Due in part to the  
8 decentralized implementation and to the fact that  
9 the program is never envisioned to last as long as  
10 it has, city agencies were not operating under a  
11 set of consistent procedures for reminding men and  
12 women returning from military service of their  
13 repayment obligation and instituting repayment  
14 plans. To remedy this situation, as Commissioner  
15 Hirst testified in September of 2006, Mayor  
16 Bloomberg centralized oversight of the  
17 administration of the EMBP within DCAS in the fall  
18 of that same year. Since Commissioner Hirst last  
19 testified about the EMBT--EMBP before these  
20 committees, DCAS has made great strides in  
21 standardizing the administration of the program by  
22 providing agency personnel offices and military  
23 desks with administrative support, standard forms,  
24 fact sheets, and additional information about the  
25

1 program to be shared with employees. Furthermore,  
2 DCAS has worked to make the program less  
3 burdensome on enrollees. We increased the length  
4 of repayment from 30 days to 5 years, excluded  
5 food and shelter allowance from the definition of  
6 military pay, resulting in an average decrease in  
7 debt of 40%, and excluded Social Security and  
8 Medicare taxes from the amount of repayment,  
9 decreasing the debt another 7.65%. We work  
10 closely with the Office of Payroll Administration  
11 to develop flexible repayment options for  
12 returning servicemen and women, including  
13 immediate repayment in full, repayment through  
14 charges to annual leave balances, repayment  
15 through payroll deductions over time, or a  
16 combination of these options. Also, we obtain the  
17 much appreciated assistance of H&R Block and  
18 Jackson Hewitt to provide free tax assistance to  
19 city employees returning from military service.  
20 As of October 20th, 2008, there were 1,802 city  
21 employees across 27 agencies enrolled in the  
22 city's EMBP for at least one deployment. Of that  
23 number, 1,389 enrollees have returned to city  
24 service and are subject to the full pay and  
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1  
2 repayment terms of the EMBP. About 90% of program  
3 enrollees are from the uniformed agencies, the  
4 police department, the fire department, Department  
5 of Correction, and Department of Sanitation. To  
6 date, over 70% of returnees are in repayment or  
7 have paid off their debt in full. DCAS maintains  
8 close communication with all city agencies on  
9 matters related to the EMBP through regular e-mail  
10 updates and bulletins. An EMBP hotline is  
11 available to answer any questions or concerns.

12 The DCAS website provides answers to frequently  
13 asked questions about the EMBP, a list of Military  
14 Liaison Officers at each agency, and contact  
15 information for each branch of the Department of  
16 Defense. We provide regular training sessions to  
17 assist Military Liaison Officers in the  
18 calculation of the EMBP debt owed by returning  
19 enrollees. Additionally, a steering committee  
20 with representatives from the six agencies with  
21 the highest number of EMBP participants, the four  
22 uniformed agencies, the Human Resource  
23 Administration, and the Department of  
24 Environmental Protection meet on as-needed basis  
25 to discuss any changes to the program or questions

1  
2 they may have. The EMBP Hardship Committee meets  
3 when needed to review any applications for  
4 hardship relief. Although the current program has  
5 been, in our opinion, extremely generous in that  
6 it provides seamless and complete continuation of  
7 pay and salary benefits, some participants  
8 expressed difficulty repaying the amount owed  
9 under current program parameters. State Senator  
10 Martin Golden and Assembly Member Rory Lancman  
11 introduced a bill in the state legislature to  
12 address these concerns and, as much as possible,  
13 to replicate New York state's differential pay  
14 program. DCAS negotiated with Senator Golden and  
15 Assembly Member Lancman over the summer and fall  
16 of 2007 to revise their legislative proposal so  
17 that the recommendation to change the Extended  
18 Military Benefits Program from a full pay and  
19 repayment plan to a differential plan was  
20 administratively feasible. Under the proposed  
21 differential plan, city employees would, with each  
22 city paycheck, receive the difference between the  
23 city salary and military salary if their city  
24 salary was higher. Accordingly, there would be no  
25 additional monies to repay under the differential

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2 plan. Governor Patterson signed the Public  
3 Servant Soldier Salary Act and the chapter  
4 amendment into law on July 7, 2008. This  
5 legislation changed the EMBP to a differential pay  
6 program and modified the repayment terms for those  
7 who had participated in the earlier version of the  
8 EMBP from 10% of an employee's salary over a five-  
9 year period to 7.5% of an employee's salary spread  
10 over 10 years. Moreover, all debt has been  
11 reduced by an administrative adjustment of 15%.  
12 Lastly, the statutory entitlement was increased  
13 from 30 calendar days or 22 workdays to 30  
14 workdays. The legislation takes effect on  
15 November 5th, 2008, 120 days after it was signed  
16 and DCAS has adjusted the Extended Military  
17 Benefits Program accordingly during this time  
18 period. Payroll deductions for enrollees who are  
19 repaying their debt have already been reduced to  
20 7.5% of their gross base city salary. This will  
21 be a fixed amount throughout the repayment term  
22 allowing for easier budgeting and money management  
23 by program participants. Debt amount for  
24 enrollees under the full pay and repayment plan  
25 have already been reduced by the 15%

1  
2 administrative adjustment. In addition, an early  
3 repayment incentive is being offered. With this  
4 incentive, enrollees who repay their debt in full  
5 prior to or on November 5th, 2008, will receive a  
6 5% discount off their entire debt. Participants  
7 who repay their debt amount early and in full  
8 after November 5th, 2008, will receive a 5%  
9 discount off the remaining amount owed at the time  
10 of full repayment. Enrollees who are currently  
11 deployed will be offered the option of switching  
12 to the new differential pay program. Thank you  
13 again for this opportunity to testify about the  
14 EMBP. We are pleased to answer any questions you  
15 may have.

16 CHAIRPERSON ADDABBO: I want to  
17 thank DCAS, obviously, for being here and for  
18 their efforts with regards to this issue--most  
19 serious issue for our veterans and our city  
20 employees and then let me go no further than to  
21 say thank you to our veterans and to our city  
22 employees for their dedication and commitment, not  
23 only to our city, but to our country, and so we  
24 appreciate their time and effort, both as city  
25 employees and as veterans. We have been joined by

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2 a number of my colleagues, we have Council Member  
3 Mike McMahon, Council Member Larry Seabrook, and  
4 Council Member Letitia James, I want to thank them  
5 all for being here. And before we get questions  
6 from my colleagues, again, let me thank DCAS for  
7 their efforts and, obviously, there are going to  
8 be major changes here. You had mentioned that in  
9 your testimony, there are roughly 1,389, roughly  
10 1,400 employees. Do we know how much money we're  
11 talking about owed to the city and, of that  
12 amount, where does that money go? Just so we  
13 understand that once we collect it from these city  
14 employees, how much are we collecting or how much  
15 is out there and where does this money go?

16 PENINA SCHOENFELD: Well, we  
17 actually don't know the exact amount now after the  
18 administrative adjustment because we had  
19 calculated prior to all of that and we haven't  
20 actually done a recalculation, but I can get back  
21 to you with that number.

22 CHAIRPERSON ADDABBO: Please, and  
23 generally speaking, of the money received back  
24 from these employees, where does the money go?  
25 Does the money go to the general fund and...

PENINA SCHOENFELD: It is going to the general fund.

CHAIRPERSON ADDABBO: Okay. We-- let's go back to 2006 [off mic] before we go forward. Two thousand six, we raised the issue that agencies were doing things differently and notifying their employees in different times, we had issues about employees getting these large bills once returning from military leave and DCAS was then named as the central agency to overlook everything. Just to bring us up to date, how has DCAS implemented the--as the oversight agency, how has DCAS implemented these plans to look over everything as far as notification, as far as payment reschedule plans, how has DCAS implemented everything?

PENINA SCHOENFELD: We have been in close contact with each agency about all of their the EMBP enrollees and we have maintained standard forms and documents which they are now required to use to calculate the debt. Everyone's debt across the entire city is now being calculated in the same manner. We check and audit each and every one of these calculations to ensure they're

1  
2 accurate and correct and they're all beneficial to  
3 the employee. If there's ever a question, we do  
4 go on the side of the employee, rather than ours.  
5 Everyone who is a current city employee who has  
6 had their calculations completed and audited and  
7 corrected and approved, they get the opportunity  
8 to go on payroll deductions, so they payoff from  
9 their city paycheck on a biweekly basis, whenever  
10 they get paid, which is much easier rather than  
11 sending us a check. They can also use their leave  
12 balances or pay off their debt in a lump sum  
13 payment. Separated employees have received  
14 letters and notifications regarding payment plans  
15 that they can be a part of and they do have to be  
16 proactive and send us a check on a monthly basis.

17 CHAIRPERSON ADDABBO: Again, we  
18 appreciate the efforts of DCAS subsequent to the  
19 hearing back in 2006. I think the City's made  
20 great strides in using DCAS as the central agency.  
21 Last question before questions possibly from my  
22 colleagues, back in 2006 a tax issue came up as  
23 well regarding the employees paying back this  
24 money, they felt they were being double taxed and  
25 what are the tax ramifications, and back then--

2 back in 2006, you had mentioned that you'll be  
3 working with certain accountants and tax auditors  
4 to help these employees. Have you implemented  
5 that since 2006 and how is that going?

6 PENINA SCHOENFELD: The employees  
7 can call H&R Block and Jackson Hewitt with any tax  
8 questions. We have been in touch with HR Block  
9 this past week and to-date they've had over 150  
10 employees calling them with mostly questions,  
11 they've completed about 20 or 30 tax returns for  
12 the 2007 tax season and they expect a larger  
13 number in the 2008 tax year, but they won't know  
14 that number, but they said it should go up  
15 significantly for the 2008 tax season.

16 CHAIRPERSON ADDABBO: So you're  
17 expecting more employees to take advantage of or  
18 utilize this--

19 PENINA SCHOENFELD: [Interposing] Of  
20 their expertise [crosstalk]--

21 CHAIRPERSON ADDABBO: And just so we  
22 are clear and on the record, these tax--this tax  
23 assistance is free of charge to the employees?

24 PENINA SCHOENFELD: Mm-hmm.

25 CHAIRPERSON ADDABBO: City

1  
2 employees? Great. We have questions from Acting  
3 Chair, Tony Avella.

4 CHAIRPERSON AVELLA: Thank you. Is  
5 there like the atypical soldier city employee in  
6 terms of a salary, what they make and how much the  
7 military is paying them? I'd like to get an idea  
8 of what we're talking about in actual numbers.

9 PENINA SCHOENFELD: Well, the  
10 average enrollee, which is about 57% of our  
11 enrollees are repaying a debt of less than  
12 \$25,000. Only 2% of enrollees are paying back a  
13 debt of over \$100,000, and that's actually 22  
14 individuals. I know that a lot of rumors have  
15 gone around that these debts are extremely  
16 significant of in the hundreds and we really only  
17 have 22 individuals repaying a debt of over  
18 100,000 and that's 2%. So the average person is  
19 in the 25 or under range.

20 CHAIRPERSON AVELLA: Right. What  
21 accounts for those 22? Is it the higher salary or  
22 the length of service?

23 PENINA SCHOENFELD: [Interposing]  
24 It's actually they've been out for--we've seen  
25 people out for four plus years and at a typical

1 salary, if you go out for that extended period of  
2 time, you are going to accrue a larger debt. But  
3 if you go out for four years and you owe 100,000--

4  
5 CHAIRPERSON AVELLA: Right.

6 PENINA SCHOENFELD: --you can really  
7 generally--

8 CHAIRPERSON AVELLA: Right.

9 PENINA SCHOENFELD: --estimate that  
10 they're making about 25 to 30 a year of their  
11 lower salary.

12 CHAIRPERSON AVELLA: You know, as  
13 the Council Member Addabbo--Chair Addabbo said, I  
14 know there's been significant progress since we  
15 first brought this up here in the City Council to  
16 the Administration. I mentioned at the very  
17 beginning of these hearings, and I still feel the  
18 same way, that we shouldn't even be asking them to  
19 repay anything. I have no problem with them  
20 getting a double salary, you know, they're serving  
21 this country, they're doing a benefit for all of  
22 us and I, you know, I think they should get the  
23 perk, I think they should get the two salaries,  
24 they shouldn't have to repay anything. Is there  
25 any analysis as to how much we're talking about,

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2 if we weren't going to, you know, ask them to  
3 repay? What is the total amount that's being  
4 asked of all our city employees who are serving to  
5 repay? And how much is the administrative cost  
6 over the agencies and DCAS in terms of trying to  
7 get them to repay the amount and following through  
8 on all of these individual cases? You see where  
9 I'm going.

10 PENINA SCHOENFELD: I do. I don't  
11 have the figures right in front of me of how much  
12 the cost of the program is 'cause it has draw--  
13 well actually, the costs [off mic] probably  
14 increase [off mic] reduce the debt of 15% of  
15 everyone so the collection actually has decreased.  
16 So we are going to be collecting, but I don't have  
17 that figure, nor do I have the administrative side  
18 of it. But we can get back to you.

19 CHAIRPERSON AVELLA: [Off mic]  
20 'Cause based upon the numbers that you sort of  
21 already indicated, it would seem to me that we're  
22 not talking about a heck of a lot of money for the  
23 entire workforce that's serving and at the same  
24 time there has to be an administrative cost and  
25 I'm sure it has increased based upon the new

1  
2 protocols. So I would appreciate getting that  
3 information back because, as I say, I think they  
4 should get two salaries. You know, putting their  
5 lives in jeopardy every single day to preserve  
6 this country and freedom, they should get it. I  
7 don't think there should be a question about this.  
8 Thank you, Mr. Chair.

9 CHAIRPERSON ADDABBO: You know, that  
10 was a natural progression, back in 2006 we were  
11 looking for some relief and now why not, let's go  
12 all the way and let's just say that they should  
13 keep both and, in theory, I agree with Council  
14 Member Avella.

15 CHAIRPERSON AVELLA: Just in theory?

16 CHAIRPERSON ADDABBO: No, hopefully  
17 in practice, but we'll see. Any other questions  
18 from colleagues? Council Member Nelson.

19 COUNCIL MEMBER NELSON: Actually  
20 kind of a statement. If it won't fly as far as  
21 they get both salaries, which I would like to see  
22 also, perhaps we can try to fight for some sort of  
23 another type of a system, 10% of what they were  
24 making with the city that stays, plus the full  
25 benefit package and all the benefits as I

1  
2 mentioned and, of course, considering what they're  
3 going through, considering the loss to the family,  
4 even though, hopefully, they stay alive forever,  
5 and the family is without them. And, of course,  
6 we know they can also risk their life, as P.O.  
7 Taylor and many others have and, unfortunately,  
8 might in the future. So some sort of another deal  
9 we can make, cuts off the administrative costs, as  
10 my colleague has mentioned, Council Member Avella,  
11 but something like that as a bonus, as, boy, do we  
12 appreciate what you're doing, that type of a  
13 thing. So I just wanted to throw that out as a  
14 possibility to the Acting Chair and to the Chair  
15 of the Veterans Committee as well. Thank you.

16 CHAIRPERSON ADDABBO: Sure. Council  
17 Member Nelson, thank you. And if you think about  
18 it for, you know, our veterans, those who sign up  
19 for our voluntary [off mic] voluntary military  
20 service don't go into military service for the  
21 pay. You know, they go into the service to serve  
22 this country, so, you know, and I believe we are  
23 on the right track and I don't think anyone would  
24 deny that the thought processing, giving them  
25 both, you know, both military pay and city pay, is

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2 not a wrong thought. So, again, to our veterans  
3 who we know don't go into military for pay, it's  
4 quite conceivable why we think that or believe  
5 that they should get both salaries. Any other  
6 questions on this end?

7 COUNCIL MEMBER MCMAHON: Thanks.

8 CHAIRPERSON ADDABBO: You had  
9 mentioned in your testimony--oh I'm sorry, I'm  
10 sorry, Council Member--

11 COUNCIL MEMBER MCMAHON: Go ahead,  
12 Joe [crosstalk]--

13 CHAIRPERSON ADDABBO: No, no go  
14 ahead.

15 [Off mic]

16 MALE VOICE: Pull up the mic [off  
17 mic]

18 COUNCIL MEMBER MCMAHON: Okay. I'm  
19 going to pull up the mic, come on, Mike. Thank  
20 you, Mr. Chairman, for coming back to this very  
21 important issue, I appreciate it very much and I  
22 join in your sentiments that we've certainly come  
23 a long way from the first hearing where there was  
24 a lot of disarray and confusion and certainly  
25 Martha Hirst, the Commissioner, has put her best

1  
2 people on this project because, as we all know,  
3 where Miss Blum and her team work, things get  
4 straightened out for the city and Ms. Schoenfeld,  
5 thank you very much for that testimony. I got  
6 here just a little late and I'm just wondering if  
7 you could just give me sort of the overview of  
8 where we were and where we are now in terms of  
9 what these returning soldiers are facing. Without  
10 looking at the testimony, just tell me--

11 PENINA SCHOENFELD: [Interposing]

12 What--no, what do you mean by what they're facing?

13 COUNCIL MEMBER MCMAHON: Well, they-

14 -give me the overview of the whole issue.

15 PENINA SCHOENFELD: The original  
16 program, which they had signed prior to DCAS took  
17 over, was a program in which they signed that they  
18 will be repaying their lesser of their two  
19 salaries, including food and shelter allowance  
20 within 30 days of returning to city service.

21 Since DCAS took over the program, we have excluded  
22 food and shelter which reduced everyone's debt by  
23 approximately 40% and we've allowed five years in  
24 which to repay. The new legislation is now--

25 COUNCIL MEMBER MCMAHON:

1 [Interposing] let me just stop you there though,  
2 before we get to the new state legislation. But,  
3 so in essence, 'cause when we had the hearings the  
4 first time, we were sort of horrified by the fact  
5 that the housing and food allowances were  
6 included, so that was, if you will, sort of an  
7 appropriately so acknowledgment by the  
8 administration and the reduction of the average  
9 debt by about 40%, is that correct? Did I get  
10 that right?  
11

12 PENINA SCHOENFELD: Yeah.

13 COUNCIL MEMBER MCMAHON: Yeah?

14 PENINA SCHOENFELD: But, however, we  
15 have actually spoken to other municipalities and  
16 we are one of the very few that exclude food and  
17 shelter allowance from military pay, so it is an  
18 additional benefit we are giving our enrollees.

19 COUNCIL MEMBER MCMAHON: No, and I'm  
20 commending you for that and that we had advocated  
21 for that and we at that time had, you know, asked  
22 as well to forgive everything, but certainly the  
23 forgiveness of the housing and food allowance is a  
24 great accomplishment of--and the thing to do and  
25 I'm commending you for that, but that was actually

1  
2 sort of a 40% across-the-board reduction and what  
3 the average, at that time, debt was perceived to  
4 be, is that correct?

5 PENINA SCHOENFELD: Yes.

6 COUNCIL MEMBER MCMAHON: Okay. So  
7 you guys got that, you got all the cases together  
8 and supervise--for supervision and then you  
9 reduced the housing and food allowance and that  
10 was a program, and then the state passed a law  
11 affecting this as well, is that correct?

12 PENINA SCHOENFELD: Yes.

13 COUNCIL MEMBER MCMAHON: And can you  
14 just tell me what the state law did?

15 PENINA SCHOENFELD: The state law  
16 has extended the repayment term to 10 years, it  
17 has reduced the biweekly payment on payroll  
18 deductions, and the monthly payment for separated  
19 employees to 7 1/2 percent, rather than the 10%  
20 they were currently paying on our EMBP program,  
21 and that's basically what it did in terms of the  
22 people in the past. It's also reduced everyone's  
23 debt by an administrative adjustment of 15% and it  
24 codified the 7.65% for Medicare and Social  
25 Security, which we already reduced everyone's debt

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by.

COUNCIL MEMBER MCMAHON: Okay. So that across-the-board administrative reduction of 15% is to the lesser of the two salaries owed. It has nothing to do with the housing and the food allowance--

PENINA SCHOENFELD: [Interposing] Nope, it's off the--

COUNCIL MEMBER MCMAHON: --because that's out of the picture already.

PENINA SCHOENFELD: Right, it's off their full amount after housing and food, that's totally done, then take the amount owed, reduce it by 15% [crosstalk]--

COUNCIL MEMBER MCMAHON: [Interposing] And extend the time period about which it can be paid and how much can be taken out of the salary--and I'm not--I'm asking you these questions just to make sure I understand it.

PENINA SCHOENFELD: It's also a fixed amount now. In the past, we were taking 10% of a fluctuating salary and now it's fixed 7.5 or whatever it is as of November 5<sup>th</sup> and we've actually took it in an earlier date to make the

1  
2 numbers even lower and that wont' change over the  
3 life of the 10 years. So--

4 COUNCIL MEMBER MCMAHON: What do you  
5 mean fixed? So if I'm making 50,000 now--

6 PENINA SCHOENFELD: [Interposing] So  
7 it could be [crosstalk] a pay period, now it'll  
8 would be \$200 a pay period in 10 years, we're not  
9 going to [crosstalk]--

10 COUNCIL MEMBER MCMAHON:  
11 [Interposing] Even if my salary goes up, God  
12 willing.

13 PENINA SCHOENFELD: Yes, so they can  
14 budget accordingly.

15 COUNCIL MEMBER MCMAHON: Got you.  
16 Well that's a big accomplishment then, it sounds  
17 pretty good. And, again, I thank you for doing  
18 this and have you now taken over every city  
19 agency's case?

20 PENINA SCHOENFELD: Taken over as  
21 mean, we are monitoring?

22 COUNCIL MEMBER MCMAHON: Yeah, and  
23 managing because we--

24 PENINA SCHOENFELD: Yes.

25 COUNCIL MEMBER MCMAHON: --had the

1  
2 police departments doing it one way and the fire  
3 departments doing it another way, the [crosstalk]-

4 -

5 PENINA SCHOENFELD: [Interposing]

6 Well all agencies are doing it the exact same way  
7 now.

8 COUNCIL MEMBER MCMAHON: Okay. What  
9 about retirees? People who retired along this  
10 whole process, how are they affected?

11 PENINA SCHOENFELD: They--we've  
12 actually, prior to legislation, notified all of  
13 our separated employees, retirees or separated,  
14 that they can repay their debt on a monthly basis  
15 by sending us a check and a being part of the  
16 payment plan, the law does codify this and now  
17 they also have 10 years to repay at 7-1/2 percent  
18 of their last city salary on a monthly basis or  
19 their pension check.

20 COUNCIL MEMBER MCMAHON: And had--  
21 has their charge for housing and food allowance  
22 been removed as well?

23 PENINA SCHOENFELD: [Interposing]

24 Yes, everyone's debt [crosstalk]--everyone's debt  
25 is now calculated the exact same way. No housing

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and food, less 15%, less FICA.

COUNCIL MEMBER MCMAHON: And did they get the 15% administrative--

PENINA SCHOENFELD: Mm-hmm.

COUNCIL MEMBER MCMAHON --reduction as well?

PENINA SCHOENFELD: Yes, they did.

COUNCIL MEMBER MCMAHON: Which is-- am I understanding that correctly, that's just sort of an across-the-board reduction in essence.

PENINA SCHOENFELD: Mm-hmm, everyone qualifies for it.

COUNCIL MEMBER MCMAHON: Okay. Okay. Is anything else I should be asking you?

PENINA SCHOENFELD: I don't know, that's up to you.

COUNCIL MEMBER MCMAHON: No, I--no, you--did I forget anything?

PENINA SCHOENFELD: I--

MALE VOICE: It's a rhetorical question.

COUNCIL MEMBER MCMAHON: Any other aspect of this? Did we covered everything, we covered all the classes of affected personnel, I

assume, active, retired.

PENINA SCHOENFELD: Mm-hmm.

COUNCIL MEMBER MCMAHON: Okay. Well I have to say that, short of forgiving the absolute amount, you guys have done a great job. Thank you.

PENINA SCHOENFELD: Thank you.

[Off mic]

CHAIRPERSON ADDABBO: The capital and Washington, DC. Council Member McMahon asked everything, meeting adjourned, no. I want to thank Council Member McMahon for being here, he is not a member to my understanding, I know of the Civil Service and Labor Committee, nor of the Veterans Committee, so we really appreciate him being here and his line of questioning and his interest on the issue. So thank you, Council Member McMahon. You mentioned in your testimony -

COUNCIL MEMBER MCMAHON:

[Interposing] 'Cause they could actually send the information to Albany, as well, in the future.

CHAIRPERSON ADDABBO: As I was saying, Ms. Schoenfeld, in your testimony, 1,800

1  
2 city employees were obviously serving at least one  
3 deployment and roughly 1,400 have enrolled in the  
4 program--

5 PENINA SCHOENFELD: Has returned.

6 CHAIRPERSON ADDABBO: Have--how many  
7 in the program?

8 PENINA SCHOENFELD: Eighteen hundred  
9 and two have been in the program.

10 CHAIRPERSON ADDABBO: Oh, they are  
11 in the program.

12 PENINA SCHOENFELD: Mm-hmm.

13 CHAIRPERSON ADDABBO: How many then  
14 city employees are currently serving? Are we  
15 saying that every city employee currently serving--  
16 -

17 PENINA SCHOENFELD: No.

18 CHAIRPERSON ADDABBO --is in the  
19 program? No.

20 PENINA SCHOENFELD: No, we monitor  
21 people who have been in the program for at least  
22 one deployment. There are a significantly larger  
23 number of people who are out or have been out on  
24 military service for regular military leave--

25 CHAIRPERSON ADDABBO: Right.

2 PENINA SCHOENFELD: --that could be  
3 for extended training or for an operation that  
4 isn't covered, such as Katrina relief, that isn't  
5 a covered operation. Our operations are Operation  
6 Enduring Freedom, Operation Iraqi Freedom, and  
7 operations related to homeland security.

8 CHAIRPERSON ADDABBO: So are there a  
9 number of military personnel who are in one of  
10 those situations who are not in the program?

11 PENINA SCHOENFELD: They don't have  
12 to choose to be on our program--

13 CHAIRPERSON ADDABBO: Because it's a  
14 voluntary program--

15 PENINA SCHOENFELD: --but they are  
16 given the option. Everyone who's on a covered  
17 operation is given the option of joining our  
18 program.

19 CHAIRPERSON ADDABBO: Okay. And  
20 your program is only as good as people who knew  
21 about it, so I guess the next follow-up question  
22 is do all military personnel city employees know--

23 PENINA SCHOENFELD: [Interposing] I  
24 think everyone knows about our program.

25 CHAIRPERSON ADDABBO: Okay. Okay.

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What is the outreach? How is a veteran informed?

PENINA SCHOENFELD: Everyone--every agency has a Military Liaison Officer. When you go out on military service, you do have to tell your agency that you're leaving, and you give in your orders. The Military Liaison Officer reviews the orders and if it's a covered operation, they will ask the employee if they would like to join our program.

CHAIRPERSON ADDABBO: When can a employee opt into the program? Is there a sign-up period or they can opt in at any time?

PENINA SCHOENFELD: Should they go out on leave and choose not to join, they can and they're still--in a covered operation, they can choose to join, they will just have to sign up for the program. They just have to contact their Military Liaison Officer and we have had people who were out on regular military leave and they chose to join the program at a later date.

CHAIRPERSON ADDABBO: So they can.

PENINA SCHOENFELD: Mm-hmm.

CHAIRPERSON ADDABBO: And now let's move forward, obviously this act signed in by the

1  
2 Governor is a drastic change from how we currently  
3 do business. So we, of course, appreciate your  
4 prior efforts, but now we are going to turn the  
5 page on November 5<sup>th</sup>, so let's talk about that. Do  
6 you foresee any difficulties in making this shift  
7 administratively--

8 PENINA SCHOENFELD: Yeah.

9 CHAIRPERSON ADDABBO: --to the  
10 Citizen Soldier Act?

11 PENINA SCHOENFELD: Right. No,  
12 we've actually been in close contact with all of  
13 the agencies, as well as with the Office of  
14 Payroll Administration and the Office of Labor  
15 Relations. We've had many meetings about it and  
16 we think it will be a seamless change.

17 CHAIRPERSON ADDABBO: No change  
18 needed in staffing or anything like, I understand.

19 PENINA SCHOENFELD: No, we haven't  
20 changed our staff at all.

21 FEMALE VOICE: [Crosstalk] staff.

22 CHAIRPERSON ADDABBO: This is it.  
23 We're in the hands of Ms. Schoenfeld. We're in  
24 good hands.

25 PENINA SCHOENFELD: Thanks.

2 CHAIRPERSON ADDABBO: One of the  
3 biggest changes in the Citizens Soldier Pay Act is  
4 the granting of hardship exceptions with many  
5 factors to be considered. Do you make those  
6 determinations on hardship exceptions and, if DCAS  
7 is the one or the agency's the one, please explain  
8 the process if there is one and what factors are  
9 to be considered.

10 PENINA SCHOENFELD: We've actually  
11 had a hardship committee since the beginning. We  
12 have had a hardship application and all of our  
13 agencies and Military Liaison Officers have that  
14 application and do tell their employees about it.  
15 Should an employee have a hardship, they contact  
16 their Military Liaison Officer and fill out the  
17 application and they do request hardship relief.  
18 We have a committee at DCAS that reviews each and  
19 every application and determines if the employee's  
20 relief is justified or not and we then determine  
21 how much relief we should grant. I am not on that  
22 committee because I have a, I guess, a daily to do  
23 with this and I do have a close contact with all  
24 of the, I mean, agencies [crosstalk]--

25 CHAIRPERSON ADDABBO: [Interposing]

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your plate is just so big [crosstalk]--

PENINA SCHOENFELD: Yeah, so I don't--I'm not on the committee--

CHAIRPERSON ADDABBO: --don't want to add more to it.

PENINA SCHOENFELD: --but I am in contact with them and we give them as much information about the employee as possible 'cause we--and we've had a significant number of approvals. Our approval rating is significantly higher than our denials, so...

CHAIRPERSON ADDABBO: I might have missed it, and I apologize if I did, who is on this committee and what is the turnaround time for a decision to be made on a hardship exception?

PENINA SCHOENFELD: Well the minute--the committee is made up of the Deputy Commissioner of Personnel, the Director [crosstalk]--

CHAIRPERSON ADDABBO: I'm looking at the committee, okay.

PENINA SCHOENFELD: --their titles, so that's how that's almost all the committee. Our turnaround time is--can be quick or it can be

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2 long depending on how many hardships we have. The  
3 minute a hardship relief--a hardship comes to our  
4 attention, we place the payroll deductions for the  
5 employee on hold so that they're not going farther  
6 and farther into a hardship situation and then at  
7 the time that the committee makes a decision, we  
8 will either put the person back on payroll  
9 deductions if they are--have been on them or  
10 change whatever needs to be changed. But we do  
11 stop everything when we do get an application  
12 until the committee meets because the committee--  
13 if there a lot of applications coming in, they'll  
14 meet more frequently, but sometimes we'll have  
15 only one that we'll just put it on hold and wait,  
16 you know, three, four, five weeks before a  
17 committee meeting. But we do get to them and we  
18 do look at them as soon as we get them in.

19 CHAIRPERSON ADDABBO: And I guess to  
20 wind up the questioning to an extent, what if  
21 somebody cannot pay back, and I understand  
22 payments have been reduced greatly, but what if  
23 somebody cannot pay back after 10 years and the  
24 10th year and they still owe some amount of money,  
25 what provisions are made for those who cannot pay

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back after 10 years?

[Off mic]

PENINA SCHOENFELD: Wow, yeah, we haven't hit 10 years and there's--it's actually we've done the calculations and there's actually a very few number of people who after 10 years will still have a balloon payment, is what we're calling it, as I've already mentioned, over 50% have less than \$25,000 and at the rate of 7-1/2 percent of their fixed salary, it will be paid off in significantly less than 10 years. So few will still be paying in 10 years time.

CHAIRPERSON ADDABBO: So if I right--if I understand you correctly, between the amount of time being paid the amount of the reduced payment and even with the hardship exception, you're saying at the end of 10 years practically no one will be, you know, out there still owing money.

PENINA SCHOENFELD: [Interposing]  
It's a very low number.

CHAIRPERSON ADDABBO: And, again, of that low number, because I am concerned about anyone who may still owe money after 10 years, are

1  
2 you saying that the city's prepared to waive it  
3 under this new state act or they will still work  
4 out some type of payment arrangement?

5 PENINA SCHOENFELD: I don't know  
6 what's happening in 10 years, but I can assume  
7 we'll work out a payment situation for them.

8 CHAIRPERSON ADDABBO: Okay. Okay.

9 PENINA SCHOENFELD: If they've been  
10 paying back for 10 years on a monthly basis, we'll  
11 probably still collect it.

12 CHAIRPERSON ADDABBO: Right  
13 [phonetic] here. Any other questions from my  
14 colleagues? I think we all agree, the efforts  
15 made by DCAS since 2006 have been incredible, we  
16 really appreciate that and we look forward to  
17 working with you as you implement the new Act come  
18 November 5th. I understand that you were a little  
19 concerned about today's hearing because the Act  
20 has not been implemented yet, so I appreciate  
21 your--you being here today to talk about where  
22 we've been, where we've come, and where we need to  
23 go. I am hopeful that we can continue to work  
24 together and, obviously, have a future hearing on  
25 this issue after the Citizen Soldier Pay Act has

1  
2 been implemented after November 5th and maybe  
3 four, six months down the road have another  
4 hearing to see how DCAS is utilizing that Act or  
5 implementing its requirements and provisions at  
6 that point. So I look forward to having that  
7 future hearing.

8 [Pause]

9 PENINA SCHOENFELD: Okay.

10 CHAIRPERSON ADDABBO: Okay?

11 PENINA SCHOENFELD: Thank you.

12 CHAIRPERSON ADDABBO: Thank you very  
13 much.

14 MALE VOICE: [Crosstalk] all this  
15 information. They owe you information, they owe  
16 me--

17 CHAIRPERSON ADDABBO: And we'll  
18 look forward to--right, to the follow-up  
19 information that we had mentioned to the  
20 testimony. So thank you very much.

21 PENINA SCHOENFELD: Thanks.

22 [Pause]

23 CHAIRPERSON AVELLA: Okay. The  
24 first panel we have Joseph Strong from New York  
25 City PBA, and David Goldman from American Legion

1  
2 Post 460. [Pause] David Goodman.

3 MALE VOICE: Thank you [off mic]

4 [Pause]

5 CHAIRPERSON ADDABBO: Gentlemen,  
6 thank you very much for being here today. please  
7 state your name and give your testimony please.

8 DAVID GOODMAN: David Goodman. I'm  
9 with the American Legion Post 460 and I'd like to  
10 take a moment and thank the ladies and gentlemen  
11 for having us here today and giving us the  
12 opportunity to talk about this. I had had a  
13 chance to speak previously in 2006 when we had a  
14 previous hearing on this and I've been deeply  
15 involved in the fight with DCAS ever since then.  
16 And, unfortunately, that's how I have to  
17 categorize it because it has been a relentless and  
18 unending fight with DCAS. Every change that took  
19 place to this program took place, not because DCAS  
20 looked at it and recognized a problem that needed  
21 to be corrected, it was because we forced the  
22 issue relentlessly to secure fair repayment plans  
23 for the soldiers who are affected by this. In  
24 2001, DCAS was put in charge of this program. One  
25 of the fundamental reasons this became the problem

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2 it did is that DCAS ignored its responsibilities  
3 for five years. Mayor Giuliani's original order  
4 put them in charge of the program. When Mayor  
5 Bloomberg repeated the order the following year,  
6 he also placed them in charge of it and I think  
7 many of the problems that existed with this never  
8 would have occurred had they followed their  
9 responsibilities at that time and issued  
10 instructions back then, rather than allowing a  
11 mounting debt and a mounting problem to build up  
12 until 2006. As we go through the changes to the  
13 program in 2006, I want to remind you Commissioner  
14 Hirst said even those who were killed in combat  
15 were going to have to repay their debt and the  
16 public outrage forced a changed to that. The  
17 changes to housing and rations allowances occurred  
18 because New York City provides nothing comparable  
19 to those in the city salaries. The state program  
20 that provides a differential pay does take into  
21 consideration state housing and location pay in  
22 their calculations. Some states and some  
23 businesses--differential pay and how you provide  
24 pay for reservists is truly an individual effort,  
25 and it varies widely throughout the country.

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2 There is no uniform standard, it comes down purely  
3 to what individual agencies or businesses want to  
4 provide for their citizen soldiers. We have seen  
5 recently the federal government taking steps to  
6 encourage private businesses to provide support  
7 for their soldiers by providing tax credits to  
8 them for those differential pays. We've seen the  
9 federal government recently overhaul the G.I. Bill  
10 and make substantial changes to try to provide  
11 additional benefits to the new generation of  
12 soldiers and veterans who are coming back from  
13 what is a protracted war for us. We've seen the  
14 same thing in New York State. New York City,  
15 unfortunately, we haven't seen anything comparable  
16 to any of these and certainly not out of DCAS. In  
17 2007, I was the one who went to City Council  
18 Speaker Quinn's staff and showed them how New York  
19 City could recover almost \$14 million in FICA  
20 reimbursements. The program--now out of that 14  
21 million, they only credited 7-1/2 million of that  
22 to the individual soldiers because the 7-1/2 that  
23 the individual paid is credited back. The 7-1/2  
24 that the city pays on FICA taxes was simply  
25 recovered by the city, it's never been applied to

1  
2 the debts. As we went forward and we started to--  
3 we found ourselves in a position where the only  
4 way we could redress the tax issues that continued  
5 to go on, was we had to work with Assemblyman  
6 Lancman and also with Senator Golden to pass  
7 legislation. This was legislation that the  
8 Mayor's office and DCAS fought for more than a  
9 year and the amount of time and effort and energy  
10 that went into this was truly amazing and, to me,  
11 it would have made infinitely more sense to sit  
12 down and talk and work out a rational program to  
13 correct the program. We were the ones who said  
14 the program doesn't work and we were the ones who  
15 looked at the mounting financial burden that came  
16 from receiving money and having to pay it back,  
17 which is hardly generous and said you need to  
18 change the program. At the time when we started  
19 working on the legislation I was asked, do you  
20 want to work on a straight percentage of the pay  
21 or do you want to do the differential and I  
22 remembered the original intent when this started  
23 in 2001 was to prevent financial hardship for the  
24 people who deployed. So that financial hardship  
25 falls hardest on young enlisted soldiers as

1  
2 opposed to senior officers like myself. So I  
3 said, the differential pay most closely meets that  
4 intent, and that's the program that people have  
5 gone forward with. The program that was  
6 eventually signed by the governor this year had  
7 several changes to it as we fought with DCAS and  
8 the Bloomberg Administration over how it was going  
9 to be constructed. Now when DCAS was here, they  
10 talked about a mandatory repayment within 30 days  
11 when you returned. That was never in any of the  
12 original agreements. The original agreement said  
13 you had to contact the agency in 30 days to  
14 discuss repayment, it was not a repayment in full.  
15 So some of their revisionist history seems a  
16 little out of place. As we went forward with the  
17 new program, things like changing from 22 workdays  
18 to 30 workdays actually follows language that are  
19 in the contracts for many city employees. So this  
20 wasn't an additional benefit, it actually  
21 clarified what most city employees have in their  
22 contracts but because of conflicts with the way  
23 the state law is written, it became difficult to  
24 get these things applied properly. So it was much  
25 simpler to work and say all right, let's clean

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2 this up and it more closely mirrors how the  
3 federal government now interprets military leave  
4 to be applied for people when they receive paid  
5 military leave. When we worked on some of these  
6 other issues in terms of the repayment plans, yes,  
7 there were negotiations with them in terms of  
8 percentages and amounts and time limits and, while  
9 I agree, handing somebody a check and saying thank  
10 you for your service and then when you come back  
11 saying now give it back hardly seems like a  
12 benefit, we did all accept that we agreed to repay  
13 the money when we took it, so we accepted the  
14 responsibility for it. A problem that we had and  
15 have continued to have is when this started, the  
16 Bloomberg Administration was asking us to repay  
17 \$1.60 for every dollar we received, because every  
18 dollar we received had 30% of it taken in taxes,  
19 so we only received about 70 cents on the dollar.  
20 When it came time to pay it back, we were having  
21 the money taken out of our salaries and after-tax  
22 earnings, so it had already been taxed yet again  
23 another 30% to repay the same bill. And that was  
24 part of what we were working on with this  
25 legislation, to try to offset that 28% tax bill

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2 that we were being asked to pay twice and that's  
3 what we were working toward. You know, when the  
4 city was talking with the state and with the  
5 Senate and the Assembly about this Bill, they had  
6 agreed that they would provide an additional 5%  
7 credit and at some point in the future, they were  
8 working on the details. And I know they've done  
9 that now where people, if they repay it in full,  
10 get the 5% off of the whole bill, but if you wait  
11 until after November 5<sup>th</sup>, then you only get 5% over  
12 whatever your balances is that's left. Those  
13 kinds of minute changes to how you compute the  
14 math to the city are inconsequential, to the  
15 individual soldiers, that can make the difference  
16 of thousands of dollars. When they talk about the  
17 bill--I'm one of the handful of people whose  
18 military salary was greater than the city salary.  
19 So even after all of these changes that have gone  
20 on over the last few years, the Bloomberg  
21 Administration is still requiring me to repay more  
22 than \$10,000 that I never received because of the  
23 way they're computing the math. And I made an  
24 effort this summer to try to repay some of my debt  
25 and I was turned down because I refused to sign

1  
2 the contract that they insisted I sign, contract  
3 that I knew was inaccurate, contract that--I mean,  
4 these contracts that they continue to insist  
5 people sign are moving targets. This has changed  
6 so much over the last couple of years as we have  
7 tried to work through the issues with it, that to  
8 sit there and demand you sign a contract at a  
9 specific point in time when you're trying to repay  
10 the debt, seems counterproductive and I would've  
11 thought the city would, particularly as the budget  
12 crisis becomes greater, be even happier to receive  
13 any money that they could get. As we go forward  
14 with this, one of the things we campaigned for was  
15 a change to the program. As an Army officer, I  
16 have always known you have an obligation to be a  
17 good steward of the public trust and the public  
18 funds. We've recognized problems with the  
19 program, we work to change it to make it something  
20 that was fair, not just to the soldiers, but also  
21 to the city as well, and recognize the ongoing  
22 conflict that we are involved in. And that's what  
23 we worked toward, you know, so that as we go  
24 forward in the future, the soldiers will not come  
25 back to a bill. They'll receive less money while

1  
2 they're gone, but at least they won't have a  
3 massive debt when they come back and the cost of  
4 their deployment won't be shifted to when they  
5 come home. As the program goes forward, we also  
6 still have questions, now it is a full  
7 differential program, but the same problems with  
8 how they apply tax law to it are still unresolved.  
9 IRS revenue rulings on differential pay allow the  
10 city not to pay FICA taxes, this will save the  
11 city hundreds of thousand of dollars a year if  
12 they implement it. Currently what they are doing  
13 is they're waiting for people to come home and  
14 fill out forms to recover the money and they apply  
15 that as a credit against their debt. Since under  
16 this new program, they shouldn't have a debt, they  
17 need to look at changing that program, apply those  
18 credits up front, the city shouldn't pay spend  
19 money it doesn't need to spend and then try to  
20 recover it later. It seems like a waste of  
21 manpower and energy to work on it that way. Taxes  
22 for a lot of us who are under the old program are  
23 still not resolved. I've been trying to work with  
24 the IRS for more than a year to find a resolution  
25 to this that makes sense and absolutely nobody can

1  
2 find a way to make sense out of it. That was one  
3 of the reasons why a reduction in the overall debt  
4 was one of the discussions that had come up,  
5 'cause that was the only way anybody can come up  
6 with try to fix this. We have run into problems  
7 as the program has been administered, we have had  
8 people who were told they would not be allowed to  
9 retire until they paid off their bill, we have had  
10 people who were told [pause] and we've actually  
11 had people who were denied access to the program  
12 because they volunteered or DCAS considered them  
13 to have volunteered for service and this is still  
14 a program that exist today with DCAS. If they  
15 think you volunteered, they deny you access to the  
16 program, which, since every reservist is a  
17 volunteer, it's a short step then to saying we  
18 have a wonderful program, but nobody applies who's  
19 going to be able to take advantage of it. We have  
20 seen a significant change over the last couple of  
21 years. DCAS has regularly refused to deal with  
22 us, either as veterans or reservists, they flatly  
23 refuse to meet with any individuals, most  
24 organizations are unable to meet with them. They  
25 will only work through agency representatives and

1  
2 our conversations with the agency representatives  
3 are more that they are being told what the  
4 policies are going to be. There are outstanding  
5 issues in terms of how pensions are calculated,  
6 when people pay this money back, it is being  
7 recorded as income, but they're told it's not  
8 pensionable, which does not seem to match with the  
9 way the state pension laws are written. I know we  
10 have seen issues that are out there in connection  
11 with--again, we're still wrestling with the taxes.  
12 H&R Block notwithstanding, I don't think that  
13 issue is ever going to resolve itself. The monies  
14 that were expended in this program were city  
15 salaries that were already budgeted. New York  
16 City never spent any money in this program that it  
17 was not already budgeted to spend, so there was no  
18 additional cost to it. Now, the monies they  
19 recover and the change in the program to reduce  
20 the expenses actually reduce city expenditure,  
21 they don't increase it. So you have the--and I  
22 believe the City Council would have the ability to  
23 look at this program and say wait a minute we need  
24 to make some more changes to this, we need to be  
25 more active in our oversight and in how the

1  
2 Council directs DCAS to conform, and how to  
3 conduct these payments. I know they have said  
4 they have a hardship program and I saw one of the  
5 applications which required tax returns and a  
6 volume of documentation and personally I know of  
7 nobody who was ever approved for a hardship  
8 deferral. So I will take them at their word that  
9 they have a high percentage of people who are  
10 receiving them, I just don't know any of them.  
11 All right. When we all started this as soldiers,  
12 we knew what we were doing. [Pause] Nobody goes  
13 into the military to get rich, certainly nobody  
14 goes into city service to get rich, either. We  
15 went into the program knowing full well there was  
16 an expectation that we would have to repay  
17 something. Our fight has always been we shouldn't  
18 have to repay an unreasonable amount and an unjust  
19 amount and that's still something that we fight  
20 with DCAS about today. So I thank you for the  
21 time that you've given me to speak to you today.

22 [Pause]

23 JOSEPH STRONG: My name is Joseph  
24 Strong, I'm with the New York City PBA. I'm very  
25 glad that Dave spoke for us because I don't think

1  
2 I could put as eloquently as Dave has or as  
3 precisely. One thing I must address is that DCAS  
4 has absolutely mismanaged this program from day  
5 one. It was somewhat laughable to sit there in  
6 the audience and hear them pat themselves on the  
7 back for things like extend [off mic] from beyond  
8 30 days to 10 years, it's nonsense. On the  
9 original form, you had to contact the city within  
10 30 days and you were agreeing to make payments for  
11 an extended period of time, so if that extended  
12 period of time was 30 days, I don't know anybody  
13 who makes \$10,000 every two weeks that you could  
14 pay that debt off in 30 days. It's laughable to  
15 hear some of the words that come from DCAS. We  
16 had a meeting about six months ago where DCAS came  
17 in and began to express their own version of the  
18 EMBP where they made a number of misstatements and  
19 mischaracterizations. As a matter of fact, every  
20 single positive change that has come to the EMBP,  
21 has come directly from the New York City Council  
22 and from New York state legislature, that is it.  
23 DCAS has not voluntarily made any positive changes  
24 to this program and one of the reasons that this  
25 program is a success today is because of Mike

1  
2 McMahon, who's sitting there right now. Mike had  
3 spearheaded this issue from the beginning when it  
4 was first--was brought to his attention in Staten  
5 Island about, what about three or four years ago?  
6 You know, he is the reason that we are here today.  
7 He's done a phenomenal job, as well as Rory  
8 Lancman, who spearheaded the state bill and the  
9 state bills what finally solved the problem, not  
10 DCAS. It was interesting to hear them discuss the  
11 BAH and the BAS being removed--oh, we did such a  
12 great thing. That was not at their insistence,  
13 that was at our insistence. Where we had told  
14 them there were previous court cases where courts  
15 had determined that you could not use housing and  
16 sustenance as part of a military repayment  
17 program. At that point, they backed away, took it  
18 away, not voluntarily, but they were forced to by  
19 not only Dave and the American Legion Post, but  
20 members of the City Council. Same thing with the  
21 FICA, 7.65 FICA tax, that wasn't voluntarily done  
22 out of the goodness of their heart to help  
23 veterans, that was done when Dave brought it to  
24 their attention and when the City Council brought  
25 it to their attention. Jackson Hewitt and H&R

1  
2 Block, which they like to recommend to everybody,  
3 has basically told us that, well yeah, nothing  
4 that we can do will help you. DCAS is telling you  
5 things that aren't true. We contacted the IRS and  
6 we explained the situation to the IRS and they  
7 told us the same thing, I said wait a second, this  
8 program is completely screwed up, there is no  
9 legal way to recoup that tax loss, none, unless  
10 you repay the debt within the first year in which  
11 you return. And I don't know many people after  
12 returning from a year in combat have \$70,000 or  
13 \$60,000 or even if you want to use their figure of  
14 \$20,000, you know, to write a check, hand it off.  
15 So that's the only way that you can recover full  
16 tax credit is by paying back the entire debt  
17 within the year that you received it. So if  
18 you're in combat [off mic] years, let's say 2007  
19 to 2008, if you don't pay it back in 2007 while  
20 you're in a combat zone, you permanently lose that  
21 tax credit. If you come back in 2008, you'll be  
22 allowed to pay off that full debt for 2008, that's  
23 the only way that you're legally allowed to get  
24 full credit for your taxes. [Pause] The double  
25 taxation issues, we had initially asked for a 28%

1 credit, which would reasonably reduce everybody's  
2 debt to a fair wage--and I think Dave knows much  
3 more about that specific situation than I do and  
4 he can go into it in much more detail--we wound up  
5 getting a 15% decrease, which is fine. We also  
6 had a 7.65% decrease of FICA that was pushed on by  
7 the City Council and by ourselves, that's fine.

8 It should have been a 28% in total, but we accept  
9 the loss, I accept the loss. I owe the city  
10 approximately \$40,000, you know what, I have to  
11 pay it back, I don't care, I'm not going to  
12 complain. One thing that's consistently lost in  
13 all of these discussions and all these hearings,  
14 prior to September 11, 2001, there was no Extended  
15 Military Benefits Program and all of the people  
16 that are in the system right now--or a majority  
17 vote of them, because time has passed, a great  
18 amount of time has passed since 9/11--everybody in  
19 the program on that date, program didn't exist.

20 We were in the reserves or we were in the National  
21 Guard knowing that in any time we could be called  
22 up and we would leave and we would lose our city  
23 salary for the entire time that we were gone, and  
24 it wasn't an issue. I was called up in 1990, 1991  
25

1  
2 for Desert Storm, I went over there served my  
3 country, had fun, played in the desert, lost my  
4 salary when I was gone, didn't care. I knew that  
5 was part of my job and I knew that that was a risk  
6 that I took and I understood that risk and I  
7 accepted that risk and I had no qualms about it  
8 whatsoever. It was somewhat disheartening to look  
9 around and see the guys from the phone company  
10 getting full salary or people from other police  
11 departments in other states saying they were  
12 collecting their full salary and the biggest city  
13 in the world with the biggest police department  
14 was given us nothing. But, you know what, that  
15 was just friendly banter, but it was something  
16 somewhat disheartening to see everybody else  
17 getting their for salary because their city, their  
18 state, their private employer supported their  
19 troops wholeheartedly, 100% and we didn't get that  
20 here, but that's okay. [Pause] You know, we lost  
21 a police officer last night that was killed in  
22 Afghanistan and this comes down to money and the  
23 thing that's unfortunate is that DCAS looks at  
24 this as simply a financial issue. The cops, the  
25 firefighters, the school teachers, the conductors,

1  
2 the motormen, the bus operators, whoever it is,  
3 those city employees that go over there, they  
4 understand the risks. And somebody asked me today  
5 about, you know, why would a cop go over there and  
6 fight in Afghanistan when they can stay here and  
7 do the same type of job and the same thing that  
8 gets you to raise your right hand and stay in the  
9 military or join the military, it's the same  
10 internal fortitude that made everybody run to the  
11 towers on 9/11. They're a different, separate,  
12 distinct group of people with their own crazy way  
13 of doing things. So when everybody else was  
14 running away from those Twin Towers on 9/11, who  
15 is running in? The cops and fire fighters, not  
16 once thinking about their own lives. Same thing,  
17 they go to Iraq, they go to Afghanistan. I was  
18 over in Iraq recently, this is my second combat  
19 deployment, didn't worry about it, you went over  
20 there, you did your job. Everybody who goes there  
21 expects that they're going to come back 'cause  
22 it's always going to happen to somebody else, not  
23 to me and that's the mindset that you've got to  
24 keep. But it's not about the money and it's  
25 frustrating when you look at DCAS and they are

1  
2 simply looking at this from a, you know, how much  
3 money can we take from these people when they come  
4 back. What's the worst thing we can do, you know,  
5 how do we get all this money back, as much as  
6 humanly possible. And they fought us every single  
7 step of the way, whether it was BAH and BAS,  
8 whether it was the FICA refund, whether it was  
9 extending the 30 days from 22 calendar, 30  
10 weekdays. Every single thing was, you know,  
11 resisted by DCAS and they only time they made a  
12 change was at the request of the City Council and  
13 at the request of the state legislator. Normally  
14 I would have had a much more well put together  
15 [pause] speech to give you today, but I haven't  
16 slept too much 'cause everybody had me on the  
17 phone last night regarding Officer Taylor. Dave  
18 and I know more about the EMBP than probably  
19 anybody in DCAS or in city service. I'm not my  
20 usual self today because of a lot of other things  
21 that have happened, but I'm sure you understand  
22 that's the nature of the business. I would rather  
23 have you ask us any questions that you might have  
24 because I feel comfortable that if there's any  
25 questions you have, Dave and I can give you an

1  
2 honest, truthful, and accurate answer. And I  
3 thank you very much for your time and I thank the  
4 City Council and especially Mike McMahon for all  
5 the work they've done to finally solve this  
6 problem.

7 CHAIRPERSON ADDABBO: We also thank  
8 Mike McMahon for his efforts here, but let me  
9 again go--

10 JOSEPH STRONG: [Interposing] Well I  
11 do like your idea, but I just--forgetting the debt  
12 in total, I think that's a wonderful plan.

13 CHAIRPERSON ADDABBO: But let's  
14 again first thank both of you, Mr. Goodman, Mr.  
15 Strong, for what you've done for the city and for  
16 this country, we appreciate your service as well.  
17 And of course your participation in 2006, which  
18 really led us to make certain strides and I  
19 understand there's work that still needs to be  
20 done, but let's go forward, let's be a little  
21 optimistic and go forward. Now we have this new  
22 Act that comes in to play November 5<sup>th</sup> and as I  
23 mention, we're going to need to do these hearings  
24 periodically to make sure that all the issues are  
25 addressed as we go forward with this new Act and

1  
2 as our military, possibly, our service people  
3 increase in the years coming. So let's go  
4 forward, do you foresee any issues that need to be  
5 addressed with the Citizen Soldier Pay Act, as we  
6 go forward, do you foresee any possible agenda  
7 items that we're going to need to take up to make  
8 sure that the city and state comply with the  
9 requirements and provisions of the Act?

10 DAVID GOODMAN: As it goes forward,  
11 I could see three areas that would need to be  
12 looked at. The first one would be how they're  
13 actually going to calculate that pay differential.  
14 You know, you can pick almost any two points for  
15 the difference but, you know, to--for the DCAS to  
16 decide what's going to be most fair, you have some  
17 city employees whose salary regularly consists of  
18 night differential pays, of overtime pays, of  
19 longevity pays, as well as their base salary. I  
20 have seen programs that take all those into  
21 consideration as part of differential. In fact,  
22 Minnesota, the state legislature codified how  
23 their program works and they include everything  
24 people receive as income, they take a three-month  
25 average before they deploy and that's the figure

1  
2 they use for the base number for city salary  
3 before they leave. When they look at the military  
4 salary, since we are back to recognizing just  
5 using the base pay, I think it's appropriate to  
6 continue to use that because everything else  
7 that's there that somebody may receive, they  
8 change by individual. Some individuals depending-  
9 -can be placed in government quarters and don't  
10 receive a housing allowance, some can be provided  
11 rations and they won't receive a ration allowance,  
12 it all depends, some people who are stationed in  
13 the States won't receive some of the incentive  
14 pays that come from serving in a combat zone. So  
15 there's no way to really accurately determine what  
16 the military base is going to be, particularly  
17 when they calculate it when they leave. There are  
18 military pay tables that are published regularly,  
19 so it's easy to determine what military pay is.  
20 All right. If I was looking at the program and my  
21 goal was to be as fair as possible to the people  
22 deploying, I would take a three-month average of  
23 their salary before they left, including all of  
24 their salary that they would normally receive in  
25 those periods, and then I would simply take the

1  
2 military base pay and subtract it from it and  
3 provide whatever the difference is. As far as the  
4 issue of the FICA taxes, I would look at that  
5 because the city doesn't need to pay those taxes,  
6 and that's a 15% savings which can amount to  
7 several hundred thousand dollars a year for the  
8 city. And this is codified in the IRS Revenue  
9 Ruling, so it's a, you know, it's a well-  
10 established program that exists. Other ones that  
11 I would look for people as they return and one of  
12 the outstanding issue that's always been there  
13 have been the effect on their pensions. Federal  
14 law provides protections that say your pension  
15 should not be penalized for having been deployed,  
16 although quite often for people when they are  
17 deployed and their income or their pensions are  
18 based on overtime or night differential, these are  
19 things that are lost while they're gone. So there  
20 should be some consideration to how to address  
21 those for people when they come back or to address  
22 it when they leave so that they are not penalized  
23 for the rest of their retirement for their  
24 military service. I'm looking at that personally  
25 because I leave on Sunday for my fourth deployment

1  
2 and I know that the reduction that I'll have over  
3 the city because I'm not participating in this  
4 program, will have a significant impact on my  
5 pension when I return. So those are the three  
6 topics I would look at to try to be most fair to  
7 the individuals who are involved.

8 CHAIRPERSON ADDABBO: And that is  
9 most helpful as we go forward and, again, this  
10 affects so many of our city residents who are  
11 veterans, this is helpful that we keep an eye on  
12 these issues. Mr. Strong, you have anything to  
13 add to that are were you [off mic]

14 JOSEPH STRONG: Well going forward,  
15 this is a phenomenal program, there are some minor  
16 problems with it right now that Dave has just  
17 addressed, but compared to what we initially had,  
18 this is absolutely phenomenal, this is exactly  
19 where we need to be and I don't know anybody who  
20 has any issues with this program the way it is  
21 right now.

22 CHAIRPERSON ADDABBO: Excellent.

23 JOSEPH STRONG: Minor issues that  
24 need to be addressed. Other than that, they  
25 finally got it right, almost.

2 CHAIRPERSON ADDABBO: Okay. Any  
3 other questions? Thank you.

4 DAVID GOODMAN: If I could be  
5 allowed just one last comment.

6 CHAIRPERSON ADDABBO: Please.

7 DAVID GOODMAN: You're going to have  
8 several thousand more new veterans returning in a  
9 few months. On top of the tens of thousands of  
10 people who have become veterans since 9/11 and the  
11 approximate 300,000 veterans who live in New York  
12 City. I think New York City needs to take a very  
13 hard look at what kind of services and what they  
14 want to do for those veterans. Certainly when  
15 they come back, whenever anybody comes back, there  
16 is always the initial blush when you come home of  
17 enthusiasm. You know, the realities and a lot of  
18 the return to your life often takes place a few  
19 weeks after that and I think a lot of people would  
20 benefit from the ability for New York City to have  
21 programs to help them get to the agencies that  
22 they need to get to, you know, and help them with  
23 their reintegration as they shift out of a  
24 military combat zone frame of mind and shift back  
25 into being part of New York City.

2 CHAIRPERSON ADDABBO: Well I agree  
3 with you and I appreciate that last comment, Mr.  
4 Goodman. Again, Mr. Goodman, Mr. Strong, thank  
5 you very much for, again, your service to the city  
6 and to the country. Mr. Goodman, we wish you well  
7 on your next deployment this Sunday.

8 DAVID GOODMAN: Thank you very much.

9 CHAIRPERSON ADDABBO: We wish you  
10 well. Our next panel. Thank you, Acting chair.  
11 A panel of three: we have Michael Williamson,  
12 Tsaiiah Benjamin, and Amy Maniscalco.

13 [Pause]

14 AMY MANISCALCO: I just have copies  
15 of the letter.

16 [Pause]

17 [Off mic]

18 CHAIRPERSON ADDABBO: Let me--I know  
19 we have Amy, correct? Okay.

20 MICHAEL WILLIAMSON: Michael  
21 Williamson.

22 [Off mic]

23 CHAIRPERSON ADDABBO: Yeah, is  
24 Tsaiiah Benjamin?

25 ISAIAH BENJAMIN: Isaiah.

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[Pause]

CHAIRPERSON AVELLA: Oh, yeah,  
that's an I.

CHAIRPERSON ADDABBO: Isaiah, sorry,  
looked like a T. Mr. Benjamin, please step  
forward. There is a chair here. Thank you.

[Pause] Sorry, Mr. Benjamin, welcome. Please  
state your name and give your testimony, why don't  
we start with Amy first.

[Pause]

AMY MANISCALCO: Thank you, Amy  
Maniscalco. My husband is Police Officer Louis  
Maniscalco, he's currently away with the New York  
National Guard on his second deployment. I didn't  
prepare anything because, quite frankly, I wanted  
to hear what DCAS was going to say and see how the  
hearing was going to run. What is possibly being  
handed out now is a letter from DCAS most recently  
sent, it was dated October 3rd, 2008 and it was  
sent to a retiree. A few concerns that are in  
this letter--and just to backtrack for moment, I  
certainly second and third everything that David  
Goodman and Joe Strong said, it's been quite a  
hellish two years dealing with DCAS and fighting

1  
2 for the rights of my husband and other service  
3 members in the city. Just a few points of  
4 interest. In this letter, DCAS is advising that  
5 if a member was separated, but not retired as a  
6 city employee, separated from city service prior  
7 to or on November 5<sup>th</sup>, their monthly installment  
8 payments would be equal to 7.5% of their gross  
9 monthly city salary on the date of separation.  
10 That's a strong issue because it should be based,  
11 in my opinion and based upon the law, upon their  
12 base salary. That is absolutely something that I  
13 respectfully request if it can be looked into.  
14 Also method of payment is not addressed at all in  
15 the letter, which is leading a lot of folks to  
16 believe, and I've been fielding a lot of phone  
17 calls, regarding the need for certified checks or  
18 monthly or by money order. There is only one  
19 mention of payment here that they must reimburse  
20 the remaining amount when the balance is due at  
21 the conclusion of 10 years in that way. There is  
22 also, very disturbingly to me, I acknowledge that  
23 by signing I understand that I or my estate, I  
24 find that offensive and I think that that is  
25 something that should be removed, it's definitely

1  
2 in the new legislation that if someone is killed,  
3 that they do not have to repay the remaining  
4 balance. So that is certainly an issue, if you  
5 can please look into that, I'd certainly  
6 appreciate that. Also, just a piggyback on what  
7 Dave and Joe were discussing, their math seems to  
8 be a little off in how they calculate the  
9 percentages off of what is actually due. If we  
10 can actually see line by line and how the city is  
11 calculating, it appears to be where they are  
12 taking the full amount and deducting in piecemeal.  
13 So they will deduct from the original amount, the  
14 7%, then take that balance and deduct the 15%  
15 adjustment and, when we actually look at the  
16 actual percentage we're left with at the end of  
17 the day, it is significantly less than 22% of what  
18 they should be taking care of. As for the 30  
19 workdays that were included in the new  
20 legislation, that was something that was  
21 contractually obligated by the city previously, so  
22 it's just something that was reinforced, it's not  
23 a gift, it was something that were--should have  
24 been receiving to begin with. Tax issue, moving  
25 forward, I, of course, support Dave and Joe's

1  
2 comments as far as some issues moving forward, but  
3 moving forward, it looks very good, it's fair,  
4 which is what we are looking for. In regards to  
5 the taxes, my husband was previously deployed from  
6 2004 to 2005, DCAS didn't start looking for  
7 repayment until 2006, he didn't receive his  
8 payback letter until 2007. We filed our taxes  
9 this year, he had started making repayments in  
10 November, I think we--he was--he probably had 10%  
11 deductions of his gross salary, which that is, in  
12 my opinion, taxing us twice of about \$1,100 by the  
13 time we filed for our taxes for the calendar year  
14 and I think we received credit for an itemized  
15 deduction of about \$200. We will not see dollar  
16 for dollar, what we paid in taxes back, we do need  
17 a revenue ruling from the IRS on that. As far as  
18 the meeting that we had with DCAS, the only  
19 meeting that we had, we were not invited by DCAS,  
20 we were invited by the unions and pretty much  
21 crashed their party, which we were very happy to  
22 do. In regards to their possible rumors or things  
23 that they--that DCAS has looked at in regards to  
24 whether a service member is being voluntarily or  
25 involuntarily deployed, my husband volunteered for

1  
2 this deployment. The reason why he volunteered is  
3 because the writing is on the wall with all of our  
4 service members, they know if they've gone once,  
5 they're going back twice, if not three times, and  
6 the mentality with our service members is, yes,  
7 they were volunteer service members to begin with,  
8 but it's better to choose my own destiny and  
9 decide where I can go in a combat zone and do what  
10 I can do in a combat zone than to have my destiny  
11 chosen for me. Especially with what's been going  
12 on in Afghanistan lately, I never thought I'd say  
13 this, but I'm glad that my husband is a door  
14 gunner in Iraq. We have certainly had our share  
15 of problems, this DCAS was strong-arming  
16 employees, it's certainly something that we do  
17 keep our eyes out on. I've covered the tax  
18 implications, covered moving forward. If you  
19 could please look at the letter for retirees, that  
20 is certainly appreciated. The voluntary  
21 deployments, as well as involuntarily, as I just  
22 said, there should be no exclusion. It's a  
23 voluntary military to begin with and many service  
24 members are just choosing their future service  
25 instead of having it chosen for them because they

1  
2 will all be deployed again at some point. In  
3 regards to the program itself in that other  
4 counties in the country include basic allowance  
5 for housing and sustenance allowances in their  
6 figures for recalculating payback, it certainly is  
7 true, but it is certainly true that Suffolk County  
8 police officers, for example, make \$120,000 a  
9 year, whereas our New York City police officers,  
10 when they're not making overtime and the other  
11 incidentals, make about 70. So that's why there  
12 is such a huge discrepancy there and there are  
13 other programs that are equal, some that might be  
14 better and some that are certainly worse than the  
15 current program that we have, but we do agree that  
16 moving forward, it is fair. And my only other  
17 question in regards to hardships, was I was  
18 concerned, we've certainly heard some horror  
19 stories about some families in need and the only  
20 two families that we were aware of that were  
21 granted hardships involved cancer within either  
22 the city service member or a member of their  
23 immediate family, a child or a spouse. So we were  
24 just curious as to how those hardships are  
25 actually decided, how many have been approved, and

1 what they're actually, you know, doing for that.

2 So I thank you again very much for your time.

3 [Pause]

4 [Off mic]

5 ISAIAH BENJAMIN: Good afternoon  
6 chair and panel. I'm a member of the 369  
7 Veteran's Association up in Harlem, I'm the First  
8 Vice President of the Manhattan District. Our  
9 President is a retired Major General, Nathaniel  
10 James, and our veterans out of that armory and all  
11 armories across the nation probably are suffering  
12 when they return back from Vietnam. But what I  
13 hear here today, I've already heard at a board of  
14 directors meeting in the armory, but I want to  
15 thank you all for the efforts you're all making  
16 and work you all do, it corresponds with the  
17 federal government and the state. Thank you very  
18 much from the 369th Veterans Association.

19 [Pause]

20 MICHAEL WILLIAMSON: I'm Michael  
21 Williamson, I'm a police officer with the DEP  
22 police. At 9/11, before I [off mic] I'd like to  
23 say little thing. Before--right after 9/11, I was  
24 the only officer activated from the DEP police  
25

1  
2 until 2006, I believe, and to this date, I think  
3 there's only like three of us, but I don't have  
4 the exact number for sure. So as far as this  
5 hardship thing, I've never heard a thing about it.  
6 I've been fighting DCAS since day one, but they  
7 still take the money out, they said if we dispute  
8 it, they put it on hold. No, it doesn't. They've  
9 been taking 10%, sometimes 20%, out of my paycheck  
10 and that--and we were [off mic] on contract for  
11 three years. So I'm back in 2005 pay scale and  
12 they're still taking 10, 20% out of my paycheck.  
13 That's definitely a hardship. I don't make as  
14 much as NYPD does because of contractual issues  
15 and that's union issue which will be settled later  
16 on and that, so it was definitely a hardship for  
17 me. And that, and now to go with my statement. I  
18 thank you for inviting me to discuss this very  
19 serious problem that myself and other veterans  
20 face, especially in this economic mess the country  
21 seems to be in. We, because of love of our  
22 country and our dedication to duty, answered the  
23 call to service. [Pause] Please, forgive me.  
24 [Pause] We all put our lives on the line and on  
25 hold to serve our country when in time of crisis

1  
2 or in time of peace. We basically put our money  
3 where our mouth was. I have dedicated 20 years of  
4 my life to service in this nation, eight years to  
5 New York City. I retired from the military in  
6 2006. Like many others, I lost a friend, Police  
7 Officer Jerome Dominquez, NYPD, when the Towers  
8 fell. I will never forget that day. I was  
9 standing my post at the gate of Stewart Air  
10 National Guard base in Newburgh, New York. I was  
11 there on part of my annual two-week duty. I was  
12 on military leave from my job as a police officer  
13 for DEP out of Ashokan, New York. Thousands of  
14 other veterans responded to the call of duty with  
15 a deep sense of pride. I was torn between my duty  
16 as a military member and a duty to New York City  
17 as a police officer. At the time, I felt that  
18 defending the water supply was of crucial  
19 importance, so I returned after my two-week duty  
20 was up. On September 27th, 2001, I received a  
21 call with orders to report to military and  
22 involuntary activation. I did not hesitate to  
23 answer the country's call for help, I did not  
24 object, I did not run away or try to shirk my  
25 responsibilities. Like thousands of other

1  
2 veterans, I answered the call with honor. [Pause]  
3 I notified my supervisor of my activation and was  
4 told to be safe and return in one piece. In  
5 October 2001, I was asked by my civilian  
6 supervisor to stop by the precinct to sign some  
7 paperwork. I was handed a contract to sign in  
8 order to keep the medical coverage for my family  
9 and continue my time in service active. At the  
10 time I questioned the letter in reference to the  
11 days I would have to pay back. I was informed by  
12 New York City--I was informed that New York City  
13 would continue as they have our contract and only  
14 make me pay back the days I would actually miss  
15 working and not my days off. Therefore, I would  
16 be required to pay back for five days a week, 260  
17 days a year, minus the 22 days I am granted for  
18 military leave. My veterans--many veterans signed  
19 the agreement believing that they would be told  
20 exactly what would happen. We had no reason to  
21 doubt what we were told. We were proud to be  
22 asked to defend the United States from both  
23 foreign and domestic attack. As a member of the  
24 military and a police officer, I swore an oath to  
25 protect those in need. Over the past 22 years, I

1  
2 have continued to fulfill my oath, including  
3 today. [Pause] While I was activated and  
4 stationed at Stewart Air National Guard base, I  
5 attempted to go back to work part-time for DEP  
6 until my deployment--until I was deployed to  
7 another location. This would have limited the  
8 amount of money I would have had to pay back upon  
9 the return to full-time employment to New York  
10 City. I was denied permission to return to the  
11 base--return based on the Posse Comitatus Act,  
12 which states that police officer and firemen are  
13 not allowed to work civilian jobs while activated.  
14 When I returned from my deployment, I was told  
15 that the Governor of New York signed a bill  
16 forgiving the debt of those activated right after  
17 9/11. For three years I was never asked to repay  
18 any money. When I returned to work, I was and,  
19 still am, treated with hostility and indifference.  
20 I've been denied promotions, training, and  
21 transfers into specialized unit--for specifics,  
22 you can see attachment number one. In the  
23 military, you are paid for 365 days a year because  
24 you are on call when you are off duty and  
25 sometimes when you're deployed overseas, you

1  
2 actually work six, seven days before you get a day  
3 off. You have no choice, you work when you're  
4 needed. As a police officer for New York City  
5 DEP, I am only required to work 8.4 hours a day,  
6 260 days a year as per the contract we are still  
7 under at this time, plus allowed 22 days a year  
8 used to military leave. When I received the  
9 letter demanding repayment I was confused, angry,  
10 and stressed. I cannot believe this could happen  
11 and I worried about being able to afford paying  
12 the money back. The amount I supposedly owed has  
13 never been consistent, the amount has fluctuated  
14 from \$61,704 to \$32,761. In addition, I have  
15 already paid \$7,568 in taxes, and once again, I am  
16 paying taxes on that money being deducted from my  
17 pay. As a result, I am double--I am paying double  
18 the taxes on every dollar I was given by New York  
19 City. My calculations do not match the  
20 calculations given by New York City DCAS--you can  
21 see that on attachment on number three. DCAS  
22 calculations, they are saying I missed 89 days in  
23 2001, 337 days in 2002, 249 days in 2003. The  
24 total the amount they say I owe is the \$32,761.  
25 My first question is, if I'm only required to work

1  
2 260 days, minus the 22 days of military leave,  
3 totaling 238 days, how could I miss 337 days in  
4 2002 and 242 days until my return in 2003? This  
5 amounts to more days than I have contracted to  
6 work per year. My second question is, I signed a  
7 contract in 2001 stating that I would receive  
8 payment by New York City for my full salary and  
9 the benefits while I served on military duty  
10 during Operation Enduring Freedom--and you can see  
11 a copy of the contracts, attachment number two.  
12 Also there was no repayment date set, but instead  
13 only I agree that the city may deduct this amount  
14 from my salary over a period of time at a rate not  
15 to exceed 10% of my salary. [Pause] With this  
16 statement, I was supposed to receive all my  
17 benefits, which I did not. This is on top of the  
18 fact that I feel I've already paid back the amount  
19 I owe with the loss of overtime that I have worked  
20 and I have not been paid correctly since being  
21 hired. I feel that, at the very least, all this  
22 should be taken into consideration and deducted  
23 from the amount I am required to pay back. In  
24 closing, I wish to thank you for your time and  
25 your consideration in listening to my concerns in

1  
2 these tough economic times. I know that I am not  
3 the only veteran that this is affected by this.  
4 We responded to the need of our country without  
5 hesitation. We put our lives on hold to defend  
6 the city of New York and our country. We also  
7 asked that we be treated with fairness and  
8 respect. I am asking with the country headed  
9 towards a recession, that the City Council and the  
10 Mayor help the veterans who answered the call  
11 after the attack of September 11 by forgiving the  
12 debt owed as a means of showing support and  
13 understanding for those who have fought and died  
14 in service for this great nation.

15 CHAIRPERSON ADDABBO: Mr.

16 Williamson, thank you very much and, Mr. Benjamin,  
17 and, Amy, your husband, we appreciate--we do  
18 appreciate the [off mic]

19 MALE VOICE: Yeah.

20 CHAIRPERSON ADDABBO: Yeah, Council  
21 Member Avella.

22 CHAIRPERSON AVELLA: I just wanted  
23 to thank Amy for providing us this sheet with the  
24 repayment agreement because, as Council Member  
25 Addabbo brought up, he asked the question of DCAS

1  
2 about what happens after the 10-year period and  
3 they basically answered that they would continue,  
4 like a repayment period, yet in the letter it says  
5 you must reimburse the remaining amount in a lump  
6 sum by certified check or money order within 30  
7 days after that 10-year period, so that's actually  
8 contrary to what they said.

9           AMY MANISCALCO: Well, that's--this  
10 is just a taste of how contradictory everything  
11 that they've done has been. Every month, there  
12 was new changes, every month things have been  
13 misconstrued. Even looking at the legislation  
14 now, one of the bigger questions that we have, and  
15 I'm glad that you did mention that, was because so  
16 many of our service members are in their second  
17 and third and fourth deployment, how is the city  
18 calculating when they look at the deductions when  
19 they come back? One of the biggest concerns, and  
20 it could be just a concern, is that the city will  
21 not lump these sums together of what needs to be  
22 paid back pre-deployment, you know, pre-November  
23 5th, 2008, but rather will treat each as a  
24 separate issue, deducting seven, seven, seven, and  
25 seven and adding up to a much larger deduction as

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opposed to just 7% out of the base salary--

CHAIRPERSON AVELLA: That's a good question.

AMY MANISCALCO: --Which is what the law is and knowing DCAS's record and history, we're really concerned about that. So just, if I am allowed a final note of just, how are they calculating multiple deployments? Certainly appreciate it.

CHAIRPERSON AVELLA: You know, we obviously we are going to be dealing with the issues under the old Extended Benefits Package and we're going to be dealing with the issues on the new Citizen Soldier Pay Act, so we're going to still be dealing with the two wishes as the changeover occurs, so we appreciate that. I just have one quick question, Mr. Williamson. The calculations that you have questioned DCAS on, those problems still exist?

MICHAEL WILLIAMSON: Yes they do.

CHAIRPERSON AVELLA: You still, okay.

MICHAEL WILLIAMSON: I've been arguing with them since the first letter in 2007.

2 CHAIRPERSON AVELLA: Okay. I mean,  
3 obviously, subsequent to this hearing and even  
4 before the next hearing a number of months from  
5 now, we will be in contact with DCAS on the issues  
6 that are raised at this hearing, so I just want to  
7 make sure that this is still a active issue for  
8 you [crosstalk]--

9 MICHAEL WILLIAMSON: Yes, sir, may I  
10 add one thing?

11 CHAIRPERSON AVELLA: Sure.

12 MICHAEL WILLIAMSON: I have sent my  
13 LES's down, certified letter and everything, five  
14 times and the latest thing I talked to--the last  
15 round, I received an e-mail saying that they still  
16 don't have my LES's. They were signed by Mr.  
17 Cuggy and several other individuals, and they  
18 can't seem to find them. I finally e-mailed my DD  
19 214 to the lady that says that she can't find  
20 them. I also found an e-mail from her back in  
21 2006 saying that she received my LES's. And so  
22 their calculations are based on not having my  
23 LES's, so...

24 CHAIRPERSON AVELLA: Okay. I  
25 appreciate that extra and it's on the record so we

1  
2 will deal with that as well and I thank you again  
3 for your time, testimony, and dedication to the  
4 city and country. That being our--oh, oh, we do  
5 have the actual Chair of Committee--Committee on  
6 for Veterans, Council Member Hiram Monserrate.  
7 Mr. Chair, good to see you. Any statement?

8 CHAIRPERSON MONSERRATE: Thank you,  
9 Acting Chair.

10 CHAIRPERSON AVELLA: Yeah, you did a  
11 fine job. You did a fine job and I thank you for  
12 your efforts and your staff's efforts on this  
13 hearing. We appreciate everyone who was here  
14 today, we appreciate the testimony from everyone.  
15 We do appreciate the efforts of the Administration  
16 in working with this Committee, these committees  
17 as we address the issues. DCAS is still in the  
18 room, even though the panel had left, DCAS  
19 personnel is still in the room, so they heard your  
20 issues and obviously, you know, with the notes  
21 that they are taking, we will follow up with them  
22 again subsequent to this hearing and before we do  
23 the next hearing. So if there is any feedback, we  
24 will let you know, but, again, we appreciate your  
25 time here today and, again, your commitment and

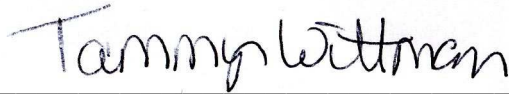
dedication to our city and our country. That  
being said, we look forward to working with this  
Committee as we go forward for the sake of our  
city employees who are veterans. Meeting  
adjourned.

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C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature \_\_\_\_\_

Handwritten signature of Tammy Wittman in cursive script.Date November 5, 2008