

5759--A

2013-2014 Regular Sessions

I N   S E N A T E

June 12, 2013

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Introduced by Sens. GOLDEN, LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, the education law, the retirement and social security law and the workers' compensation law, in relation to injuries or illnesses suffered as a result of participation in rescue, recovery and cleanup directly related to the attacks at the World Trade Center on September 11, 2001

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision c of section 13-551 of the administrative code  
2     of the city of New York is amended and three new subdivisions f, g and h  
3     are added to read as follows:  
4     c. Any such application shall be filed within two years after the  
5     happening of such accident EXCEPT IF FILED BY A VESTED MEMBER INCAPACI-  
6     TATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS  
7     DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.  
8     F. (1)(A) NOTWITHSTANDING ANY PROVISIONS OF THIS CODE OR OF ANY GENER-  
9     AL, SPECIAL OR LOCAL LAW, CHARTER OR RULE OR REGULATION TO THE CONTRARY,  
10    IF ANY CONDITION OR IMPAIRMENT OF HEALTH IS CAUSED BY A QUALIFYING WORLD  
11    TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND  
12    SOCIAL SECURITY LAW, IT SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS  
13    INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND  
14    PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL  
15    NEGLIGENCE, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.  
16    (B) THE RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND  
17    REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.  
18    (2) (A) NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR OF ANY  
19    GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR  
20    REGULATION TO THE CONTRARY, IF A MEMBER WHO PARTICIPATED IN WORLD TRADE

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

LBD11304-03-3

1 CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS AS DEFINED IN SECTION TWO  
2 OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND SUBSEQUENTLY RETIRED ON A  
3 SERVICE RETIREMENT, AN ORDINARY DISABILITY RETIREMENT, AN ACCIDENTAL  
4 DISABILITY RETIREMENT, A PERFORMANCE OF DUTY DISABILITY RETIREMENT, OR  
5 WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF  
6 A RETIREMENT ALLOWANCE AND SUBSEQUENT TO SUCH RETIREMENT OR SEPARATION  
7 IS DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM TO HAVE A QUALIFYING  
8 WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIRE-  
9 MENT AND SOCIAL SECURITY LAW, UPON SUCH DETERMINATION BY THE RETIREMENT  
10 BOARD, IT SHALL BE PRESUMED THAT SUCH DISABILITY WAS INCURRED IN THE  
11 PERFORMANCE AND DISCHARGE OF DUTY AS THE NATURAL AND PROXIMATE RESULT OF  
12 AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, AND THAT  
13 THE MEMBER WOULD HAVE BEEN PHYSICALLY OR MENTALLY INCAPACITATED FOR THE  
14 PERFORMANCE AND DISCHARGE OF DUTY OF THE POSITION FROM WHICH HE OR SHE  
15 RETIRED OR VESTED HAD THE CONDITION BEEN KNOWN AND FULLY DEVELOPED AT  
16 THE TIME OF THE MEMBER'S RETIREMENT OR SEPARATION FROM SERVICE WITH  
17 VESTED RIGHTS, UNLESS THE CONTRARY IS PROVEN BY COMPETENT EVIDENCE.

18 (B) THE RETIREMENT BOARD SHALL CONSIDER A RECLASSIFICATION OF THE  
19 MEMBER'S RETIREMENT OR VESTING AS AN ACCIDENTAL DISABILITY RETIREMENT  
20 EFFECTIVE AS OF THE DATE OF SUCH RECLASSIFICATION.

21 (C) SUCH MEMBER'S RETIREMENT OPTION SHALL NOT BE CHANGED AS A RESULT  
22 OF SUCH RECLASSIFICATION.

23 (D) THE MEMBER'S FORMER EMPLOYER AT THE TIME OF THE MEMBER'S RETIRE-  
24 MENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE MEMBER'S APPLICATION  
25 FOR RECLASSIFICATION BY THE RETIREMENT BOARD ACCORDING TO PROCEDURES  
26 DEVELOPED BY THE RETIREMENT BOARD.

27 (E) THE RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND  
28 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.

29 G. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY  
30 GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR  
31 REGULATION TO THE CONTRARY, IF A RETIREE OR VESTEE WHO: (1) HAS MET THE  
32 CRITERIA OF SUBDIVISION F OF THIS SECTION AND RETIRED ON A SERVICE OR  
33 DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT ALREADY  
34 RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM SERVICE WITH  
35 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; AND (2)  
36 HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS; AND (3) DIES FROM  
37 A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF  
38 THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE  
39 HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS  
40 THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH RETIREE OR VESTEE  
41 SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN  
42 ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF  
43 WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH RETIREE'S OR VESTEE'S ELIGI-  
44 BLE BENEFICIARY, AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER, SHALL  
45 BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT AS PROVIDED BY SECTION 13-544  
46 OF THIS CHAPTER, HOWEVER, FOR THE PURPOSES OF DETERMINING THE SALARY  
47 BASE UPON WHICH THE ACCIDENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE  
48 OR VESTEE SHALL BE DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIRE-  
49 MENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S  
50 OR VESTEE'S DEATH, THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLI-  
51 CATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING  
52 AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN SECTION  
53 13-544 OF THIS CHAPTER REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE,  
54 VESTED RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH  
55 BENEFIT. AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL  
56 RELINQUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE

1 SERVICE OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENE-  
2 FIT, INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S  
3 OR VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICI-  
4 ARY RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR  
5 DISABILITY RETIREMENT BENEFIT (INCLUDING, BUT NOT LIMITED TO, POST-RE-  
6 TIREMENT DEATH BENEFITS OR BENEFITS PAID OR PAYABLE PURSUANT TO THE  
7 RETIREE'S OPTION SELECTION), OR THAT WILL BE ELIGIBLE UNDER THE VESTED  
8 RIGHT, THE ACCIDENTAL DEATH BENEFIT PAYMENTS TO THE ELIGIBLE BENEFICIARY  
9 WILL BE REDUCED BY ANY AMOUNTS PAID OR PAYABLE TO ANY OTHER BENEFICIARY.

10 H. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CODE OR OF ANY GENERAL,  
11 SPECIAL OR LOCAL LAW, CHARTER, OR RULE OR REGULATION TO THE CONTRARY, IF  
12 A MEMBER WHO: (1) HAS MET THE CRITERIA OF SUBDIVISION F OF THIS SECTION;  
13 (2) DIES IN ACTIVE SERVICE OR AFTER SEPARATING FROM SERVICE WITH A VEST-  
14 ED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO  
15 THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES FROM A QUALI-  
16 FYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE  
17 RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD  
18 OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE  
19 CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH MEMBER SHALL BE DEEMED TO  
20 HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN  
21 THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS  
22 OR HER PART. SUCH MEMBER'S ELIGIBLE BENEFICIARY, AS SET FORTH IN SECTION  
23 13-544 OF THIS CHAPTER, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT  
24 PROVIDED HE OR SHE MAKES WRITTEN APPLICATION TO THE HEAD OF THE RETIRE-  
25 MENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL  
26 DEATH BENEFIT AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER.

27 S 2. Subdivision 25 of section 2575 of the education law is amended by  
28 adding four new paragraphs (c), (d), (e) and (f) to read as follows:

29 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE  
30 RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED  
31 TO BE AMENDED TO PROVIDE THAT ANY REQUIREMENT THAT APPLICATIONS FOR  
32 ACCIDENTAL DISABILITY BE FILED WITHIN A LIMITED TIME PERIOD AFTER THE  
33 HAPPENING OF SUCH ACCIDENT SHALL NOT APPLY TO A VESTED MEMBER INCAPACI-  
34 TATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS  
35 DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.

36 (D)(1)(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
37 THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE  
38 DEEMED TO BE AMENDED TO PROVIDE THAT IF ANY CONDITION OR IMPAIRMENT OF  
39 HEALTH IS CAUSED BY A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED  
40 IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, IT SHALL BE  
41 PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND  
42 DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT  
43 NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, UNLESS THE CONTRARY  
44 BE PROVED BY COMPETENT EVIDENCE.

45 (II) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD IS HEREBY  
46 AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE  
47 PROVISIONS OF THIS PARAGRAPH.

48 (2)(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE  
49 RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED  
50 TO BE AMENDED TO PROVIDE THAT IF A MEMBER WHO PARTICIPATED IN WORLD  
51 TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS AS DEFINED IN  
52 SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND SUBSEQUENTLY  
53 RETIRED ON A SERVICE RETIREMENT, AN ORDINARY DISABILITY RETIREMENT, AN  
54 ACCIDENTAL DISABILITY RETIREMENT, A PERFORMANCE OF DUTY DISABILITY  
55 RETIREMENT, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO  
56 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE AND SUBSEQUENT TO SUCH

1 RETIREMENT OR SEPARATION IS DETERMINED BY THE HEAD OF THE RETIREMENT  
2 SYSTEM OR APPLICABLE MEDICAL BOARD TO HAVE A QUALIFYING WORLD TRADE  
3 CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL  
4 SECURITY LAW, UPON SUCH DETERMINATION BY THE NEW YORK CITY BOARD OF  
5 EDUCATION RETIREMENT BOARD OR APPLICABLE MEDICAL BOARD, IT SHALL BE  
6 PRESUMED THAT SUCH DISABILITY WAS INCURRED IN THE PERFORMANCE AND  
7 DISCHARGE OF DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT  
8 CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, AND THAT THE MEMBER  
9 WOULD HAVE BEEN PHYSICALLY OR MENTALLY INCAPACITATED FOR THE PERFORMANCE  
10 AND DISCHARGE OF DUTY OF THE POSITION FROM WHICH HE OR SHE RETIRED OR  
11 VESTED HAD THE CONDITION BEEN KNOWN AND FULLY DEVELOPED AT THE TIME OF  
12 THE MEMBER'S RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS,  
13 UNLESS THE CONTRARY IS PROVEN BY COMPETENT EVIDENCE.

14 (II) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD SHALL  
15 CONSIDER A RECLASSIFICATION OF THE MEMBER'S RETIREMENT OR VESTING AS AN  
16 ACCIDENTAL DISABILITY RETIREMENT EFFECTIVE AS OF THE DATE OF SUCH  
17 RECLASSIFICATION.

18 (III) SUCH MEMBER'S RETIREMENT OPTION SHALL NOT BE CHANGED AS A RESULT  
19 OF SUCH RECLASSIFICATION.

20 (IV) THE MEMBER'S FORMER EMPLOYER AT THE TIME OF THE MEMBER'S RETIRE-  
21 MENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE MEMBER'S APPLICATION  
22 FOR RECLASSIFICATION BY THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT  
23 BOARD ACCORDING TO PROCEDURES DEVELOPED BY THE NEW YORK CITY BOARD OF  
24 EDUCATION RETIREMENT BOARD.

25 (V) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD IS HEREBY  
26 AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE  
27 PROVISIONS OF THIS PARAGRAPH.

28 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE  
29 RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED  
30 TO BE AMENDED TO PROVIDE THAT IF A RETIREE OR VESTEE WHO: (1) HAS MET  
31 THE CRITERIA OF PARAGRAPH (D) OF THIS SUBDIVISION AND RETIRED ON A  
32 SERVICE OR DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT  
33 ALREADY RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM  
34 SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT  
35 ALLOWANCE; AND (2) HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS;  
36 AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED  
37 IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED  
38 BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL  
39 BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH  
40 RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXI-  
41 MATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT  
42 AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH RETIREE'S OR  
43 VESTEE'S ELIGIBLE BENEFICIARY, AS SET FORTH IN TITLE TWENTY-ONE OF THE  
44 RULES AND REGULATION, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT  
45 AS PROVIDED BY TITLE TWENTY-ONE OF THE RULES AND REGULATIONS, HOWEVER,  
46 FOR THE PURPOSES OF DETERMINING THE SALARY BASE UPON WHICH THE ACCI-  
47 DENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE OR VESTEE SHALL BE  
48 DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIREMENT OR SEPARATION  
49 FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S OR VESTEE'S DEATH,  
50 THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLICATION TO THE HEAD OF  
51 THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN  
52 ACCIDENTAL DEATH BENEFIT AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES  
53 AND REGULATIONS REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE, VESTED  
54 RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH BENEFIT.  
55 AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL RELIN-  
56 QUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE SERVICE

OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENEFIT, INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S OR VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICIARY RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR DISABILITY RETIREMENT BENEFIT (INCLUDING, BUT NOT LIMITED TO, POST-RETIREMENT DEATH BENEFITS OR BENEFITS PAID OR PAYABLE PURSUANT TO THE RETIREE'S OPTION SELECTION), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT THE ACCIDENTAL DEATH BENEFIT PAYMENTS TO THE ELIGIBLE BENEFICIARY WILL BE REDUCED BY ANY AMOUNTS PAID OR PAYABLE TO ANY OTHER BENEFICIARY.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE AMENDED TO PROVIDE THAT IF A MEMBER WHO: (1) HAS MET THE CRITERIA OF PARAGRAPH (D) OF THIS SUBDIVISION; (2) DIES IN ACTIVE SERVICE OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH MEMBER SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH MEMBER'S ELIGIBLE BENEFICIARY, AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT PROVIDED HE OR SHE MAKES WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS.

S 3. Subparagraph (b) of paragraph 5 of subdivision b and subdivisions c and d of section 13-168 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

(b) (1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, [or] a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the board of trustees to have a qualifying World Trade Center condition as defined by section two of the retirement and social security law, upon such determination by the NYCERS board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired OR VESTED had the condition been known and fully developed at the time of the member's retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by competent evidence.

(2) The NYCERS board of trustees shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(3) Such member's retirement option shall not be changed as a result of such reclassification.

1 (4) The member's former employer at the time of the member's retire-  
2 ment shall have an opportunity to be heard on the member's application  
3 for reclassification by the NYCERS board of trustees according to proce-  
4 dures developed by the retirement system.

5 c. Notwithstanding any other provision of this chapter or of any  
6 general, special or local law, charter, administrative code or rule or  
7 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the  
8 criteria of subdivision b of this section and retired on a service or  
9 disability retirement, [or] would have met the criteria if not already  
10 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH  
11 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)  
12 has not been retired for more than twenty-five years; and (3) dies from  
13 a qualifying World Trade Center condition as defined in section two of  
14 the retirement and social security law, as determined by the applicable  
15 head of the retirement system or applicable medical board, then unless  
16 the contrary be proven by competent evidence, such retiree OR VESTEE  
17 shall be deemed to have died as a natural and proximate result of an  
18 accident sustained in the performance of duty and not as a result of  
19 willful negligence on his or her part. Such retiree's OR VESTEE'S  
20 eligible beneficiary, as set forth in section 13-149 of this chapter,  
21 shall be entitled to an accidental death benefit as provided by section  
22 13-149 of this chapter, however, for the purposes of determining the  
23 salary base upon which the accidental death benefit is calculated, the  
24 retiree OR VESTEE shall be deemed to have died on the date of his or her  
25 retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the  
26 retiree's OR VESTEE'S death, the eligible beneficiary shall make a writ-  
27 ten application to the head of the retirement system within the time for  
28 filing an application for an accidental death benefit as set forth in  
29 section 13-149 of this chapter requesting conversion of such retiree's  
30 service, VESTED RIGHT or disability retirement benefit to an accidental  
31 death benefit. At the time of such conversion, the eligible beneficiary  
32 shall relinquish all rights to the prospective benefits payable under  
33 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH  
34 BENEFIT, including any post-retirement death benefits, since the  
35 retiree's OR VESTEE'S death. If the eligible beneficiary is not the  
36 only beneficiary receiving or entitled to receive a benefit under the  
37 service or disability retirement benefit (including, but not limited to,  
38 post-retirement death benefits or benefits paid or payable pursuant to  
39 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE  
40 VESTED RIGHT, the accidental death benefit payments to the eligible  
41 beneficiary will be reduced by any amounts paid or payable to any other  
42 beneficiary.

43 d. Notwithstanding any other provision of this code or of any general,  
44 special or local law, charter, or rule or regulation to the contrary, if  
45 a member who: (1) has met the criteria of subdivision b of this section;  
46 [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A  
47 VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR  
48 TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a  
49 qualifying World Trade Center condition as defined in section two of the  
50 retirement and social security law, as determined by the applicable head  
51 of the retirement system or applicable medical board, then unless the  
52 contrary be proven by competent evidence, such member shall be deemed to  
53 have died as a natural and proximate result of an accident sustained in  
54 the performance of duty and not as a result of willful negligence on his  
55 or her part. Such member's eligible beneficiary, as set forth in  
56 section 13-149 of this chapter, shall be entitled to an accidental death

benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-149 of this chapter.

S 4. Subdivisions 2, 3 and 4 of section 13-252.1 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, [or] a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the [NYCFDPF] NYCPPF board of trustees to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, upon such determination by the [NYCFDPF] NYCPPF board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired OR VESTED had the condition been known and fully developed at the time of the member's retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by competent evidence.

(b) The NYCPPF board of trustees shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCPPF board of trustees according to procedures developed by the NYCPPF board of trustees.

(e) The NYCPPF board of trustees is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

3. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision one of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth in section 13-244 of this subchapter, shall be entitled to an accidental death benefit as provided by section 13-244 of this subchapter, however, for the purposes of determining the

1 salary base upon which the accidental death benefit is calculated, the  
2 retiree OR VESTEE shall be deemed to have died on the date of his or her  
3 retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the  
4 retiree's OR VESTEE'S death, the eligible beneficiary shall make a writ-  
5 ten application to the head of the retirement system within the time for  
6 filing an application for an accidental death benefit as set forth in  
7 section 13-244 of this subchapter requesting conversion of such  
8 retiree's service, VESTED RIGHT or disability retirement benefit to an  
9 accidental death benefit. At the time of such conversion, the eligible  
10 beneficiary shall relinquish all rights to the prospective benefits  
11 payable under the service or disability retirement benefit, OR VESTED  
12 RIGHT TO SUCH BENEFIT, including any post-retirement death benefits,  
13 since the retiree's OR VESTEE'S death. If the eligible beneficiary is  
14 not the only beneficiary receiving or entitled to receive a benefit  
15 under the service or disability retirement benefit (including, but not  
16 limited to, post-retirement death benefits or benefits paid or payable  
17 pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE  
18 UNDER THE VESTED RIGHT, the accidental death benefit payments to the  
19 eligible beneficiary will be reduced by any amounts paid or payable to  
20 any other beneficiary.

21 4. Notwithstanding any other provision of this code or of any general,  
22 special or local law, charter, or rule or regulation to the contrary, if  
23 a member who: (1) has met the criteria of subdivision one of this  
24 section; [and] (2) dies in active service OR AFTER SEPARATING FROM  
25 SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT  
26 ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND  
27 (3) DIES from a qualifying World Trade Center condition, as defined in  
28 section two of the retirement and social security law, as determined by  
29 the applicable head of the retirement system or applicable medical board  
30 to have been caused by such member's participation in the World Trade  
31 Center rescue, recovery or cleanup operations, as defined in section two  
32 of the retirement and social security law, then unless the contrary be  
33 proven by competent evidence, such member shall be deemed to have died  
34 as a natural and proximate result of an accident sustained in the  
35 performance of duty and not as a result of willful negligence on his or  
36 her part. Such member's eligible beneficiary, as set forth in section  
37 13-244 of this subchapter, shall be entitled to an accidental death  
38 benefit provided he or she makes written application to the head of the  
39 retirement system within the time for filing an application for an acci-  
40 dental death benefit as set forth in section 13-244 of this subchapter.

41 S 5. Subdivisions 2, 3 and 4 of section 13-353.1 of the administrative  
42 code of the city of New York, as amended by chapter 489 of the laws of  
43 2008, are amended to read as follows:

44 2. (a) Notwithstanding the provisions of this chapter or of any gener-  
45 al, special or local law, charter, administrative code or rule or regu-  
46 lation to the contrary, if a member who participated in World Trade  
47 Center rescue, recovery or cleanup operations as defined in section two  
48 of the retirement and social security law, and subsequently retired on a  
49 service retirement, an ordinary disability retirement, an accidental  
50 disability retirement, [or] a performance of duty disability retirement,  
51 OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY  
52 OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPA-  
53 RATION is determined by the head of the retirement system to have a  
54 qualifying World Trade Center condition, as defined in section two of  
55 the retirement and social security law, upon such determination by the  
56 NYCFDPF board of trustees, it shall be presumed that such disability was



1 incurred in the performance and discharge of duty as the natural and  
2 proximate result of an accident not caused by such member's own willful  
3 negligence, and that the member would have been physically or mentally  
4 incapacitated for the performance and discharge of duty of the position  
5 from which he or she retired OR VESTED had the condition been known and  
6 fully developed at the time of the member's retirement OR SEPARATION  
7 FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by compe-  
8 tent evidence.

9 (b) The NYCDFDPF shall consider a reclassification of the member's  
10 retirement OR VESTING as an accidental disability retirement effective  
11 as of the date of such reclassification.

12 (c) Such member's retirement option shall not be changed as a result  
13 of such reclassification.

14 (d) The member's former employer at the time of the member's retire-  
15 ment shall have an opportunity to be heard on the member's application  
16 for reclassification by the NYCDFDPF board of trustees according to  
17 procedures developed by the NYCDFDPF.

18 (e) The NYCDFDPF board of trustees is hereby authorized to promulgate  
19 rules and regulations to implement the provisions of this paragraph.

20 3. Notwithstanding any other provision of this chapter or of any  
21 general, special or local law, charter, administrative code or rule or  
22 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the  
23 criteria of subdivision one of this section and retired on a service or  
24 disability retirement, [or] would have met the criteria if not already  
25 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH  
26 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)  
27 has not been retired for more than twenty-five years; and (3) dies from  
28 a qualifying World Trade Center condition, as defined in section two of  
29 the retirement and social security law, as determined by the applicable  
30 head of the retirement system or applicable medical board, then unless  
31 the contrary be proven by competent evidence, such retiree OR VESTEE  
32 shall be deemed to have died as a natural and proximate result of an  
33 accident sustained in the performance of duty and not as a result of  
34 willful negligence on his or her part. Such retiree's OR VESTEE'S  
35 eligible beneficiary, as set forth in section 13-347 of this subchapter,  
36 shall be entitled to an accidental death benefit as provided by sections  
37 13-347 and 13-348 of this subchapter, however, for the purposes of  
38 determining the salary base upon which the accidental death benefit is  
39 calculated, the retiree OR VESTEE shall be deemed to have died on the  
40 date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED  
41 RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary  
42 shall make a written application to the head of the retirement system  
43 within the time for filing an application for an accidental death bene-  
44 fit as set forth in sections 13-347 and 13-348 of this subchapter  
45 requesting conversion of such retiree's service, VESTED RIGHT or disa-  
46 bility retirement benefit to an accidental death benefit. At the time of  
47 such conversion, the eligible beneficiary shall relinquish all rights to  
48 the prospective benefits payable under the service or disability retire-  
49 ment benefit OR VESTED RIGHT TO SUCH BENEFIT, including any post-retire-  
50 ment death benefits, since the retiree's OR VESTEE'S death. If the  
51 eligible beneficiary is not the only beneficiary receiving or entitled  
52 to receive a benefit under the service or disability retirement benefit  
53 (including, but not limited to, post-retirement death benefits or bene-  
54 fits paid or payable pursuant to the retiree's option selection), OR  
55 THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT the accidental death bene-

1 fit payments to the eligible beneficiary will be reduced by any amounts  
2 paid or payable to any other beneficiary.

3 4. Notwithstanding any other provision of this code or of any general,  
4 special or local law, charter, or rule or regulation to the contrary, if  
5 a member who: (1) has met the criteria of subdivision one of this  
6 section; [and] (2) dies in active service OR AFTER SEPARATING FROM  
7 SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT  
8 ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND  
9 (3) DIES from a qualifying World Trade Center condition, as defined in  
10 section two of the retirement and social security law, as determined by  
11 the applicable head of the retirement system or applicable medical  
12 board, then unless the contrary be proven by competent evidence, such  
13 member shall be deemed to have died as a natural and proximate result of  
14 an accident sustained in the performance of duty and not as a result of  
15 willful negligence on his or her part. Such member's eligible benefici-  
16 ary, as set forth in section 13-347 of this subchapter, shall be enti-  
17 tled to an accidental death benefit provided he or she makes written  
18 application to the head of the retirement system within the time for  
19 filing an application for an accidental death benefit as set forth in  
20 section 13-347 of this subchapter.

21 S 6. Paragraph 2 of subdivision c and subdivisions d and e of section  
22 507-c of the retirement and social security law, as amended by chapter  
23 489 of the laws of 2008, are amended to read as follows:

24 2. (a) Notwithstanding the provisions of this chapter or of any gener-  
25 al, special or local law, charter, administrative code or rule or regu-  
26 lation to the contrary, if a member who participated in World Trade  
27 Center rescue, recovery or cleanup operations, as defined in section two  
28 of this chapter, and subsequently retired on a service retirement, an  
29 ordinary disability retirement [or], a performance of duty disability  
30 retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO  
31 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such  
32 retirement OR SEPARATION which is determined by the head of the retire-  
33 ment system to have been a qualifying World Trade Center condition, as  
34 defined in section two of this chapter, upon such determination by the  
35 head of the retirement system, it shall be presumed that such disability  
36 was incurred in the performance and discharge of duty as the natural and  
37 proximate result of an accident not caused by such member's own willful  
38 negligence, and that the member would have been physically or mentally  
39 incapacitated for the performance and discharge of duty of the position  
40 from which he or she retired OR VESTED had the condition been known and  
41 fully developed at the time of the member's retirement OR SEPARATION  
42 FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proved by compe-  
43 tent evidence.

44 (b) The head of the retirement system shall consider a reclassifica-  
45 tion of the member's retirement OR VESTING as an accidental disability  
46 retirement effective as of the date of such reclassification.

47 (c) Such member's retirement option shall not be changed as a result  
48 of such reclassification.

49 (d) The member's former employer at the time of the member's retire-  
50 ment shall have an opportunity to be heard on the member's application  
51 for reclassification by the head of the retirement system according to  
52 procedures developed by the head of the retirement system.

53 (e) The head of the retirement system is hereby authorized to promul-  
54 gate rules and regulations to implement the provisions of this para-  
55 graph.

1 d. Notwithstanding any other provision of this chapter or of any  
2 general, special or local law, charter, administrative code or rule or  
3 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the  
4 criteria of subdivision c of this section and retired on a service or  
5 disability retirement, [or] would have met the criteria if not already  
6 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH  
7 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)  
8 has not been retired for more than twenty-five years; and (3) dies from  
9 a qualifying World Trade center condition, as defined in section two of  
10 this chapter, that is determined by the applicable head of the retire-  
11 ment system or applicable medical board, then unless the contrary be  
12 proven by competent evidence, such retiree OR VESTEE shall be deemed to  
13 have died as a natural and proximate result of an accident sustained in  
14 the performance of duty and not as a result of willful negligence on his  
15 or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set  
16 forth in section five hundred one of this article, shall be entitled to  
17 an accidental death benefit as provided by section five hundred nine of  
18 this article, however, for the purposes of determining the salary base  
19 upon which the accidental death benefit is calculated, the retiree OR  
20 VESTEE shall be deemed to have died on the date of his or her retirement  
21 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR  
22 VESTEE'S death, the eligible beneficiary shall make a written applica-  
23 tion to the head of the retirement system within the time for filing an  
24 application for an accidental death benefit as set forth in section five  
25 hundred nine of this article requesting conversion of such retiree's  
26 service, VESTED RIGHT or disability retirement benefit to an accidental  
27 death benefit. At the time of such conversion, the eligible beneficiary  
28 shall relinquish all rights to the prospective benefits payable under  
29 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH  
30 BENEFIT, including any post-retirement death benefits, since the  
31 retiree's OR VESTEE'S death. If the eligible beneficiary is not the  
32 only beneficiary receiving or entitled to receive a benefit under the  
33 service or disability retirement benefit (including, but not limited to,  
34 post-retirement death benefits or benefits paid or payable pursuant to  
35 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE  
36 VESTED RIGHT the accidental death benefit payments to the eligible bene-  
37 ficiary will be reduced by any amounts paid or payable to any other  
38 beneficiary.

39 e. Notwithstanding any other provision of this chapter or of any  
40 general, special or local law, charter, administrative code or rule or  
41 regulation to the contrary, if a member who: (1) has met the criteria of  
42 subdivision c of this section; [and] (2) dies in active service OR AFTER  
43 SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A  
44 RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT  
45 ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition,  
46 as defined in section two of this chapter, that is determined by the  
47 applicable head of the retirement system or applicable medical board,  
48 then unless the contrary be proven by competent evidence, such member  
49 shall be deemed to have died as a natural and proximate result of an  
50 accident sustained in the performance of duty and not as a result of  
51 willful negligence on his or her part. Such member's eligible benefici-  
52 ary, as set forth in section five hundred one of this article, shall be  
53 entitled to an accidental death benefit provided he or she makes written  
54 application to the head of the retirement system within the time for  
55 filing an application for an accidental death benefit as set forth in  
56 section five hundred nine of this article.

1 S 7. Paragraph 2 of subdivision d and subdivisions e and f of section  
2 605-b of the retirement and social security law, as amended by chapter  
3 489 of the laws of 2008, are amended to read as follows:

4 2. (a) Notwithstanding the provisions of this chapter or of any gener-  
5 al, special or local law, charter, administrative code or rule or regu-  
6 lation to the contrary, if a member who participated in World Trade  
7 Center rescue, recovery or cleanup operations, as defined in section two  
8 of this chapter, and subsequently retired on a service retirement, an  
9 ordinary disability retirement [or], a performance of duty disability  
10 retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO  
11 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such  
12 retirement OR SEPARATION which is determined by the head of the retire-  
13 ment system to have a qualifying World Trade Center condition, as  
14 defined in section two of this chapter, upon such determination by the  
15 head of the retirement system it shall be presumed that such disability  
16 was incurred in the performance and discharge of duty as the natural and  
17 proximate result of an accident not caused by such member's own willful  
18 negligence, and that the member would have been physically or mentally  
19 incapacitated for the performance and discharge of duty of the position  
20 from which he or she retired had the condition been known and fully  
21 developed at the time of the member's retirement, unless the contrary is  
22 proven by competent evidence.

23 (b) The head of the retirement system shall consider a reclassifica-  
24 tion of the member's retirement OR VESTING as an accidental disability  
25 retirement effective as of the date of such reclassification.

26 (c) Such member's retirement option shall not be changed as a result  
27 of such reclassification.

28 (d) The member's former employer at the time of the member's retire-  
29 ment shall have an opportunity to be heard on the member's application  
30 for reclassification by the head of the retirement system according to  
31 procedures developed by the head of the retirement system.

32 (e) The head of the retirement system is hereby authorized to promul-  
33 gate rules and regulations to implement the provisions of this para-  
34 graph.

35 e. Notwithstanding any other provision of this chapter or of any  
36 general, special or local law, charter, administrative code or rule or  
37 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the  
38 criteria of subdivision d of this section and retired on a service or  
39 disability retirement, [or] would have met the criteria if not already  
40 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH  
41 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)  
42 has not been retired for more than twenty-five years; and (3) dies from  
43 a qualifying World Trade Center condition, as defined in section two of  
44 this chapter, as determined by the applicable head of the retirement  
45 system or applicable medical board, then unless the contrary be proven  
46 by competent evidence, such retiree OR VESTEE shall be deemed to have  
47 died as a natural and proximate result of an accident sustained in the  
48 performance of duty and not as a result of willful negligence on his or  
49 her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth  
50 in section six hundred one of this article, shall be entitled to an  
51 accidental death benefit as provided by section six hundred seven of  
52 this article, however, for the purposes of determining the salary base  
53 upon which the accidental death benefit is calculated, the retiree OR  
54 VESTEE shall be deemed to have died on the date of his or her retirement  
55 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR  
56 VESTEE'S death, the eligible beneficiary shall make a written applica-

tion to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's OR VESTEE'S service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT, the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

f. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision d of this section; [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

S 8. Paragraph 2 of subdivision b and subdivisions c and d of section 605-c of the retirement and social security law, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement [or], a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the head of the retirement system to have a qualifying World Trade Center condition as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully

1 developed at the time of the member's retirement, unless the contrary is  
2 proven by competent evidence.

3 (b) The head of the retirement system shall consider a reclassifica-  
4 tion of the member's retirement OR VESTING as an accidental disability  
5 retirement effective as of the date of such reclassification.

6 (c) Such member's retirement option shall not be changed as a result  
7 of such reclassification.

8 (d) The member's former employer at the time of the member's retire-  
9 ment shall have an opportunity to be heard on the member's application  
10 for reclassification by the head of the retirement system according to  
11 procedures developed by the comptroller.

12 (e) The head of the retirement system is hereby authorized to promul-  
13 gate rules and regulations to implement the provisions of this para-  
14 graph.

15 c. Notwithstanding any other provision of this chapter or of any  
16 general, special or local law, charter, administrative code or rule or  
17 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the  
18 criteria of subdivision b of this section and retired on a service or  
19 disability retirement, [or] would have met the criteria if not already  
20 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH  
21 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)  
22 has not been retired for more than twenty-five years; and (3) dies from  
23 a qualifying World Trade Center condition as defined in section two of  
24 this chapter, as determined by the applicable head of the retirement  
25 system or applicable medical board, then unless the contrary be proven  
26 by competent evidence, such retiree OR VESTEE shall be deemed to have  
27 died as a natural and proximate result of an accident sustained in the  
28 performance of duty and not as a result of willful negligence on his or  
29 her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth  
30 in section six hundred one of this article, shall be entitled to an  
31 accidental death benefit as provided by section six hundred seven of  
32 this article, however, for the purposes of determining the salary base  
33 upon which the accidental death benefit is calculated, the retiree OR  
34 VESTEE shall be deemed to have died on the date of his or her retirement  
35 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR  
36 VESTEE'S death, the eligible beneficiary shall make a written applica-  
37 tion to the head of the retirement system within the time for filing an  
38 application for an accidental death benefit as set forth in section six  
39 hundred seven of this article requesting conversion of such retiree's  
40 service, VESTED RIGHT or disability retirement benefit to an accidental  
41 death benefit. At the time of such conversion, the eligible beneficiary  
42 shall relinquish all rights to the prospective benefits payable under  
43 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH  
44 BENEFIT, including any post-retirement death benefits, since the  
45 retiree's OR VESTEE'S death. If the eligible beneficiary is not the  
46 only beneficiary receiving or entitled to receive a benefit under the  
47 service or disability retirement benefit (including, but not limited to,  
48 post-retirement death benefits or benefits paid or payable pursuant to  
49 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE  
50 VESTED RIGHT, the accidental death benefit payments to the eligible  
51 beneficiary will be reduced by any amounts paid or payable to any other  
52 beneficiary.

53 d. Notwithstanding any other provision of this chapter or of any  
54 general, special or local law, charter, administrative code or rule or  
55 regulation to the contrary, if a member who: (1) has met the criteria of  
56 subdivision b of this section; [and] (2) dies in active service OR AFTER

1 SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A  
2 RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT  
3 ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition,  
4 as defined in section two of this chapter, as determined by the applica-  
5 ble head of the retirement system or applicable medical board to have  
6 been caused by such member's participation in the World Trade Center  
7 rescue, recovery or cleanup operations, as defined in section two of  
8 this chapter, then unless the contrary be proven by competent evidence,  
9 such member shall be deemed to have died as a natural and proximate  
10 result of an accident sustained in the performance of duty and not as a  
11 result of willful negligence on his or her part. Such member's eligible  
12 beneficiary, as set forth in section six hundred one of this article,  
13 shall be entitled to an accidental death benefit provided he or she  
14 makes written application to the head of the retirement system within  
15 the time for filing an application for an accidental death benefit as  
16 set forth in section six hundred seven of this article.

17 S 9. Paragraph 2 of subdivision c and subdivisions d and e of section  
18 607-b of the retirement and social security law, as amended by chapter  
19 489 of the laws of 2008, are amended to read as follows:

20 2. (a) Notwithstanding the provisions of this chapter or of any gener-  
21 al, special or local law, charter, administrative code or rule or regu-  
22 lation to the contrary, if a member who participated in World Trade  
23 Center rescue, recovery or cleanup operations as defined in section two  
24 of this chapter, and subsequently retired on a service retirement, an  
25 ordinary disability retirement [or], a performance of duty disability  
26 retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO  
27 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, and subsequent to such  
28 retirement OR SEPARATION is determined by the comptroller to have a  
29 qualifying World Trade Center condition, as defined in section two of  
30 this chapter, upon such determination by the head of the retirement  
31 system, it shall be presumed that such disability was incurred in the  
32 performance and discharge of duty as the natural and proximate result of  
33 an accident not caused by such member's own willful negligence, and that  
34 the member would have been physically or mentally incapacitated for the  
35 performance and discharge of duty of the position from which he or she  
36 retired had the condition been known and fully developed at the time of  
37 the member's retirement, unless the contrary is proven by competent  
38 evidence.

39 (b) The head of the retirement system shall consider a reclassifica-  
40 tion of the member's retirement OR VESTING as an accidental disability  
41 retirement effective as of the date of such reclassification.

42 (c) Such member's retirement option shall not be changed as a result  
43 of such reclassification.

44 (d) The member's former employer at the time of the member's retire-  
45 ment shall have an opportunity to be heard on the member's application  
46 for reclassification by the NYCERS board of trustees according to proce-  
47 dures developed by the NYCERS board of trustees.

48 (e) The head of each retirement system is hereby authorized to promul-  
49 gate rules and regulations to implement the provisions of this para-  
50 graph.

51 d. Notwithstanding any other provision of this chapter or of any  
52 general, special or local law, charter, administrative code or rule or  
53 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the  
54 criteria of subdivision c of this section and retired on a service or  
55 disability retirement, [or] would have met the criteria if not already  
56 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH

1 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)  
2 has not been retired for more than twenty-five years; and (3) dies from  
3 a qualifying World Trade Center condition, as defined in section two of  
4 this chapter, as determined by the applicable head of the retirement  
5 system or applicable medical board, then unless the contrary be proven  
6 by competent evidence, such retiree OR VESTEE shall be deemed to have  
7 died as a natural and proximate result of an accident sustained in the  
8 performance of duty and not as a result of willful negligence on his or  
9 her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth  
10 in section six hundred one of this article, shall be entitled to an  
11 accidental death benefit as provided by section six hundred seven of  
12 this article, however, for the purposes of determining the salary base  
13 upon which the accidental death benefit is calculated, the retiree OR  
14 VESTEE shall be deemed to have died on the date of his or her retirement  
15 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR  
16 VESTEE'S death, the eligible beneficiary shall make a written applica-  
17 tion to the head of the retirement system within the time for filing an  
18 application for an accidental death benefit as set forth in section six  
19 hundred seven of this article requesting conversion of such retiree's  
20 service, VESTED RIGHT or disability retirement benefit to an accidental  
21 death benefit. At the time of such conversion, the eligible beneficiary  
22 shall relinquish all rights to the prospective benefits payable under  
23 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH  
24 BENEFIT, including any post-retirement death benefits, since the  
25 retiree's OR VESTEE'S death. If the eligible beneficiary is not the  
26 only beneficiary receiving or entitled to receive a benefit under the  
27 service or disability retirement benefit (including, but not limited to,  
28 post-retirement death benefits or benefits paid or payable pursuant to  
29 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE  
30 VESTED RIGHT, the accidental death benefit payments to the eligible  
31 beneficiary will be reduced by any amounts paid or payable to any other  
32 beneficiary.

33 e. Notwithstanding any other provision of this chapter or of any  
34 general, special or local law, charter, administrative code or rule or  
35 regulation to the contrary, if a member who: (1) has met the criteria of  
36 subdivision c of this section; [and] (2) dies in active service OR AFTER  
37 SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A  
38 RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT  
39 ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition,  
40 as defined in section two of this chapter, as determined by the applica-  
41 ble head of the retirement system or applicable medical board to have  
42 been caused by such member's participation in the World Trade Center  
43 rescue, recovery or cleanup operations, as defined in [subparagraph (d)  
44 of paragraph one of subdivision c of this section] SECTION TWO OF THIS  
45 CHAPTER, then unless the contrary be proven by competent evidence, such  
46 member shall be deemed to have died as a natural and proximate result of  
47 an accident sustained in the performance of duty and not as a result of  
48 willful negligence on his or her part. Such member's eligible benefici-  
49 ary, as set forth in section six hundred one of this article, shall be  
50 entitled to an accidental death benefit provided he or she makes written  
51 application to the head of the retirement system within the time for  
52 filing an application for an accidental death benefit as set forth in  
53 section six hundred seven of this article.

54 S 10. Subdivision 3 of section 161 of the workers' compensation law,  
55 as added by chapter 446 of the laws of 2006, is amended to read as  
56 follows:



1 3. "Qualifying condition" means any [latent disease or condition] OF  
2 THE FOLLOWING DISEASES OR CONDITIONS resulting from a hazardous exposure  
3 during participation in World Trade Center rescue, recovery or clean-up  
4 operations:

5 (A) DISEASES OF THE UPPER RESPIRATORY TRACT AND MUCOSAE, INCLUDING  
6 CONDITIONS SUCH AS CONJUNCTIVITIS, RHINITIS, SINUSITIS, PHARYNGITIS,  
7 LARYNGITIS, VOCAL CORD DISEASE, UPPER AIRWAY HYPER-REACTIVITY AND  
8 TRACHEO-BRONCHITIS, OR A COMBINATION OF SUCH CONDITIONS;

9 (B) DISEASES OF THE LOWER RESPIRATORY TRACT, INCLUDING BUT NOT LIMITED  
10 TO BRONCHITIS, ASTHMA, REACTIVE AIRWAY DYSFUNCTION SYNDROME, AND DIFFER-  
11 ENT TYPES OF PNEUMONITIS, SUCH AS HYPERSENSITIVITY, GRANULOMATOUS, OR  
12 EOSINOPHILIC;

13 (C) DISEASES OF THE GASTROESOPHAGEAL TRACT, INCLUDING ESOPHAGITIS AND  
14 REFLUX DISEASE, EITHER ACUTE OR CHRONIC, CAUSED BY EXPOSURE OR AGGRA-  
15 VATED BY EXPOSURE;

16 (D) DISEASES OF THE PSYCHOLOGICAL AXIS, INCLUDING POST-TRAUMATIC  
17 STRESS DISORDER, ANXIETY, DEPRESSION, OR ANY COMBINATION OF SUCH CONDI-  
18 TIONS; OR

19 (E) NEW ONSET DISEASES RESULTING FROM EXPOSURE AS SUCH DISEASES OCCUR  
20 IN THE FUTURE INCLUDING CANCER, CHRONIC OBSTRUCTIVE PULMONARY DISEASE,  
21 ASBESTOS-RELATED DISEASE, HEAVY METAL POISONING, MUSCULOSKELETAL DISEASE  
22 AND CHRONIC PSYCHOLOGICAL DISEASE.

23 S 11. Section 162 of the workers' compensation law, as amended by  
24 chapter 489 of the laws of 2008, is amended to read as follows:

25 S 162. Registration of participation in World Trade Center rescue,  
26 recovery and clean-up operations. In order for the claim of a partic-  
27 ipant in World Trade Center rescue, recovery and clean-up operations to  
28 come within the application of this article, such participant must file  
29 a written and sworn statement with the board on a form promulgated by  
30 the chair indicating the dates and locations of such participation and  
31 the name of such participant's employer during the period of partic-  
32 ipation. Such statement must be filed not later than September eleventh,  
33 two thousand [ten] FOURTEEN. The board shall transmit a copy of such  
34 statement to the employer or carrier named therein. The filing of such a  
35 statement shall not be considered the filing of a claim for benefits  
36 under this chapter.

37 S 12. Section 165 of the workers' compensation law, as added by chap-  
38 ter 446 of the laws of 2006, is amended to read as follows:

39 S 165. Reopening of disallowed claims. The board, upon receiving a  
40 statement duly filed as required under section one hundred sixty-two of  
41 this article, from a participant in World Trade Center rescue, recovery  
42 and clean-up operations for a qualifying condition that was disallowed  
43 as barred by section eighteen or section twenty-eight of this chapter OR  
44 BY SECTION ONE HUNDRED SIXTY-TWO OF THIS ARTICLE FOR FAILURE TO REGISTER  
45 TIMELY shall reopen and redetermine such claim in accordance with the  
46 provisions of this article, provided that no such previously disallowed  
47 claim for a qualifying condition shall be determined to have a date of  
48 disablement that would bar the claim under section eighteen or section  
49 twenty-eight of this chapter.

50 S 13. Section 168 of the workers' compensation law, as added by chap-  
51 ter 489 of the laws of 2008, is amended to read as follows:

52 S 168. Additional period for filing certain claims. 1. A claim by a  
53 participant in the World Trade Center rescue, recovery or cleanup oper-  
54 ations whose disablement occurred between September eleventh, two thou-  
55 sand three, and September eleventh, two thousand eight, shall not be  
56 disallowed as barred by section eighteen or section twenty-eight of this

chapter if such claim is filed on or before September eleven, two thousand ten. Any such claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand three, and September eleventh, two thousand eight, and was disallowed by section eighteen or twenty-eight of this chapter shall be reconsidered by the board.

2. A CLAIM BY A PARTICIPANT IN THE WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS WHOSE DISABLEMENT OCCURRED BETWEEN SEPTEMBER TWELFTH, TWO THOUSAND EIGHT, AND SEPTEMBER ELEVENTH, TWO THOUSAND TWELVE, SHALL NOT BE DISALLOWED AS BARRED BY SECTION EIGHTEEN OR SECTION TWENTY-EIGHT OF THIS CHAPTER IF SUCH CLAIM IS FILED ON OR BEFORE SEPTEMBER ELEVENTH, TWO THOUSAND FOURTEEN. ANY SUCH CLAIM BY A PARTICIPANT IN THE WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS WHOSE DISABLEMENT OCCURRED BETWEEN SEPTEMBER ELEVENTH, TWO THOUSAND EIGHT, AND SEPTEMBER ELEVENTH, TWO THOUSAND TWELVE, AND WAS DISALLOWED BY SECTION EIGHTEEN OR TWENTY-EIGHT OF THIS CHAPTER SHALL BE RECONSIDERED BY THE BOARD.

S 14. Paragraph (a) of subdivision 36 of section 2 of the retirement and social security law, as added by chapter 489 of the laws of 2008, is amended to read as follows:

(a) "Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period, as those terms are defined below, provided the following conditions have been met: (i) such member, or eligible beneficiary in the case of the member's death, must have filed a written and sworn statement with the member's retirement system on a form provided by such system indicating the underlying dates and locations of employment not later than September eleventh, two thousand ten, OR ANY LATER DATE AS HEREINAFTER PROVIDED IN THIS PARAGRAPH; and (ii) such member has either successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if the member did not undergo a physical examination for entry into public service; and (iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one. THE DEADLINE FOR FILING A WRITTEN AND SWORN STATEMENT REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH IS HEREBY EXTENDED TO SEPTEMBER ELEVENTH, TWO THOUSAND FOURTEEN FOR SUCH MEMBER, OR ELIGIBLE BENEFICIARY IN THE CASE OF THE MEMBER'S DEATH, OF A LOCAL RETIREMENT SYSTEM OF A CITY WITH A POPULATION OF ONE MILLION OR MORE THAT IS COVERED BY SECTION 13-551 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, OR BY SECTION TWENTY-FIVE HUNDRED SEVENTY-FIVE OF THE EDUCATION LAW AND FOR SUCH MEMBER WHO SEPARATED FROM SERVICE WITH VESTED RIGHTS, OR ELIGIBLE BENEFICIARY OF SUCH MEMBER WHO SEPARATED FROM SERVICE WITH VESTED RIGHTS IN THE CASE OF THE MEMBER'S DEATH, OF LOCAL RETIREMENT SYSTEMS OF A CITY WITH A POPULATION OF ONE MILLION OR MORE WHO ARE COVERED BY SECTIONS 13-168, 13-252.1 AND 13-353.1 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK AND SECTIONS FIVE HUNDRED SEVEN-C, SIX HUNDRED FIVE-B, SIX HUNDRED FIVE-C, AND SIX HUNDRED SEVEN-B OF THIS CHAPTER. EVERY RETIREMENT SYSTEM SHALL KEEP A COPY OF EVERY WRITTEN AND SWORN STATEMENT THAT IS PRESENTED FOR FILING NOT LATER THAN SEPTEMBER ELEVENTH, TWO THOUSAND FOURTEEN, INCLUDING THOSE THAT ARE REJECTED FOR FILING AS UNTIMELY.

1 S 15. This act shall take effect immediately and shall be deemed to  
2 have been in full force and effect on and after September 11, 2001;  
3 provided, however, that the amendments to sections 161, 162, 165 and 168  
4 of the workers' compensation law made by sections ten, eleven, twelve  
5 and thirteen of this act, respectively, shall apply to all open and  
6 closed claims coming within its purview.

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

PROVISIONS OF PROPOSED LEGISLATION: With respect the the New York city Retirement Systems ("NYCRS"), the proposed legislation would amend Administrative Code of the City of New York ("ACNY") Sections 13-551, 13-168, 13-525.1 and 13-353.1, Education Law Section 2575, Retirement and Social Security Law ("RSSL") Sections 2, 507-c, 605-b, 605-c and 607-b, and Workers' Compensation Law Sections 161, 162, 165 and 168 to extend the provisions of the World Trade Center ("WTC") Disability Law to certain members who participated in the Rescue, Recovery or Clean-up operations related to the WTC attack on September 11, 2001 and expand certain provisions of the Workers' Compensation Law relating to the deadline for filing a registration of participation in the WTC Rescue, Recovery or Clean-up operations, the additional period for filing certain WTC-related claims and the reconsideration of certain disallowed WTC-related claims.

The NYCRS include: New York City Employees' Retirement System ("NYCERS"), New York City Teachers' Retirement System ("NYCTRS"), New York City Board of Education Retirement System ("BERS"), New York City Police Pension Fund ("POLICE") and New York Fire Department Pension Fund ("FIRE").

The WTC Disability Law was enacted under Chapter 104 of the Laws of 2005, and was amended by Chapter 93 of the laws of 2005, Chapter 102 of the Laws of 2006, Chapter 444 of the Laws of 2006, Chapter 445 of the Laws of 2006, Chapter 5 of the Laws of 2007, Chapter 214 of the Laws of 2007, Chapter 495 of the Laws of 2007, Chapter 489 of the Laws of 2008 and Chapter 361 of the Laws of 2010.

The Effective Date of this proposed Legislation would be retroactive to September 11, 2001.

#### BENEFITS UNDER EXISTING WTC-RELATED PROVISIONS

##### ACCIDENTAL DISABILITY RETIREMENT BENEFITS

With respect to the NYCRS, under current law, active, retired and vested groups covered by the WTC Disability Law could potentially be eligible for WTC-related benefits ("WTC Potential Recipients").

If an active, retired or vested WTC Potential Recipient becomes partially or totally disabled due to a WTC-Related Malady, such condition or impairment of health incurred by the member would be considered presumptive evidence that it was sustained in the line-of-duty as the result of an accident unless the contrary can be proven by competent evidence.

Once such member's application is approved by the respective NYCRS Medical Board and the respective NYCRS Board of Trustees ("BOT"), then such member would be entitled to the applicable Accidental Disability Retirement ("ADR") Benefit ("ACCDIS") that is payable for a member in such NYCRS at such tier and based upon a respective job title, if applicable. Such ACCDIS are generally subject to the offset from any Workers' Compensation benefits payable.

Under current law, if an active WTC Potential Recipient who retires initially for Service Retirement ("SERV"), Ordinary Disability Retirement ("ODR"), Accidental Disability Retirement ("ADR") or Performance of Duty Disability Retirement ("PODR") becomes partially or totally disa-

bled due to a WTC-Related Malady, then such WTC-Related Malady would be considered presumptive evidence that it was incurred in the line-of-duty as the result of an accident.

Such retiree would be permitted to apply with the respective NYCERS for a reclassification of his retirement to a World Trade Center Accidental Disability Retirement ("WTC-ADR"). Upon the approval of the respective NYCERS Medical Board and the respective NYCERS BOT, such retiree would be entitled to receive an ACCDIS, based on the salaries and service at the initial retirement date and determined under the respective NYCERS, payable from the date of reclassification. There would be no change in the optional form of payment elected at the initial retirement date.

#### ACCIDENTAL DEATH BENEFITS

With respect to the NYCERS under current law, beneficiaries of those WTC Potential Recipients who die either while actively employed or while on an approved leave of absence and whose cause of death originated from a WTC qualifying condition or impairment of health may apply with the respective NYCERS within the applicable filing window for Accidental Death Benefits ("ACCDTH").

In addition, if such deceased NYCERS members are in any of the following groups:

- \* POLICE,
- \* FIRE,
- \* NYCERS in certain Triborough Bridge and Tunnel Authority job titles,
- \* NYCERS in certain Uniformed Department of Corrections job titles, or
- \* NYCERS in certain Emergency Medical Technician ("EMT") job titles

then such deceased member's beneficiaries could also be entitled to a Special Accidental Death Benefit ("SADB") provided under General Municipal Law ("GML") Section 208-f. Such SADB is generally based on the member's salary at the date of death, reduced by the ACCDTH benefits payable and any Social Security and Workers' Compensation death benefits. SADB is subject to annual cost-of-living increases.

Under current law, the beneficiaries of those active WTC Potential Recipients who retire for Service, Ordinary Disability Retirement or Accidental Disability Retirement and die, whose cause of death originated from a WTC qualified condition or impairment of health and who have not been retired for more than 25 years, may apply with the respective NYCERS within the applicable filing period for receipt of an ACCDTH and SADB, if eligible. Once such application is approved by the respective NYCERS Medical Board and respective NYCERS BOT, such beneficiaries would be entitled to the applicable benefits from the date of death.

To receive the ACCDTH, beneficiaries must relinquish their rights to any death benefits that would have otherwise been payable under the retiree's initial form of payment election.

These ACCDTH would replace the existent death benefits that are available for active, inactive and retired NYCERS members based on NYCERS, Tier and job title, if applicable.

**IMPACT OF PROPOSED LEGISLATION ON WTC ELIGIBILITY PROVISIONS:** Under current law, a WTC Potential Recipient must have registered by September 11, 2010 in order to ever become eligible to qualify for WTC ACCDIS or WTC ACCDTH.

Under the proposed legislation, if enacted, the deadline for registering for WTC ACCDIS or WTC ACCDTH would be extended to September 11, 2014 only for the Covered Groups, later defined.

**IMPACT OF PROPOSED LEGISLATION ON WORKERS' COMPENSATION BENEFITS:** The proposed legislation, if enacted, would:

1. Extend the period for filing statements of participation in the WTC Rescue, Recovery or Clean-up operations from September 11, 2010 to September 11, 2014 under the Workers' Compensation Law

2. Extend the deadline for filing claims for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 to September 11, 2014

3. Provide that any such claim for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered

COVERED GROUPS UNDER PROPOSED LEGISLATION: With respect to the NYCERS, the proposed legislation would expand coverage under the WTC Disability Law to certain groups ("Covered Groups"), provided they satisfy certain qualifying WTC conditions.

These Covered Groups are as follows:

- \* Active, vested and retired members in NYCTRS in Tiers I and II
- \* Active, vested and retired members in BERS in Tiers I and II
- \* Vested members in NYCERS in Tiers I and II
- \* Vested members in POLICE in Tiers I and II
- \* Vested members in FIRE in Tiers I and II
- \* Vested Uniformed Corrections members in NYCERS in Tier III
- \* Vested Uniformed Sanitation members in NYCERS in Tier IV
- \* Vested Deputy Sheriff members in NYCERS in Tier IV and Tier VI
- \* Vested EMT members in NYCERS in Tier IV and Tier VI

WTC DISABILITY LAW PROVISIONS APPLYING TO THE COVERED GROUP: All of the WTC Disability Law provisions would apply to the Covered Group. However, the Special Accidental Death Benefits provided under GML Section 208-f to certain groups would not apply.

ESTIMATED FINANCIAL IMPACT OF PRIOR FISCAL NOTE 2008-09: Fiscal Note 2008-09, dated June 18, 2008, which estimated the financial impact of proposed legislation LBDC #12080-02-8, enacted as Chapter 489 of the Laws of 2008 to expand the coverage of the WTC Disability Law, included the estimated financial impact attributed to the Covered Groups described above based upon the Actuary's understanding of the intent of the recommendations of the September 11 Worker Protection Task Force, rather than adhering to the strict draft wording of proposed legislation LBDC #120870-02-8.

Accordingly, the estimated financial impact of the proposed legislation (denoted by Verison date (6/7/12)) was based on the financial impact of these Covered Groups that was previously determined in Fiscal Note 2008-09, adjusted for the passage of time using actuarial principles and to reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCERS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3 of the Laws of 2013 ("Chapter 3/13").

It is assumed that the estimated financial impact would be de minimis for:

(1) Extending the deadline for registering for WTC ACCDIS and WTC ACCDTH to September 11, 2014 only for the Covered Groups as described under COVERED GROUPS UNDER PROPOSED LEGISLATION section of this Fiscal Note,

(2) Extending the deadline from September 11, 2010 to September 11, 2014 for filing a registration of participation in the WTC Rescue, Recovery and Clean-up operations under the Workers' Compensation Law,

(3) Extending the deadline for filing claims for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 to September 11, 2014, and

(4) Providing that any such claim for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered.

ADDITIONAL ACTUARIAL PRESENT VALUE OF BENEFITS AND EMPLOYER COSTS: Under the proposed legislation, the estimated additional Actuarial Present Value of Benefits ("APVB") and employer costs for each of the NYCERS are shown in the following table.

INCREASES IN APVB AND ANNUAL EMPLOYER COST  
OF INCLUDING CERTAIN RECOMMENDATIONS OF THE  
SEPTEMBER 11 WORKER PROTECTION TASK FORCE  
FOR CERTAIN MEMBERS OF  
NYCERS, NYCTRS, BERS, POLICE AND FIRE\*

(\$ Millions)

ITEM	NYCERS	NYCTRS	BERS	POLICE	FIRE	TOTAL
Increase in APVB	\$1.8	\$2.1	**	\$0.6	\$0.1	\$4.6
Increase in Annual Employer Costs***	\$0.6	\$0.7	**	\$0.2	**	\$1.5

\*The increase in APVB and in Annual Employer Costs for these Covered Groups was included in the financial impact of Fiscal Note 2008-09. The results included in Fiscal Note 2008-09 have been adjusted using actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCERS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13 to arrive at the results shown above.

It is assumed that the estimated financial impact would be de minimis for:

1. Extending the deadline for registering for WTC ACCDIS and WTC ACCDTH to September 11, 2014 only for Covered Groups under the proposed legislation,

2. Extending the deadline from September 11, 2010 to September 11, 2014 for filing a registration of participation in the WTC Rescue, Recovery and Clean-up operations under the Workers' Compensation Law,

3. Extending the deadline to September 11, 2014 for filing claims for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012, and

4. Providing that any such claim for Workers' Compensation benefits for a WTC-related disablement that occurred between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered.

For purposes of this Fiscal Note, the Actuary has assumed that reclassification of certain retired members to WTC-Related Accidental Disability Retirement from Service Retirement or Ordinary Disability Retirement

would result in changes in benefits, prospectively only from the date of reclassification.

\*\* Less than \$50,000.

\*\*\* Assumes that Net Increases in APV of Future Employer Normal Costs are financed over the average remaining working lifetimes of members impacted by the benefit changes which has been estimated to be five years.

ADDITIONAL EMPLOYER CONTRIBUTIONS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

However, the timing and amount of additional employer contributions attributable to the enactment of this proposed legislation will depend primarily upon five factors:

- \* The point in time when the Actuary revises actuarial assumptions to reflect whether certain active members who now would be expected to receive Service Retirement benefits, Ordinary Disability Retirement benefits, or Accidental Disability Retirement benefits would in the future be eligible for World Trade Center Accidental Disability Retirement and/or Accidental Death benefits.

- \* The point in time at which the Actuary revises actuarial assumptions to reflect possible, further, increased expectations for Accidental Disability Retirements.

- \* The points in time after retirement when diseases deemed to be disabling and attributable to WTC-related activities could result in reclassification of Service Retirements, Ordinary Disability Retirements, or Accidental Disability Retirements to World Trade Center Accidental Disability Retirements.

- \* The points in time after retirement subsequent to reclassification, or in the application process, to a WTC-Related Accidental Disability Retirement which could result in Accidental Death from a WTC-Related Malady.

- \* The impact on employer contributions of any actuarial gains or losses attributable to additional Accidental Disability Retirements and Accidental Deaths.

ADDITIONAL EMPLOYER CONTRIBUTIONS - FISCAL YEARS 2013 AND LATER: Assuming that this proposed legislation is enacted during the current Legislative Session on or before June 30, 2013 or after June 30, 2013 and on or before June 30, 2014, then the enactment of this proposed legislation would increase annual employer contributions beginning Fiscal Year 2014 as follows:

- \* To NYCERS by approximately \$0.6 million and by a comparable percentage of payroll thereafter,

- \* To NYCTRS by approximately \$0.7 million and by a comparable percentage of payroll thereafter,

- \* To BERS by approximately less than \$50,000 and by a comparable percentage of payroll thereafter,

- \* To POLICE by approximately \$0.2 million and by a comparable percentage of payroll thereafter, and

- \* To FIRE by approximately less than \$50,000 and by a comparable percentage of payroll thereafter.

These employer contributions were included in the financial impact of Fiscal Note 2008-09 and have been adjusted using actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCRS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by

the New York State Legislature and Governor as Chapter 3/13 to arrive at the results shown above.

In accordance with ACNY Section 13.638.2(k-2), new Unfunded Actuarial Accrued Liability ("UAAL") attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetimes of those impacted by the benefit changes. For this proposed legislation, the Actuary has estimated that the remaining working lifetime of those impacted to be five years. Using this approach, the additional UAAL would be amortized over a five-year period (four payments under One-Year Lag Methodology) using level dollar payments.

UNMEASURED ADDITIONAL COSTS: The additional APVB and employer costs and contributions attributable to additional World Trade Center Accidental Disability Retirements and World Trade Center Accidental Deaths shown herein are based only upon using the actuarial assumptions and methods described herein.

1. The protections afforded under the provisions of the WTC Disability Law to the Covered Groups described in the COVERED GROUPS UNDER PROPOSED LEGISLATION section of this Fiscal Note,

2. The extension of the deadline for registering for WTC ACCDIS, and WTC ACCDTH benefits from September 11, 2010 to September 11, 2014 only for the Covered Groups under the proposed legislation,

3. The extension of the deadline from September 11, 2010 to September 11, 2014 for filing a registration of participation in the WTC Rescue, Recovery and Clean-up operations under the Worker's Compensation Law,

4. The extension of the deadline to September 11, 2014 for filing claims for Workers' Compensation benefits for a disablement that occurred between September 12, 2008 and September 11, 2012, and

5. Providing that any such claim for Workers' Compensation benefits for a disablement that occurred between September 12, 2008 and September 11, 2012 that was previously disallowed for failure to register timely would be reconsidered.

As noted earlier, the estimated financial impact for the preceding items 2, 3, 4 and 5 is assumed to be de minimis.

Additional APVB and employer costs attributable to any benefits other than those described herein have not been estimated.

No estimate has been made for non-vested, terminated members or for other possible WTC Potential Recipients who are not currently participants in the NYCERS.

No estimate has been made for the possible, initial reduction in payroll costs due to Additional Disability Retirements or Additional Deaths.

No estimate has been made for additional administrative expenses, for possible increases in Workers' Compensation costs or for expected, increased medical and insurance related costs.

CENSUS DATA: With respect to the NYCERS, the calculation of estimated changes in APVB and changes in employer costs are in part based on the active census data used in the June 30, 2007 (Lag) actuarial valuation, adjusted to June 30, 2012 in accordance with the actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCERS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13. Such census was adjusted for employees who were hired on or after September 13, 2002 and, in general, are unlikely to be WTC Potential Recipients.

In addition, the calculation of estimated changes in the APVB and changes in employer costs are in part based on the census data of



retired members used in the June 30, 2007 (Lag) actuarial valuation, adjusted to June 30, 2012 in accordance with actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCERS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13, to determine the Fiscal Year 2012 and later employer contributions. Such census data includes post-September 11, 2001 retirees.

Furthermore, based on the June 30, 2007 census information, terminated vested members between September 11, 2001 and June 30, 2007, adjusted to June 30, 2012 in accordance with actuarial principles and to reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCERS during Fiscal Year 2012 and the Actuarial Interest Rate assumption on %7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13, were included to the extent that they were WTC Potential Recipients, could become incapacitated due to a WTC-Related Malady and reclassify as WTC-ADR.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional APVB and employer costs and contributions have been determined based on the actuarial assumptions and methods used in June 30, 2012 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE.

In order to develop an estimate of the increase in APVB for NYCTRS members, the following probabilities of reclassification to WTC-ADR were used at the ages shown:

AGE	NYCRS Reclassification to WTC-ADR FROM		
	SERV	ODR	ADR
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%  
ODR 4%  
ADR 4%

In order to develop an estimate of the increase in APVB for BERS members, the following probabilities or reclassifications to WTC-ADR were used at the ages shown:

AGE	BERS RECLASSIFICATION TO WTC-ADR FROM		
	SERV	ODR	ADR
60	2%	4%	4%
70	2%	4%	4%
80	2%	4%	4%
90	2%	4%	4%

In addition, the following probabilities of reclassification were assumed at the date of SERV, ODR and ADR, respectively, for active members:

SERV 2%  
ODR 4%

## ADR 4%

It has also been assumed that Accidental Disability Retirees who die within 25 years of the initial retirement date would die from a WTC-Related Malady.

Due to limitations of time, resources and expected, limited impact on overall results, the following estimates were made relative to the June 30, 2007 (Lag) actuarial valuation, adjusted to June 30, 2012 in accordance with actuarial principles and reflect the demographic actuarial assumptions that were adopted by the Board of Trustees of each NYCERS during Fiscal Year 2012 and the Actuarial Interest Rate assumption of 7.0% per annum that was enacted by the New York State Legislature and Governor as Chapter 3/13 to determine the Fiscal Year 2012 and later employer contributions. In addition, for Terminated Vesteds,

\* APVB was developed as the ratio of the respective liability to the total liability of all active members.

\* APVB was adjusted to reflect both the difference in the magnitude of a WTC-ACCDIS relative to the SERV benefit otherwise payable and in the payability date of such benefits.

In developing estimates of additional APVB upon reclassification after retirement, the increases in WTC-ADR benefits are assumed to be prospective from the date of reclassification.

Additionally, because the mortality expectation for an individual does not change just because that individual receives a different type of benefit, the measurement of the increase in APVB for Service Retirees who reclassify as WTC-ADR has been calculated based on post-disablement retirement mortality.

ECONOMIC VALUES OF BENEFITS: The actuarial assumptions used to determine the financial impact of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to the NYCERS.

However, the economic assumptions (current and proposed) that are used for determining employer contributions do not develop risk-adjusted, economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2013 Legislative Session. It is Fiscal Note 2013-13, dated June 5, 2013, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York Fire Department Pension Fund.