

S T A T E O F N E W Y O R K

9080--A

2009-2010 Regular Sessions

I N A S S E M B L Y

July 27, 2009

Introduced by M. of A. GLICK -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 general municipal law, the retirement and social security law and the education law, in relation to providing certain benefits and rights to domestic partners of members of the New York city employees' retirement system, the New York city police pension fund, subchapter two, the New York city fire department pension fund, subchapter two, the New York city teachers' retirement system and the board of education retirement system of the city of New York

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

1 Section 1. Subdivision 21 of section 1-112 of the administrative code
2 of the city of New York, as added by local law number 27 of the city of
3 New York for the year 1998, is amended to read as follows:
4 21. The term "domestic partner" shall mean [persons who have] a PERSON
5 WHO, WITH RESPECT TO ANOTHER PERSON:
6 (A) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATION-
7 SHIP WITH ANOTHER PERSON AND IS registered AS A domestic partnership
8 pursuant to section 3-240 of [the administrative] THIS code, a domestic
9 partnership registered in accordance with executive order number 123,
10 dated August 7, 1989, or a domestic partnership registered in accordance
11 with executive order number 48, dated January 7, 1993[.]; OR
12 (B) IS FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER
13 THE OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR
14 (C) IS DEPENDENT OR MUTUALLY INTERDEPENDENT ON THE OTHER PERSON FOR
15 SUPPORT, AS EVIDENCED BY THE TOTALITY OF THE CIRCUMSTANCES INDICATING A
16 MUTUAL INTENT TO BE DOMESTIC PARTNERS INCLUDING BUT NOT LIMITED TO:

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

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1 COMMON OWNERSHIP OR JOINT LEASING OF REAL OR PERSONAL PROPERTY; COMMON
2 HOUSEHOLDING, SHARED INCOME OR SHARED EXPENSES; CHILDREN IN COMMON;
3 SIGNS OF INTENT TO MARRY OR BECOME DOMESTIC PARTNERS UNDER PARAGRAPH (A)
4 OR (B) OF THIS SUBDIVISION; OR THE LENGTH OF THE PERSONAL RELATIONSHIP
5 OF THE PERSONS.

6 S 2. Subdivision a of section 3-240 of the administrative code of the
7 city of New York, as amended by local law number 24 of the city of New
8 York for the year 2002, is amended to read as follows:

9 a. "Domestic partners" shall mean A PERSON, WITH RESPECT TO ANOTHER
10 PERSON:

11 1. IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATION-
12 SHIP AND SUCH persons [who] have a registered domestic partnership,
13 which shall include any partnership registered pursuant to this chapter,
14 any partnership registered in accordance with executive order number
15 123, dated August 7, 1989, and any partnership registered in accordance
16 with executive order number 48, dated January 7, 1993, and persons who
17 are members of a marriage that is not recognized by the state of New
18 York, domestic partnership, or civil union, lawfully entered into in
19 another jurisdiction[. Nothing]; PROVIDED THAT NOTHING in this code
20 shall affect a partnership that has been registered pursuant to either
21 such executive order and has not been terminated in accordance with such
22 executive orders or this chapter[.]; OR

23 2. IS FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER THE
24 OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR

25 3. IS DEPENDENT OR MUTUALLY INTERDEPENDENT ON THE OTHER PERSON FOR
26 SUPPORT, AS EVIDENCED BY THE TOTALITY OF THE CIRCUMSTANCES INDICATING A
27 MUTUAL INTENT TO BE DOMESTIC PARTNERS INCLUDING BUT NOT LIMITED TO:
28 COMMON OWNERSHIP OR JOINT LEASING OF REAL OR PERSONAL PROPERTY; COMMON
29 HOUSEHOLDING, SHARED INCOME OR SHARED EXPENSES; CHILDREN IN COMMON;
30 SIGNS OF INTENT TO MARRY OR BECOME DOMESTIC PARTNERS UNDER PARAGRAPH ONE
31 OR TWO OF THIS SUBDIVISION; OR THE LENGTH OF THE PERSONAL RELATIONSHIP
32 OF THE PERSONS.

33 S 3. Section 208-f of the general municipal law is amended by adding a
34 new subdivision j to read as follows:

35 J. FOR THE PURPOSES OF THIS SECTION, WHERE ALL OTHER REQUIREMENTS OF
36 THIS SECTION HAVE BEEN MET FOR THE PAYMENT OF A SPECIAL ACCIDENTAL DEATH
37 BENEFIT PURSUANT TO THIS SECTION BASED ON THE DEATH OF (I) A MEMBER OF
38 THE NEW YORK CITY POLICE PENSION FUND, SUBCHAPTER TWO; (II) A MEMBER OF
39 THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND, SUBCHAPTER TWO; (III) A
40 PAID MEMBER OF THE UNIFORMED CORRECTION FORCE OF THE NEW YORK CITY
41 DEPARTMENT OF CORRECTION; (IV) AN EMPLOYEE OF THE CITY OF NEW YORK OR
42 THE NEW YORK CITY HEALTH AND HOSPITALS CORPORATION IN A TITLE WHOSE
43 DUTIES ARE THOSE OF AN EMERGENCY MEDICAL TECHNICIAN OR ADVANCED EMERGEN-
44 CY MEDICAL TECHNICIAN, AS THOSE TERMS ARE DEFINED IN SECTION THREE THOU-
45 SAND ONE OF THE PUBLIC HEALTH LAW, OR IN A TITLE WHOSE DUTIES REQUIRE
46 THE SUPERVISION OF EMPLOYEES WHOSE DUTIES ARE THOSE OF AN EMERGENCY
47 MEDICAL TECHNICIAN OR ADVANCED EMERGENCY MEDICAL TECHNICIAN, AS THOSE
48 TERMS ARE DEFINED IN SECTION THREE THOUSAND ONE OF THE PUBLIC HEALTH
49 LAW; OR (V) A PAID BRIDGE AND TUNNEL MEMBER OF THE NEW YORK CITY EMPLOY-
50 EES' RETIREMENT SYSTEM, THE TERMS "WIDOW" AND "WIDOWER", AS USED IN THIS
51 SECTION, SHALL BE DEEMED TO INCLUDE THE SURVIVING DOMESTIC PARTNER, AS
52 DEFINED IN SUBDIVISION TWENTY-ONE OF SECTION 1-112 OF THE ADMINISTRATIVE
53 CODE OF THE CITY OF NEW YORK OF SUCH A DECEASED MEMBER.

54 S 4. Section 12-125 of the administrative code of the city of New
55 York, as amended by chapter 834 of the laws of 1987, is amended to read
56 as follows:

1 S 12-125 Retired employees; change of options. Notwithstanding any
2 other law to the contrary, no beneficiary shall be permitted to change
3 any optional selection after it has become effective, provided, however,
4 that if:

5 (a) a retired member nominates the spouse OR DOMESTIC PARTNER of such
6 member as the survivor beneficiary under option two or three of section
7 13-177 of [the] THIS code, or if a retired member nominates the spouse
8 OR DOMESTIC PARTNER of such member under option four of such section to
9 receive payment of an annual benefit as a survivor; and

10 (b) such person so nominated, IN THE CASE OF A SPOUSE OF SUCH MEMBER,
11 ceases by causes other than death to be his or her spouse or is sepa-
12 rated from such spouse, OR SUCH PERSON SO NOMINATED, IN THE CASE OF A
13 DOMESTIC PARTNER OF SUCH MEMBER, CEASES BY CAUSES OTHER THAN DEATH TO BE
14 HIS OR HER DOMESTIC PARTNER PURSUANT TO APPLICABLE LAW; then the board
15 of trustees shall have authority to permit the change of the optional
16 benefit to the maximum benefit that is the actuarial equivalent by and
17 with the consent of all parties.

18 S 5. Subdivision 67 of section 13-101 of the administrative code of
19 the city of New York is amended to read as follows:

20 67. "Authorized representative". The husband or wife OR DOMESTIC PART-
21 NER of an incompetent member or incompetent beneficiary, or if there be
22 no husband or wife OR DOMESTIC PARTNER of such an incompetent, the
23 committee of his or her estate.

24 S 6. Subdivision a of section 13-149 of the administrative code of the
25 city of New York, paragraph 3 as amended and paragraph 4 as added by
26 chapter 408 of the laws of 2000, is amended to read as follows:

27 a. Except as otherwise provided in subdivision b of this section, upon
28 the accidental death of a member before retirement, provided that
29 evidence shall be submitted to such board proving that the death of such
30 member was the natural and proximate result of an accident sustained
31 while a member and while in the performance of duty at some definite
32 time and place and that such death was not the result of wilful negli-
33 gence on his or her part, such member's accumulated deductions, if any,
34 shall be paid to his or her estate, or to such persons as he or she has
35 nominated or shall nominate by written designation, duly acknowledged
36 and filed with such board. Upon application by or on behalf of the
37 dependents of such deceased member, such board shall grant a lump sum
38 payment of the reserve-for-increased-take-home-pay and a pension of
39 one-half of the final compensation of such employee:

40 1. To his or her surviving spouse OR SURVIVING DOMESTIC PARTNER, to
41 continue until the [death or remarriage of] surviving spouse DIES,
42 REMARRIES OR ENTERS INTO A DOMESTIC PARTNERSHIP WITHIN THE MEANING OF
43 SUBDIVISION A OF SECTION 3-240 OF THIS CODE, OR UNTIL THE SURVIVING
44 DOMESTIC PARTNER DIES, MARRIES OR ENTERS INTO A SUBSEQUENT DOMESTIC
45 PARTNERSHIP WITHIN THE MEANING OF SUBDIVISION A OF SECTION 3-240 OF THIS
46 CODE; or

47 2. If there be no surviving spouse OR SURVIVING DOMESTIC PARTNER, or
48 if the surviving spouse dies [or], remarries OR ENTERS INTO A DOMESTIC
49 PARTNERSHIP WITHIN THE MEANING OF SUBDIVISION A OF SECTION 3-240 OF THIS
50 CODE, OR THE SURVIVING DOMESTIC PARTNER DIES, MARRIES OR ENTERS INTO A
51 SUBSEQUENT DOMESTIC PARTNERSHIP WITHIN THE MEANING OF SUBDIVISION A OF
52 SECTION 3-240 OF THIS CODE before any child of such deceased member
53 shall have attained the age of eighteen years, then to his or her child
54 or children under such age, divided in such manner as such board in its
55 discretion shall determine, to continue as a joint and survivor pension

1 of one-half of his or her final compensation until every such child dies
2 or attains such age; or

3 3. If there be no surviving spouse, SURVIVING DOMESTIC PARTNER or
4 child under the age of eighteen years surviving such deceased member,
5 then to his or her dependent father or mother, as the deceased member
6 shall have nominated by written designation duly acknowledged and filed
7 with such board; or, if there be no such nomination, then to his or her
8 dependent father or to his or her dependent mother, as such board in its
9 discretion shall direct, to continue for life; or

10 4. If there be no surviving person who is eligible to receive such
11 benefits in accordance with paragraph one, two or three of this subdivi-
12 sion, then to the person that such deceased member shall have nominated
13 by written designation duly executed and filed with such board during
14 the lifetime of the member for the purposes of section 13-148 of this
15 chapter.

16 S 7. Paragraph 2 of subdivision b of section 13-149 of the administra-
17 tive code of the city of New York, as amended by chapter 290 of the laws
18 of 2001, is amended to read as follows:

19 (2) Notwithstanding the provisions of subdivision a of this section,
20 upon the accidental death before retirement of a member who is a sanita-
21 tion member provided that evidence shall be submitted to such board
22 proving that the death of such member was the natural and proximate
23 result of an accident sustained while a member and while in the perform-
24 ance of duty at some definite time and place and that such death was not
25 the result of wilful negligence on his or her part, his or her accumu-
26 lated deductions shall be paid to his or her estate, or to such persons
27 as he or she has nominated or shall nominate by written designation,
28 duly acknowledged and filed with such board. Upon application by or on
29 behalf of the dependents of such deceased member, such board shall grant
30 a lump sum payment of the reserve-for-increased-take-home-pay and a
31 pension of one-half of such member's annual salary or compensation on
32 the date of his or her death; provided that in no case shall such
33 pension be in an amount which is less than one-half of the maximum basic
34 annual salary of sanitation workers payable as of such date of death to
35 sanitation workers employed by the department of sanitation:

36 (1) To his or her surviving spouse OR SURVIVING DOMESTIC PARTNER, to
37 continue until the death of the surviving spouse OR SURVIVING DOMESTIC
38 PARTNER; or

39 (2) If there be no surviving spouse OR SURVIVING DOMESTIC PARTNER, or
40 if the surviving spouse OR SURVIVING DOMESTIC PARTNER dies before any
41 child of such deceased member shall have attained the age of eighteen
42 years, then to his or her child or children under such age, divided in
43 such manner as such board in its discretion shall determine, to continue
44 as a joint and survivor pension in the amount hereinabove specified
45 until every such child dies or attains such age; or

46 (3) If there be no surviving spouse, SURVIVING DOMESTIC PARTNER or
47 child under the age of eighteen years surviving such deceased member,
48 then to his or her dependent father or mother, as the deceased member
49 shall have nominated by written designation duly acknowledged and filed
50 with such board; or, if there be no such nomination, then to his or her
51 dependent father or to his or her dependent mother, as such board in its
52 discretion shall direct, to continue for life.

53 S 8. Section 13-177 of the administrative code of the city of New York
54 is amended to read as follows:

55 S 13-177 Retirement; options in which retirement allowances may be
56 taken. Until the first payment on account of any benefit is made, the

1 beneficiary, or, if such beneficiary is an incompetent, then the husband
2 or wife OR DOMESTIC PARTNER of such beneficiary or, if there be no
3 husband or wife OR DOMESTIC PARTNER, a committee of the estate, may
4 elect to receive such benefit in a retirement allowance payable through-
5 out life, or the beneficiary or the husband or wife OR DOMESTIC PARTNER
6 or committee so electing may then elect to receive the actuarial equiv-
7 alent at that time of his or her annuity, if any, his or her pension, or
8 his or her retirement allowance in a lesser annuity, if any, or a lesser
9 pension or a lesser retirement allowance, payable throughout life with
10 the provision that:

11 Option 1. a. If he or she die before he or she has received in
12 payments the present value of his or her annuity, if any, his or her
13 pension, or his or her retirement allowance, as it was at the time of
14 his or her retirement, the balance shall be paid, in the form of a lump
15 sum or the actuarial equivalent in the form of an annuity, to his or her
16 legal representatives or to such person as the beneficiary, or the
17 husband or wife OR DOMESTIC PARTNER or committee so electing, has nomi-
18 nated or shall nominate by written designation duly acknowledged and
19 filed with the board.

20 b. A retired member, or upon the death of a retired member, the person
21 nominated by him or her as his or her beneficiary, may provide by writ-
22 ten designation duly executed and filed with such board that the actuar-
23 ial equivalent of a benefit otherwise payable in a lump sum shall be
24 paid to the person designated in the form of an annuity payable in
25 installments not more than once a month.

26 Option 2. Upon his or her death, his or her annuity, if any, his or
27 her pension, or his or her retirement allowance, shall be continued
28 throughout the life of and paid to such person as the beneficiary, or
29 the husband or wife OR DOMESTIC PARTNER or committee so electing, has
30 nominated or shall nominate by written designation duly acknowledged and
31 filed with the board at the time of his or her retirement.

32 Option 3. Upon his or her death, one-half of his or her annuity, if
33 any, his or her pension, or his or her retirement allowance, shall be
34 continued throughout the life of and paid to such person as the benefi-
35 ciary, or the husband or wife OR DOMESTIC PARTNER or committee so elect-
36 ing, has nominated or shall nominate by written designation duly
37 acknowledged and filed with the board at the time of his or her retire-
38 ment.

39 Option 4. Upon his or her death, some other benefit or benefits shall
40 be paid to such other person or persons as the beneficiary, or the
41 husband or wife OR DOMESTIC PARTNER or committee so electing, has nomi-
42 nated or shall nominate, provided such other benefit or benefits,
43 together with such lesser annuity, if any, or lesser pension, or lesser
44 retirement allowance, shall be certified by the actuary of the board to
45 be of equivalent actuarial value to his or her annuity, if any, his or
46 her pension or his or her retirement allowance, and shall be approved by
47 such board.

48 For purposes of this section, the words "pension" and "retirement
49 allowance" shall be deemed to include the pension-providing-for-in-
50 creased-take-home-pay, if any.

51 S 9. Section 13-184 of the administrative code of the city of New York
52 is amended to read as follows:

53 S 13-184 Limitation on other statutes; application of chapter. No
54 other provision of law which provides wholly or partly at the expense of
55 the city for pensions or retirement benefits for employees in the city-
56 service, shall apply to such employees who become members or benefici-

aries of the retirement system provided for by this chapter, their widows OR SURVIVING DOMESTIC PARTNERS or their other dependents. This chapter shall not apply to any person who is, or may be, entitled to share in the police pension fund, or in the fire department relief fund, or in the teachers' retirement system, or in the Hunter College retirement system, or in the department of street cleaning relief and pension fund (except as provided in section 13-614 of this title), or in the board of education retirement system, by reason of service of such person as an employee under provisions of law applicable to such funds. Notwithstanding the foregoing provisions of this section, nothing therein contained shall prevent a member of this retirement system whose membership is authorized by subdivision three of section 13-104 of this chapter, upon his or her retirement from this retirement system, or his or her widow OR SURVIVING DOMESTIC PARTNER, dependents, or beneficiaries, upon his or her death, from receiving benefits from this retirement system, as well as benefits to which they may be entitled from any other retirement system or pension fund maintained by the city.

S 10. Section 13-244 of the administrative code of the city of New York, as amended by chapter 348 of the laws of 1989, subdivisions 2 and 3 as amended by chapter 733 of the laws of 1990 and subdivision 4 as added by chapter 105 of the laws of 2005, is amended to read as follows:

S 13-244 Death benefits; accidental death benefits. Upon the accidental death of a member before retirement, provided that evidence shall be submitted to such board proving that the death of such member was the natural and proximate result of an accident sustained while a member and while in the performance of duty at some definite time and place and that such death was not the result of wilful negligence on his or her part, his or her accumulated deductions shall be paid to his or her estate, or to such persons as he or she has nominated or shall nominate by written designation, duly acknowledged and filed with such board. Upon application by or on behalf of the dependents of such deceased member, such board shall grant a lump sum payment of the reserve-for-increased-take-home-pay and, in addition thereto, a pension of one-half of the final compensation of such employee, which pension shall in no case be less than one-half of the full salary payable to a first grade police officer on the date of death of such employee:

1. To his or her surviving spouse OR SURVIVING DOMESTIC PARTNER, to continue until the death of the surviving spouse OR SURVIVING DOMESTIC PARTNER; or

2. If there be no surviving spouse OR SURVIVING DOMESTIC PARTNER, or if the surviving spouse OR SURVIVING DOMESTIC PARTNER dies before any child of such deceased member shall have attained the age of eighteen years, or if a student, before such child shall have attained the age of twenty-three years, then to his or her child or children under such age, divided in such manner as such board in its discretion shall determine, to continue as a joint and survivor pension of one-half of his or her final compensation until every such child dies or attains such age; or

3. If there be no surviving spouse, SURVIVING DOMESTIC PARTNER or child under the age of eighteen years, or if a student, under the age of twenty-three years, surviving such deceased member, then to his or her dependent father or mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with such board; or, if there be no such nomination, then to his or her dependent father or to his or her dependent mother, as such board in its discretion shall direct, to continue for life.

1 4. Notwithstanding any other provision of law to the contrary, and
2 solely for the purposes of this section, a member shall be deemed to
3 have died as the natural and proximate result of an accident sustained
4 in the performance of duty upon which his or her membership is based,
5 and not as a result of willful negligence on his or her part, provided
6 that such member was in active service upon which his or her membership
7 is based at the time that such member was ordered to active duty, other
8 than for training purposes, pursuant to Title 10 of the United States
9 Code, with the armed forces of the United States, and such member died
10 while on such active duty on or after the effective date of [the] chap-
11 ter ONE HUNDRED FIVE of the laws of two thousand five [which added this
12 subdivision] while serving on such active military duty.

13 S 11. Section 13-253 of the administrative code of the city of New
14 York is amended to read as follows:

15 S 13-253 Dependent benefits for surviving spouses, SURVIVING DOMESTIC
16 PARTNERS and orphans. a. The board shall pay a dependent benefit to the
17 surviving spouse, SURVIVING DOMESTIC PARTNER, child or children or
18 dependent parent or parents of any deceased member if the death of such
19 member occur during his or her service or after he or she was retired
20 from service. The amount of any such dependent benefit to be paid by the
21 board to each of the several representatives of such member, in case
22 there shall be more than one, from time to time, may be determined by
23 such board according to the circumstances of each case. The annual
24 dependent benefit to the representative or representatives of such
25 member, however, shall be six hundred dollars, and no part of such sum
26 shall be paid to any such surviving spouse who shall remarry OR ENTER
27 INTO A DOMESTIC PARTNERSHIP WITHIN THE MEANING OF SUBDIVISION A OF
28 SECTION 3-240 OF THIS CODE, after such remarriage OR AFTER ENTERING INTO
29 SUCH DOMESTIC PARTNERSHIP, OR TO ANY SURVIVING DOMESTIC PARTNER WHO
30 SHALL MARRY OR ENTER INTO A SUBSEQUENT DOMESTIC PARTNERSHIP WITHIN THE
31 MEANING OF SUBDIVISION A OF SECTION 3-240 OF THIS CODE, AFTER SUCH
32 MARRIAGE OR AFTER ENTERING INTO SUCH SUBSEQUENT DOMESTIC PARTNERSHIP, or
33 to any child after it shall have reached the age of eighteen years.

34 b. Dependent benefits shall be granted to the surviving spouse,
35 SURVIVING DOMESTIC PARTNER, child or children or dependent parent or
36 parents of a member pursuant to this section only if such member, upon
37 becoming a member, shall elect to contribute the additional deductions
38 provided by subdivision d of section 13-227 of this subchapter.

39 c. The benefits granted pursuant to this section shall be in addition
40 to any other benefit provided for by this subchapter.

41 S 12. Subdivision a of section 13-261 of the administrative code of
42 the city of New York, the opening paragraph as amended by chapter 775 of
43 the laws of 1987, is amended to read as follows:

44 a. Until the first payment on account of any benefit is made, except
45 pursuant to the provisions of section 13-261.2 of this subchapter, the
46 beneficiary, or, if such beneficiary is an incompetent, then the husband
47 or wife OR DOMESTIC PARTNER of such beneficiary, or, if there be no
48 husband or wife OR DOMESTIC PARTNER, a committee of the estate, may
49 elect to receive such benefit in a retirement allowance payable through-
50 out life, or the beneficiary or the husband or wife OR DOMESTIC PARTNER
51 or committee so electing may then elect to receive the actuarial equiv-
52 alent at that time of his or her annuity, his or her pension, or his or
53 her retirement allowance in a lesser annuity or a lesser pension or a
54 lesser retirement allowance, payable throughout life with the provision
55 that:

Option 1. If he or she die before he or she has received in payments the present value of his or her annuity, his or her pension, or his or her retirement allowance, as it was at the time of his or her retirement, the balance shall be paid to his or her legal representatives or to such person as the beneficiary, or the husband or wife OR DOMESTIC PARTNER or committee so electing, has nominated or shall nominate by written designation duly acknowledged and filed with the board.

Option 2. Upon his or her death, his or her annuity, his or her pension, or his or her retirement allowance, shall be continued throughout the life of and paid to such person as the beneficiary, or the husband or wife OR DOMESTIC PARTNER or committee so electing, has nominated or shall nominate by written designation duly acknowledged and filed with the board at the time of his or her retirement.

Option 3. Upon his or her death, one-half of his or her annuity, his or her pension, or his or her retirement allowance, shall be continued throughout the life of and paid to such person as the beneficiary, or the husband or wife OR DOMESTIC PARTNER or committee so electing, has nominated or shall nominate by written designation duly acknowledged and filed with the board at the time of his or her retirement.

Option 4. Upon his or her death, some other benefit or benefits shall be paid to such other person or persons as the beneficiary, or the husband or wife OR DOMESTIC PARTNER or committee so electing, has nominated or shall nominate, provided such other benefit or benefits, together with such lesser annuity, or lesser pension, or lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her annuity, his or her pension or his or her retirement allowance, and shall be approved by such board.

S 13. Subdivision b of section 13-261.2 of the administrative code of the city of New York, as added by chapter 775 of the laws of 1987, is amended to read as follows:

b. Notwithstanding any law to the contrary, for the purpose of electing an option pursuant to section 13-261 of this subchapter, the pension board shall notify the surviving spouse OR SURVIVING DOMESTIC PARTNER of any applicant described in subdivision a of this section, or, if no such spouse OR SURVIVING DOMESTIC PARTNER exists, the personal representative of the estate of such applicant of the right of election pursuant to said section 13-261 and such surviving spouse OR SURVIVING DOMESTIC PARTNER or personal representative of such estate may elect any such option within thirty days after receipt of such notice.

S 14. Section 13-261.3 of the administrative code of the city of New York, as added by chapter 582 of the laws of 1997, is amended to read as follows:

S 13-261.3 Retired employees; change of options. Notwithstanding any other provision of law to the contrary, no beneficiary shall be permitted to change any optional selection after it has become effective, provided, however, that if:

(a) a retired member nominates the spouse OR DOMESTIC PARTNER of such member as the survivor beneficiary under option two or three of section 13-261 of [the code] THIS SUBCHAPTER, or if a retired member nominates the spouse OR DOMESTIC PARTNER of such member under option four of such section to receive payment of an annual benefit as a survivor; and

(b) such person so nominated, IN THE CASE OF A SPOUSE OF SUCH MEMBER, ceases by causes other than death to be his or her spouse or is divorced from or separated pursuant to a judicial decree from such spouse, OR SUCH PERSON SO NOMINATED, IN THE CASE OF A DOMESTIC PARTNER OF SUCH MEMBER, CEASES BY CAUSES OTHER THAN DEATH TO BE HIS OR HER DOMESTIC

1 PARTNER PURSUANT TO APPLICABLE LAW, then the board of trustees shall
2 have the authority to permit the change of the optional benefit to the
3 maximum benefit that is the actuarial equivalent by and with the consent
4 of all parties.

5 S 15. Section 13-267 of the administrative code of the city of New
6 York is amended to read as follows:

7 S 13-267 Limitation on other statutes; application of article. No
8 other provision of law which provides wholly or partly at the expense of
9 the city for pensions or retirement benefits for employees in the city-
10 service, shall apply to such employees who are entitled to be members or
11 beneficiaries of the pension fund provided for by this subchapter, their
12 surviving spouses OR SURVIVING DOMESTIC PARTNERS or their other depen-
13 dents.

14 S 16. Subdivision c of section 13-347 of the administrative code of
15 the city of New York, as amended by chapter 348 of the laws of 1989 and
16 paragraphs 2 and 3 as amended by chapter 733 of the laws of 1990, is
17 amended to read as follows:

18 c. The applicable lump sum payment and allowance or pension, as the
19 case may be, referred to in subdivision b of this section shall be
20 granted:

21 (1) To such deceased member's surviving spouse OR SURVIVING DOMESTIC
22 PARTNER, to continue until the death of the surviving spouse OR SURVIV-
23 ING DOMESTIC PARTNER; or

24 (2) If there be no surviving spouse OR SURVIVING DOMESTIC PARTNER, or
25 if the surviving spouse OR SURVIVING DOMESTIC PARTNER dies before any
26 child of such deceased member shall have attained the age of eighteen
27 years or if a student under the age of twenty-three years, then to his
28 or her child or children under such age, divided in such manner as such
29 board in its discretion shall determine, to continue, if such deceased
30 member was an original plan member not subject to article eleven at the
31 time of his or her death, as a joint and survivor pension of one-half of
32 his or her final compensation until every such child dies or attains
33 such age, and to continue, if such deceased member was an improved bene-
34 fits plan member not subject to article eleven OF THE RETIREMENT AND
35 SOCIAL SECURITY LAW at the time of his or her death, as a joint and
36 survivor pension of one-half of his or her five-year-average compen-
37 sation until every such child dies or attains such age; or

38 (3) If there be no surviving spouse, SURVIVING DOMESTIC PARTNER or
39 child under the age of eighteen years or if a student under the age of
40 twenty-three years surviving such deceased member, then to his or her
41 dependent father or mother, as such deceased member shall have nominated
42 by written designation duly acknowledged and filed with such board; or,
43 if there be no such nomination, then to his or her dependent father or
44 to his or her dependent mother, as such board in its discretion shall
45 direct, to continue for life.

46 S 17. The section heading of section 13-355 of the administrative code
47 of the city of New York is amended to read as follows:

48 Dependent benefits for surviving spouses, SURVIVING DOMESTIC PARTNERS
49 and orphans.

50 S 18. Paragraph 1 of subdivision b of section 13-355 of the adminis-
51 trative code of the city of New York is amended to read as follows:

52 (1) Except as otherwise provided in paragraph two of this subdivision
53 and subject to the provisions of subdivisions a and d of this section,
54 the board shall pay a dependent benefit to the surviving spouse, SURVIV-
55 ING DOMESTIC PARTNER, child or children or dependent parents of any
56 deceased member if the death of such member occur during his or her

1 service or after he or she was retired from service. The amount of any
2 such dependent benefit to be paid by the board to each of the several
3 representatives of such member, in case there shall be more than one,
4 from time to time, may be determined by such board according to the
5 circumstances of each case. The annual dependent benefit to the repre-
6 sentative or representatives of such member, however, shall be six
7 hundred dollars, and no part of such sum shall be paid to any such
8 surviving spouse who shall remarry OR ENTER INTO A DOMESTIC PARTNERSHIP
9 WITHIN THE MEANING OF SUBDIVISION A OF SECTION 3-240 OF THIS CODE, after
10 such remarriage OR AFTER ENTERING INTO SUCH DOMESTIC PARTNERSHIP, OR TO
11 ANY SURVIVING DOMESTIC PARTNER WHO SHALL MARRY OR ENTER INTO A SUBSE-
12 QUENT DOMESTIC PARTNERSHIP WITHIN THE MEANING OF SUBDIVISION A OF
13 SECTION 3-240 OF THIS CODE, AFTER SUCH MARRIAGE OR AFTER ENTERING INTO
14 SUCH SUBSEQUENT DOMESTIC PARTNERSHIP, or to any child after it shall
15 have reached the age of eighteen years.

16 S 19. Subdivision c of section 13-355 of the administrative code of
17 the city of New York is amended to read as follows:

18 c. Dependent benefits shall be granted pursuant to this section to the
19 surviving spouse, SURVIVING DOMESTIC PARTNER, child or children or
20 dependent parent or parents of a member:

21 (1) only upon satisfaction of the applicable requirements set forth in
22 subdivision a of this section, if such member last became a member prior
23 to such starting date; and

24 (2) only if the member, where he or she becomes a member on or after
25 such starting date, shall elect to contribute the additional deductions
26 provided for by subdivision c of section 13-329 of this subchapter.

27 S 20. Subdivision a of section 13-369 of the administrative code of
28 the city of New York, the opening paragraph as amended by chapter 775 of
29 the laws of 1987, is amended to read as follows:

30 a. Subject to the provisions of subdivision b of this section, until
31 the first payment on account of any benefit is made, except pursuant to
32 the provisions of subdivision c of this section, any beneficiary who was
33 an original plan member at the time of his or her retirement, or, if
34 such beneficiary is an incompetent, then the spouse OR DOMESTIC PARTNER
35 of such beneficiary, or, if there be no spouse OR DOMESTIC PARTNER, a
36 committee of the estate, may elect to receive such benefit in a retire-
37 ment allowance payable throughout life, or any such beneficiary or the
38 spouse OR DOMESTIC PARTNER or committee so electing may then elect to
39 receive the actuarial equivalent at the time of his or her retirement
40 allowance in a lesser retirement allowance, payable throughout life with
41 the provision that:

42 Option 1. If he or she die before he or she has received in payments
43 the present value of his or her retirement allowance, as it was at the
44 time of his or her retirement, the balance shall be paid to his or her
45 legal representatives or to such person as such beneficiary, or the
46 spouse OR DOMESTIC PARTNER or committee so electing, has nominated or
47 shall nominate by written designation duly acknowledged and filed with
48 the board.

49 Option 2. Upon his or her death, his or her retirement allowance shall
50 be continued throughout the life of and paid to such person as such
51 beneficiary, or the spouse OR DOMESTIC PARTNER or committee so electing,
52 has nominated or shall nominate by written designation duly acknowledged
53 and filed with the board at the time of his or her retirement.

54 Option 3. Upon his or her death, one-half of his or her retirement
55 allowance shall be continued throughout the life of and paid to such
56 person as such beneficiary, or the spouse OR DOMESTIC PARTNER or commit-

tee so electing, has nominated or shall nominate by written designation duly acknowledged and filed with the board at the time of his or her retirement.

Option 4. Upon his or her death, some other benefit or benefits shall be paid to such other person or persons as such beneficiary, or the spouse OR DOMESTIC PARTNER or committee so electing, has nominated or shall nominate, provided such other benefit or benefits, together with such lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her retirement allowance, and shall be approved by such board.

S 21. Subdivision d of section 13-369 of the administrative code of the city of New York, as added by chapter 775 of the laws of 1987, is amended to read as follows:

d. Notwithstanding any law to the contrary, for the purpose of electing an option pursuant to this section, the pension board shall notify the surviving spouse OR SURVIVING DOMESTIC PARTNER of any applicant described in subdivision c of this section, or, if no such spouse OR DOMESTIC PARTNER exists, the personal representative of the estate of such applicant of the right of election pursuant to this section and such surviving spouse OR SURVIVING DOMESTIC PARTNER or personal representative of such estate may elect any such option within thirty days after receipt of such notice.

S 22. Section 13-369.1 of the administrative code of the city of New York, as added by chapter 582 of the laws of 1997, is amended to read as follows:

S 13-369.1 Retired employees; change of options. Notwithstanding any other provision of law to the contrary, no beneficiary shall be permitted to change any optional selection after it has become effective, provided, however, that if:

(a) a retired member nominates the spouse OR DOMESTIC PARTNER of such member as the survivor beneficiary under option two or three of section 13-369 of [the code] THIS SUBCHAPTER, or if a retired member nominates the spouse OR DOMESTIC PARTNER of such member under option four of such section to receive payment of an annual benefit as a survivor; and

(b) such person so nominated, IN THE CASE OF A SPOUSE OF SUCH MEMBER, ceases by causes other than death to be his or her spouse or is divorced from or separated pursuant to a judicial decree from such spouse, OR SUCH PERSON SO NOMINATED, IN THE CASE OF A DOMESTIC PARTNER OF SUCH MEMBER, CEASES BY CAUSES OTHER THAN DEATH TO BE HIS OR HER DOMESTIC PARTNER PURSUANT TO APPLICABLE LAW, then the board of trustees shall have the authority to permit the change of the optional benefit to the maximum benefit that is the actuarial equivalent by and with the consent of all parties.

S 23. Subdivision a of section 13-370 of the administrative code of the city of New York, as amended by chapter 288 of the laws of 1990, is amended to read as follows:

a. Subject to the provisions of subdivision c of this section, until the first payment on account of any benefit is made, except pursuant to the provisions of subdivision d of this section any beneficiary who was an improved benefits plan member at the time of his or her retirement, or, if such beneficiary is an incompetent, then the spouse or DOMESTIC PARTNER OF such beneficiary, or, if there be no spouse OR DOMESTIC PARTNER, a committee of the estate, may elect to receive such benefit in a retirement allowance payable throughout life, or any such beneficiary or the spouse OR DOMESTIC PARTNER or committee so electing may then elect to receive the actuarial equivalent at the time of his or her annuity,

1 his or her pension, or his or her retirement allowance in a lesser annu-
2 ity or a lesser pension or a lesser retirement allowance, payable
3 throughout life with the provision that:

4 Option 1. If he or she die before he or she has received in payments
5 the present value of his or her annuity, his or her pension, or his or
6 her retirement allowance, as it was at the time of his or her retire-
7 ment, the balance shall be paid to his or her legal representatives or
8 to such person as such beneficiary, or the spouse OR DOMESTIC PARTNER or
9 committee so electing, has nominated or shall nominate by written desig-
10 nation duly acknowledged and filed with the board.

11 Option 2. Upon his or her death, his or her annuity, his or her
12 pension, or his or her retirement allowance, shall be continued through-
13 out the life of and paid to such person as such beneficiary, or the
14 spouse OR DOMESTIC PARTNER or committee so electing, has nominated or
15 shall nominate by written designation duly acknowledged and filed with
16 the board at the time of his or her retirement.

17 Option 3. Upon his or her death, one-half of his or her annuity, his
18 or her pension, or his or her retirement allowance, shall be continued
19 throughout the life of and paid to such person as such beneficiary, or
20 the spouse OR DOMESTIC PARTNER or committee so electing, has nominated
21 or shall nominate by written designation duly acknowledged and filed
22 with the board at the time of his or her retirement.

23 Option 4. Upon his or her death, some other benefit or benefits shall
24 be paid to such other person or persons as such beneficiary, or the
25 spouse OR DOMESTIC PARTNER or committee so electing, has nominated or
26 shall nominate, provided such other benefit or benefits, together with
27 such lesser annuity, or lesser pension or lesser retirement allowance,
28 shall be certified by the actuary to be of equivalent actuarial value to
29 his or her annuity, his or her pension or his or her retirement allow-
30 ance, and shall be approved by such board.

31 S 24. Subdivision e of section 13-370 of the administrative code of
32 the city of New York, as added by chapter 288 of the laws of 1990, is
33 amended to read as follows:

34 e. Notwithstanding any law to the contrary, for the purpose of elect-
35 ing an option pursuant to this section, the pension board shall notify
36 the surviving spouse OR SURVIVING DOMESTIC PARTNER of any applicant
37 described in subdivision d of this section, or, if no such spouse OR
38 DOMESTIC PARTNER exists, the personal representative of the estate of
39 such applicant of the right of election pursuant to this section and
40 such surviving spouse OR SURVIVING DOMESTIC PARTNER or personal repre-
41 sentative of such estate may elect any such option within thirty days
42 after receipt of such notice.

43 S 25. Section 13-370.1 of the administrative code of the city of New
44 York, as added by chapter 582 of the laws of 1997, is amended to read as
45 follows:

46 S 13-370.1 Retired employees; change of options. Notwithstanding any
47 other provision of law to the contrary, no beneficiary shall be permit-
48 ted to change any optional selection after it has become effective,
49 provided, however, that if:

50 (a) a retired member nominates the spouse OR DOMESTIC PARTNER of such
51 member as the survivor beneficiary under option two or three of section
52 13-370 of [the code] THIS SUBCHAPTER, or if a retired member nominates
53 the spouse OR DOMESTIC PARTNER of such member under option four of such
54 section to receive payment of an annual benefit as a survivor; and

55 (b) such person so nominated, IN THE CASE OF A SPOUSE OF SUCH MEMBER,
56 ceases by causes other than death to be his or her spouse or is divorced

1 from or separated pursuant to a judicial decree from such spouse, OR
2 SUCH PERSON SO NOMINATED, IN THE CASE OF A DOMESTIC PARTNER OF SUCH
3 MEMBER, CEASES BY CAUSES OTHER THAN DEATH TO BE HIS OR HER DOMESTIC
4 PARTNER PURSUANT TO APPLICABLE LAW, then the board of trustees shall
5 have the authority to permit the change of the optional benefit to the
6 maximum benefit that is the actuarial equivalent by and with the consent
7 of all parties.

8 S 26. Section 13-379 of the administrative code of the city of New
9 York is amended to read as follows:

10 S 13-379 Limitation on other statutes; application of subchapter.
11 Except as otherwise provided in this subchapter, no other provision of
12 law which provides wholly or partly at the expense of the city for
13 retirement benefits for employees in the city-service, shall apply to
14 such employees who are entitled to be members or beneficiaries of the
15 pension fund provided for by this subchapter, their surviving spouse OR
16 SURVIVING DOMESTIC PARTNER or their other dependents.

17 S 27. Paragraph 1 of subdivision d of section 13-380 of the adminis-
18 trative code of the city of New York is amended to read as follows:

19 (1) In case of the death of any active member or of any pensioned or
20 retired member of such department, and so contributing, there shall be
21 paid to the beneficiary or beneficiaries named in a written designation
22 filed with the board of trustees, or if there be no such written desig-
23 nation, then to the surviving spouse OR SURVIVING DOMESTIC PARTNER, or
24 if there be no surviving spouse OR SURVIVING DOMESTIC PARTNER, then to
25 the legal representatives of such deceased active member or pensioned
26 and retired member out of the monies so assessed, a sum as hereinafter
27 in this paragraph one provided:

28 (i) subject to the provisions of subdivision g of this section, the
29 sum of five thousand dollars, if such member was an active member at the
30 time of his or her death; or

31 (ii) subject to the provisions of subdivision g of this section, the
32 sum of two thousand dollars, if such member was a pensioned or retired
33 member of such department at the time of his or her death.

34 S 28. Subdivision f of section 13-380 of the administrative code of
35 the city of New York is amended to read as follows:

36 f. Any member of such fund who is on leave of absence from the fire
37 department for military duty as defined in sections two hundred forty-
38 two and two hundred forty-three of the military law of the state of New
39 York shall continue to be a member of such fund during such military
40 duty. Upon his or her restoration to his or her position in the fire
41 department, there shall be deducted monthly from his or her salary and
42 paid to the New York fire department life insurance fund, such sum, as
43 will over a period of five years, equal the amount which he or she would
44 have been required to contribute if he or she had been continuously
45 employed in the fire department during such period of service, or any
46 part of such amount remaining unpaid at the date of such restoration. In
47 lieu of such deduction, however, such amount or any part thereof may be
48 paid by such member at any time or from time to time while in such
49 service, or, in a lump sum or by larger monthly deductions, after his or
50 her restoration to his or her position in the fire department, or by any
51 other method of deduction which will complete the payment of such amount
52 in a period less than five years from the date of such restoration. In
53 the event such member has failed or shall fail to complete full payment
54 of such amount of contributions remaining due and unpaid within the time
55 herein specified, there shall be deducted monthly from the salary of
56 such member or by any other method of deduction and paid to the New York

1 fire department life insurance fund within a period of eighteen months,
2 such sum as will equal the amount which he or she would have been
3 required to contribute if he or she had been continuously employed in
4 the fire department during such period of service, or any part of such
5 amount remaining unpaid, plus interest at the rate of two and one-half
6 per centum per annum computed from either five years after the date of
7 such restoration or January first, nineteen hundred fifty-three, which-
8 ever date is later. In case of death of any member during his or her
9 absence in such service or at any time prior to the full payment by him
10 or her of the contributions due and payable to such fund during his or
11 her absence, his or her beneficiary or beneficiaries or his or her
12 surviving spouse OR SURVIVING DOMESTIC PARTNER or legal representatives,
13 as the case may be, shall receive the sum required to be paid pursuant
14 to subdivision d or g of this section in the case of the death of an
15 active member, less the amount of such contributions remaining due and
16 unpaid.

17 S 29. Paragraphs 1, 2 and 3 of subdivision b of section 13-544 of the
18 administrative code of the city of New York are amended to read as
19 follows:

20 1. to the spouse OR DOMESTIC PARTNER, to continue until [death or
21 remarriage] THE SPOUSE DIES, REMARRIES OR ENTERS INTO A DOMESTIC PART-
22 NERSHIP WITHIN THE MEANING OF SUBDIVISION A OF SECTION 3-240 OF THIS
23 CODE, OR UNTIL THE DOMESTIC PARTNER DIES, MARRIES OR ENTERS INTO A
24 SUBSEQUENT DOMESTIC PARTNERSHIP WITHIN THE MEANING OF SUBDIVISION A OF
25 SECTION 3-240 OF THIS CODE; or

26 2. if there be no spouse OR DOMESTIC PARTNER, or if the spouse dies
27 [or], remarries OR ENTERS INTO A DOMESTIC PARTNERSHIP WITHIN THE MEANING
28 OF SUBDIVISION A OF SECTION 3-240 OF THIS CODE, OR THE DOMESTIC PARTNER
29 DIES, MARRIES OR ENTERS INTO A SUBSEQUENT DOMESTIC PARTNERSHIP WITHIN
30 THE MEANING OF SUBDIVISION A OF SECTION 3-240 OF THIS CODE before any
31 child of such deceased shall have attained the age of eighteen years,
32 then to the child or children under said age, divided in such manner as
33 the retirement board in its discretion shall determine, to continue as a
34 joint and survivor pension of one-half his or her final compensation
35 until every such child dies or attains said age; or

36 3. if there be no spouse, DOMESTIC PARTNER or child under the age of
37 eighteen years surviving such deceased, then to the dependent father or
38 mother, as the deceased shall have nominated by written designation
39 filed with the retirement board; or, if there be no such nomination,
40 then to the dependent father or to the dependent mother, as the retire-
41 ment board in its discretion shall direct, to continue for life.

42 S 30. Subdivision c of section 13-565 of the administrative code of
43 the city of New York is amended to read as follows:

44 c. If the survivor beneficiary nominated under option two, three or
45 four of section 13-558 of this chapter is a spouse OR DOMESTIC PARTNER
46 of the retired member, and, WHERE SUCH NOMINATED BENEFICIARY IS A SPOUSE
47 OF THE RETIRED MEMBER, such person by causes other than death ceases to
48 be his or her spouse or is separated from him or her, or if such option
49 was selected in contemplation of marriage which has not taken place, OR,
50 WHERE SUCH NOMINATED BENEFICIARY IS A DOMESTIC PARTNER OF THE RETIRED
51 MEMBER, SUCH PERSON BY CAUSES OTHER THAN DEATH CEASES TO BE HIS OR HER
52 DOMESTIC PARTNER PURSUANT TO APPLICABLE LAW, then the [board of esti-
53 mate] RETIREMENT BOARD shall have authority to permit the change of the
54 optional benefit to the maximum benefit that is the actuarial equivalent
55 by and with the consent of all parties.

1 S 31. Subdivision g of section 13-696 of the administrative code of
2 the city of New York, as added by chapter 125 of the laws of 2000, is
3 amended to read as follows:

4 g. Notwithstanding any other provision of law, the surviving spouse OR
5 SURVIVING DOMESTIC PARTNER of a deceased retired member of the New York
6 city employees' retirement system, the New York city teachers' retire-
7 ment system, the New York city police pension fund, the New York city
8 fire department pension fund or the New York city board of education
9 retirement system who retired under an option which provides that bene-
10 fits are to be continued for life to the surviving spouse OR SURVIVING
11 DOMESTIC PARTNER after the death of the member, shall be entitled to
12 receive a benefit pursuant to this section. Said benefit shall be fifty
13 percent of the monthly benefit which the pensioner would be receiving if
14 living, and shall commence WITH RESPECT TO A SURVIVING SPOUSE (i) with a
15 payment for the month of September, two thousand, or (ii) the month
16 following the death of the deceased retired member, whichever is later,
17 OR, WITH RESPECT TO A SURVIVING DOMESTIC PARTNER, SUCH BENEFIT SHALL
18 COMMENCE WITH A PAYMENT FOR THE LATER OF THE MONTH OF SEPTEMBER, TWO
19 THOUSAND NINE OR THE MONTH NEXT FOLLOWING THE DEATH OF THE DECEASED
20 RETIRED MEMBER.

21 S 32. Subdivision 7 of section 501 of the retirement and social secu-
22 rity law, as amended by chapter 408 of the laws of 2000, is amended to
23 read as follows:

24 7. "Eligible beneficiary" for the purposes of section five hundred
25 nine of this article shall mean the following persons or classes of
26 persons in the order set forth: (a) WITH RESPECT TO A DECEASED MEMBER OF
27 A PUBLIC RETIREMENT SYSTEM OF THE STATE OTHER THAN THE NEW YORK CITY
28 EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY TEACHERS' RETIREMENT
29 SYSTEM OR THE BOARD OF EDUCATION RETIREMENT SYSTEM OF THE CITY OF NEW
30 YORK a surviving spouse who has not renounced survivorship rights in a
31 separation agreement, until remarriage, OR, WITH RESPECT TO A DECEASED
32 MEMBER OF THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK
33 CITY TEACHERS' RETIREMENT SYSTEM OR THE BOARD OF EDUCATION RETIREMENT
34 SYSTEM OF THE CITY OF NEW YORK, A SURVIVING SPOUSE WHO HAS NOT RENOUNCED
35 SURVIVORSHIP RIGHTS IN A SEPARATION AGREEMENT, UNTIL THE SURVIVING
36 SPOUSE REMARRIES OR ENTERS INTO A DOMESTIC PARTNERSHIP WITHIN THE MEAN-
37 ING OF SUBDIVISION A OF SECTION 3-240 OF THE ADMINISTRATIVE CODE OF THE
38 CITY OF NEW YORK, OR A SURVIVING DOMESTIC PARTNER, AS DEFINED IN SUBDI-
39 VISION TWENTY-ONE OF SECTION 1-112 OF THE ADMINISTRATIVE CODE OF THE
40 CITY OF NEW YORK, UNTIL SUCH SURVIVING DOMESTIC PARTNER MARRIES OR
41 ENTERS INTO A SUBSEQUENT DOMESTIC PARTNERSHIP WITHIN THE MEANING OF
42 SUBDIVISION A OF SECTION 3-240 OF THE ADMINISTRATIVE CODE OF THE CITY OF
43 NEW YORK, (b) surviving children until age twenty-five, (c) dependent
44 parents, determined under regulations promulgated by the comptroller,
45 (d) any other person who qualified as a dependent on the final federal
46 income tax return of the member or the return filed in the year imme-
47 diately preceding the year of death, until such person reaches twenty-
48 one years of age and (e) with respect to members of the New York city
49 employees' retirement system and the board of education retirement
50 system of the city of New York, a person whom the member shall have
51 nominated in the form of a written designation, duly acknowledged and
52 filed with the head of the retirement system for the purpose of section
53 five hundred eight of this article. In the event that a class of eligi-
54 ble beneficiaries consists of more than one person, benefits shall be
55 divided equally among the persons in such class. For the purposes of
56 section five hundred eight the term "eligible beneficiary" shall mean

1 such person as the member shall have nominated to receive the benefits
2 provided in this article. To be effective, such a nomination must be in
3 the form of a written designation, duly acknowledged and filed with the
4 head of the retirement system for this specific purpose. In the event
5 such designated beneficiary does not survive him OR HER, or if he OR SHE
6 shall not have so designated a beneficiary, such benefits shall be paya-
7 ble to the deceased member's estate or as provided in section one thou-
8 sand three hundred ten of the surrogate's court procedure act.

9 S 33. Subdivision a of section 514 of the retirement and social secu-
10 rity law, as amended by chapter 592 of the laws of 1992, is amended to
11 read as follows:

12 a. 1. A member, or if he or she is an incompetent, the member's spouse
13 or the committee of such member's property, may elect to receive the
14 actuarial equivalent of the retirement allowance at the time of retire-
15 ment, in the form of a smaller retirement allowance payable to such
16 member for life and one of the following optional settlements:

17 Option one. Upon the member's death, a retirement allowance in an
18 amount equal to that paid to the member shall be paid for life to the
19 beneficiary so designated.

20 Option two. Upon the member's death, a retirement allowance of ninety
21 percent or less (measured in increments of not less than ten percent) of
22 the amount paid to such member shall be paid for life to the beneficiary
23 so designated.

24 Option three. A five-year certain option under which payment is made
25 to the member for life but is guaranteed for a minimum of five years
26 following retirement.

27 Option four. A ten-year certain option under which payment is made to
28 the member for life but is guaranteed for a minimum of ten years follow-
29 ing retirement.

30 Option five. Upon the member's death, a retirement allowance in an
31 amount equal to fifty percent or one hundred percent of that paid to the
32 member shall be paid for life to such person as he OR SHE shall nominate
33 by written designation duly acknowledged and filed with the retirement
34 system at the time of retirement. Upon the death, prior to the death of
35 the member, of said person so nominated, the member shall begin receiv-
36 ing, in lieu of the allowance then payable, an allowance equal in amount
37 to that which would have been payable if no optional modification of the
38 retirement allowance were in effect.

39 2. WITH RESPECT TO A MEMBER OF THE NEW YORK CITY EMPLOYEES' RETIREMENT
40 SYSTEM, THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE BOARD OF
41 EDUCATION RETIREMENT SYSTEM OF THE CITY OF NEW YORK WHO IS AN INCOMPE-
42 TENT, THE TERM "SPOUSE", AS USED IN PARAGRAPH ONE OF THIS SUBDIVISION,
43 SHALL BE DEEMED TO INCLUDE THE DOMESTIC PARTNER, AS DEFINED IN SUBDIVI-
44 SION TWENTY-ONE OF SECTION 1-112 OF THE ADMINISTRATIVE CODE OF THE CITY
45 OF NEW YORK, OF SUCH MEMBER FOR THE PURPOSE OF PERMITTING SUCH DOMESTIC
46 PARTNER TO SELECT AN OPTION ON BEHALF OF SUCH MEMBER PURSUANT TO THE
47 PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION.

48 S 34. Subdivision c of section 514 of the retirement and social secu-
49 rity law, as added by chapter 890 of the laws of 1976, is amended to
50 read as follows:

51 c. No option hereunder shall be permitted whereby the member would
52 receive less than fifty percent of the pension reserve during such
53 member's life expectancy. Provided, however, the preceding sentence
54 shall not apply if the surviving beneficiary is the member's spouse, OR
55 IF THE SURVIVING BENEFICIARY IS THE DOMESTIC PARTNER, AS DEFINED IN
56 SUBDIVISION TWENTY-ONE OF SECTION 1-112 OF THE ADMINISTRATIVE CODE OF

1 THE CITY OF NEW YORK, OF A MEMBER OF THE NEW YORK CITY EMPLOYEES'
2 RETIREMENT SYSTEM, THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE
3 BOARD OF EDUCATION RETIREMENT SYSTEM OF THE CITY OF NEW YORK.

4 S 35. Paragraph 1 of subdivision d of section 601 of the retirement
5 and social security law, as amended by chapter 408 of the laws of 2000,
6 is amended to read as follows:

7 1. [A] WITH RESPECT TO A DECEASED MEMBER OF A PUBLIC RETIREMENT SYSTEM
8 OF THE STATE OTHER THAN THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM,
9 THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE BOARD OF EDUCATION
10 RETIREMENT SYSTEM OF THE CITY OF NEW YORK, A surviving spouse who has
11 not renounced survivorship rights in a separation agreement, until
12 remarriage, OR, WITH RESPECT TO A DECEASED MEMBER OF THE NEW YORK CITY
13 EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY TEACHERS' RETIREMENT
14 SYSTEM OR THE BOARD OF EDUCATION RETIREMENT SYSTEM OF THE CITY OF NEW
15 YORK, A SURVIVING SPOUSE WHO HAS NOT RENOUNCED SURVIVORSHIP RIGHTS IN A
16 SEPARATION AGREEMENT UNTIL THE SURVIVING SPOUSE REMARRIES OR ENTERS INTO
17 A DOMESTIC PARTNERSHIP WITHIN THE MEANING OF SUBDIVISION A OF SECTION
18 3-240 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, OR A SURVIVING
19 DOMESTIC PARTNER, AS DEFINED IN SUBDIVISION TWENTY-ONE OF SECTION 1-112
20 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, UNTIL SUCH SURVIVING
21 DOMESTIC PARTNER MARRIES OR ENTERS INTO A SUBSEQUENT DOMESTIC PARTNER-
22 SHIP WITHIN THE MEANING OF SUBDIVISION A OF SECTION 3-240 OF THE ADMIN-
23 ISTRATIVE CODE OF THE CITY OF NEW YORK;

24 S 36. Subdivision b of section 610 of the retirement and social secu-
25 rity law, as added by chapter 414 of the laws of 1983, is amended to
26 read as follows:

27 b. No option hereunder shall be permitted whereby the member would
28 receive less than fifty percent of the actuarial equivalent of the
29 retirement allowance without optional modification during such member's
30 life expectancy. Provided, however, the preceding sentence shall not
31 apply if the surviving beneficiary is the member's spouse, OR IF THE
32 SURVIVING BENEFICIARY IS THE DOMESTIC PARTNER, AS DEFINED IN SUBDIVISION
33 TWENTY-ONE OF SECTION 1-112 OF THE ADMINISTRATIVE CODE OF THE CITY OF
34 NEW YORK, OF A MEMBER OF THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM,
35 THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE BOARD OF EDUCATION
36 RETIREMENT SYSTEM OF THE CITY OF NEW YORK.

37 S 37. Section 2575 of the education law is amended by adding a new
38 subdivision 26 to read as follows:

39 26. (A) FOR THE PURPOSES OF THIS SUBDIVISION, THE TERMS "BOARD OF
40 EDUCATION RETIREMENT SYSTEM" AND "RULES AND REGULATIONS" SHALL HAVE THE
41 MEANINGS SET FORTH IN SUBPARAGRAPHS TWO AND FOUR, RESPECTIVELY, OF PARA-
42 GRAPH (A) OF SUBDIVISION EIGHTEEN OF THIS SECTION.

43 (B) FOR THE PURPOSES OF SECTION TWENTY-ONE OF THE RULES AND REGU-
44 LATIONS, WHERE ALL REQUIREMENTS HAVE BEEN MET FOR THE PAYMENT OF AN
45 ACCIDENTAL DEATH PENSION PURSUANT TO SUCH SECTION TWENTY-ONE BASED ON
46 THE DEATH OF A MEMBER OF THE BOARD OF EDUCATION RETIREMENT SYSTEM TO
47 WHICH SUCH SECTION TWENTY-ONE IS OTHERWISE APPLICABLE, THE TERM "WIDOW",
48 AS USED IN SECTION TWENTY-ONE OF THE RULES AND REGULATIONS, SHALL BE
49 DEEMED TO INCLUDE THE SURVIVING DOMESTIC PARTNER, AS DEFINED IN SUBDIVI-
50 SION TWENTY-ONE OF SECTION 1-112 OF THE ADMINISTRATIVE CODE OF THE CITY
51 OF NEW YORK, OF SUCH MEMBER, AND ANY ACCIDENTAL DEATH PENSION PAYMENTS
52 TO A SURVIVING DOMESTIC PARTNER PURSUANT TO SUCH SECTION TWENTY-ONE
53 SHALL CONTINUE UNTIL THE SURVIVING DOMESTIC PARTNER DIES, MARRIES OR
54 ENTERS INTO A SUBSEQUENT DOMESTIC PARTNERSHIP WITHIN THE MEANING OF
55 SUBDIVISION A OF SECTION 3-240 OF THE ADMINISTRATIVE CODE OF THE CITY OF
56 NEW YORK, AND UPON THE CESSATION OF SUCH ACCIDENTAL DEATH PENSION

1 PAYMENTS TO THE SURVIVING DOMESTIC PARTNER, THE OTHERWISE APPLICABLE
 2 PROVISIONS OF SECTION TWENTY-ONE OF THE RULES AND REGULATIONS SHALL
 3 GOVERN.

4 (C) WHERE AN ACCIDENTAL DEATH PENSION IS OTHERWISE PAYABLE PURSUANT TO
 5 SECTION TWENTY-ONE OF THE RULES AND REGULATIONS TO A SURVIVING SPOUSE OF
 6 A DECEASED MEMBER OF THE BOARD OF EDUCATION RETIREMENT SYSTEM, SUCH
 7 ACCIDENTAL DEATH PENSION PAYMENTS SHALL CONTINUE UNTIL THE SURVIVING
 8 SPOUSE DIES, REMARRIES OR ENTERS INTO A DOMESTIC PARTNERSHIP WITHIN THE
 9 MEANING OF SUBDIVISION A OF SECTION 3-240 OF THE ADMINISTRATIVE CODE OF
 10 THE CITY OF NEW YORK, AND UPON THE CESSATION OF SUCH ACCIDENTAL DEATH
 11 PENSION PAYMENTS TO THE SURVIVING SPOUSE, THE OTHERWISE APPLICABLE
 12 PROVISIONS OF SECTION TWENTY-ONE OF THE RULES AND REGULATIONS SHALL
 13 GOVERN.

14 (D) FOR THE PURPOSES OF SECTION TWENTY-THREE OF THE RULES AND REGU-
 15 LATIONS, WITH RESPECT TO A MEMBER OF THE BOARD OF EDUCATION RETIREMENT
 16 SYSTEM TO WHICH SUCH SECTION TWENTY-THREE IS OTHERWISE APPLICABLE, THE
 17 TERMS "HUSBAND" AND "WIFE", AS USED IN SECTION TWENTY-THREE OF THE RULES
 18 AND REGULATIONS, SHALL BE DEEMED TO INCLUDE THE DOMESTIC PARTNER, AS
 19 DEFINED IN SUBDIVISION TWENTY-ONE OF SECTION 1-112 OF THE ADMINISTRATIVE
 20 CODE OF THE CITY OF NEW YORK, OF SUCH MEMBER.

21 S 38. This act shall take effect immediately; provided that the amend-
 22 ments made by sections three, six, seven, ten, eleven, thirteen,
 23 sixteen, seventeen, eighteen, nineteen, twenty, twenty-four, twenty-sev-
 24 en, twenty-eight, twenty-nine, thirty-two, thirty-five and thirty-seven
 25 of this act shall be applicable to the death of any member which occurs
 26 on or after the effective date of this act.

FISCAL NOTE.--PROVISIONS OF LEGISLATION: This proposed legislation
 would amend many sections of the Administrative Code of the City of New
 York ("ACNY"), several sections of the Retirement and Social Security
 Law ("RSSL"), add a new Subdivision 26 to Section 2575 of the Education
 Law ("Ed Law") and add a new Subdivision j to Section 208-f of the
 General Municipal Law ("GML") to establish the rights and benefits for
 certain domestic partners (hereafter referred to as "DPs" and, in
 accordance with the definition of DP set forth in the proposed legis-
 lation, covering more than just registered DPs) of members of the New
 York City Retirement Systems ("NYCRS").{1}

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

SECTIONS OF LAW BEING AMENDED: If enacted, the proposed legislation
 would establish rights and benefits for DPs in the following sections of
 law:

NYCRS GROUPS IMPACTED

NYCRS All
 NYCERS (Tiers I, II)

NYCRS (Tiers I, II)
 POLICE (All Tiers)

FIRE (All Tiers)

Fire Life Insurance Fund

LAW PROVISIONS MODIFIED

ACNY SECTION CHANGES

1-112.21, 3-240.a
 13-101.67, 13-149.a,
 13-149.b, 13-177,
 13-184 (All Tiers)
 12-125
 13-244, 13-253, 13-261.a,
 13-261.2, 13-261.3, 13-267
 13-347.c, 13-355, 13-355.b,
 13-355.c, 13-369.a, 13-369.d,
 13-369.1, 13-370.a, 13-370.e,
 13-370.1, 13-379
 13-380.d, 13-380.f

NYCTRS (Tiers I, II)
NYCRS (All Tiers)

13-544.b, 13-565.c
13-696.g
RSSL SECTION CHANGES

NYCERS, NYCTRS, BERS
(Tier III)
(Tier IV)

501.7, 514.a, 514.c
601.d, 610.b
ED LAW SECTION CHANGE
2575.26
GML SECTION CHANGE
208-f.j

BERS (All Tiers)

NYCERS, POLICE, FIRE

DEFINITION OF DOMESTIC PARTNER: With respect to the NYCERS provisions which are based on the ACNY, the specific details defining and setting out the limits of DP relationships in Sections 1-112.21 and 3-240 are as follows:

ACNY SECTION 1-112.21

A DP is a person who, with respect to another person:

* Is formerly a party in a domestic partnership or similar relationship and is registered as a domestic partnership pursuant to:

** ACNY Section 3-240, or

** In accordance with Executive Order Number 123 dated August 7, 1989 ("Exec0-89"), or

** In accordance with Executive Order Number 48 dated January 7, 1993 ("Exec0-93"), or

* Is formally recognized as a beneficiary or covered person under the other person's employment benefits or health insurance, or

* Is dependent or mutually interdependent on the other person for support, as evidenced by the totality of the circumstances indicating a mutual intent to be DPs including but not limited to: common ownership or joint leasing of real or personal property, common householding, shared income or shared expenses, children in common, signs of intent to marry or become domestic partners according to the definitions above.

ACNY SECTION 3-240.A

ACNY Section 3-240.a promulgated under New York City (the "City") Local Law 27 of the Laws of 1998 (as amended in Calendar Year 2002) further defines DP, who qualifies as a registered DP, confidentiality of DP information, issuance of City Clerk DP Certification and special DP situations.

* DP DEFINITION

In addition to DPs who register under Exec0-89 and Exec0-93, DPs include relationships entered into in jurisdictions other than New York State ("NYS") which are not recognized by NYS, as follows:

**Members of a marriage,

**Domestic partners, and

**Members of a civil union.

* CONDITIONS TO BE REGISTERED AS A DP

All of the following conditions need to be satisfied to be registered:

1. Both persons are either: NYS residents or one person is employed by the City,

2. Both persons are at least 18,

3. Neither of the persons is married,

4. Neither person is in another DP relationship or has been in another DP relationship within the 6 months before current registration,

5. Neither person is related by blood that would otherwise bar marriage in NYS (as stipulated in Section 502-6 of the NYS Domestic Relations Law),

6. The persons have a close and committed relationship, live together and have been living together on a continuous basis, and

7. Both persons must register in person together by executing an affidavit to be submitted to the City Clerk which will be maintained in a registry (excepting if one person is in prison, in a hospital or unable to travel due to disability which will require whatever substantiations as deemed necessary by the City Clerk).

* TERMINATION - DP RELATIONSHIP

A DP relationship is deemed to be terminated:

If one of the DPs files a termination statement with the City Clerk that is signed by both DPs. If only signed by one DP, the other DP must be notified of such termination by a registered letter with a return receipt requested, or

If one of the DPs marries.

* ISSUANCE OF DP CERTIFICATE OR DP REGISTRATION

The City Clerk will issue a certificate of DP registration ("C-DPR") provided the applicants meet the requirements. Such C-DPR will constitute proof of DP registration for:

- ** Leave of Absence from the City for bereavement or child care,
- ** Visitation at City Correctional and juvenile facilities,
- ** Visitation at City Health and Hospital facilities,
- ** Eligibility to qualify as a family member to an existing tenancy as a permanent resident,
- ** Eligibility to qualify as a family member to succeed in tenancy or occupancy in buildings supervised or under jurisdiction of the Department of Housing Preservation and Development,
- ** Eligibility for City health benefits available to City employees and retirees, or
- ** Any other rights or benefits established pursuant to applicable law.

IMPACT ON BENEFITS: Currently, DPs for other than being a named beneficiary of a NYCERS member do not have any special entitlement or rights under the NYCERS.

With respect to the NYCERS, if the proposed legislation were enacted, the following rights, benefits are/or options would be made available to DPs (Law Sections changed relate to the specific NYCERS as noted above):

RIGHT TO CHANGE OPTION (ACNY: 12-125, 13-261.3, 13-369.1, 13-370.1, 13-565.c)

If a NYCERS (except BERS) Tier I or Tier II retiree nominates a DP as a joint and survivor beneficiary under Option 2, Option 3 or Option 4, then if such DP ceases to retain such relationship with the retiree for reasons other than death, then the applicable NYCERS Board of Trustees or Retirement Board would be permitted to change the benefit back to the maximum benefit with the consent of all parties.

INCLUDE DP IN CERTAIN DEFINITIONS

With respect to the terminology used in the ACNY, Ed Law, GML and RSSL, DP is supposed to be included in the following definitions:

"Authorized Representative" - ACNY: 13-101

"Eligible Beneficiary" - RSSL: 501.7, 601.d

"Spouse" - RSSL: 514.a

"Surviving Beneficiary" - RSSL: 514.c, 610.b

"Widow," "Widower," "Husband/Wife" - Ed Law: 2575.26, GML 208-f.j

ACCIDENTAL DEATH BENEFIT ("ADB") (ACNY: 13-149, 13-244, 13-347, 13-544.b, Ed Law: 2575.26)

Upon the death of a Tier I or Tier II NYCERS member which is determined to have been accidental and in the Line-of-Duty{2} ("LOD"), DPs would

become eligible to receive the ADB of the Increased-Take-Home-Pay ("ITHP") plus a pension of 50% of the member's final compensation (as limited in Tier II positions under RSSL Section 443) payable until death, marriage or entering into another DP relationship (except in POLICE and FIRE).

Also, in certain NYCERS the surviving spouse ADB pension would be amended to also not be payable if such surviving spouse entered into a DP relationship.

Such DP ADB would precede any ADB that would have otherwise been payable to the deceased member's children or dependent parents.

Thus, the ADB pension benefits otherwise payable to:

- * Eligible surviving children under age 18 (if there were no eligible surviving spouses),

- * Surviving dependent parents (if there were no surviving spouse or eligible children under age 18), or

- * The designated person duly elected or named by written election (if there were no surviving spouse, no eligible children under age 18, and no dependent parents)

could only become payable if there were no surviving DP.

SPECIAL ACCIDENTAL DEATH BENEFIT ("SADB") (GML: 208-f.j)

The NYS SADB for those eligible NYCERS members who die in the LOD would become payable to DPs (who are in receipt of a City ADB) for life provided at the time of the member's death.

Because of the precedence of existing law, the payability of the NYS SADB to a DP may be contingent on there being no surviving spouses or eligible surviving children under age 18 (students under age 23).

ELIGIBILITY FOR RETIREMENT OPTION (ACNY: 13-101, 13-177, 13-261.a, 13-369.a, 13-370)

The DP is eligible to receive the Tier I or Tier II NYCERS (except BERS) member's retirement allowance in the event the member becomes incompetent prior to the first monthly payment being made. The DP can elect a respective actuarial equivalent form of payment from among four options.

Additionally, the Tier I or Tier II NYCERS (except BERS) member can elect to have the DP as a beneficiary under each of the options available.

EXCEPTION TO OPTION RESTRICTION (RSSL: 514.c, 610.b)

No option shall be permitted whereby the member would receive less than fifty percent of the pension reserve during the member's life expectancy. This statement will not apply if the surviving beneficiary is a spouse or DP of a Tier III or Tier IV member of NYCERS, TRS or BERS.

LIMITATION OF OTHER CITY-PROVIDED BENEFITS (ACNY: 13-184, 13-267, 13-379)

No other laws which provide for pensions at the expense (in part or in total) of the City would apply to the benefits payable to a member's DP under a specific NYCERS.

Nothing prevents a member after retirement from a particular NYCERS from earning another benefit from a different NYCERS and provide such benefit to his/her DP.

DEPENDENT DEATH BENEFIT (ACNY: 13-253, 13-355, 13-355.b, 13-355.c)

A DP would become eligible for a \$600 (elected by the member) annual death benefit from POLICE or FIRE. Such amount is subject to adjustment by the Board of Trustees, if there are other eligible recipients such as surviving children under 18 or dependent parents.

Such DP \$600 benefit would cease on death, marriage or new DP relationship. For surviving spouses who would be eligible if there were no other eligible recipients, the \$600 benefit would cease on death, marriage or entrance into a DP relationship.

30-DAY OPTION ELECTION FOR DEATH AFTER FILING FOR DISABILITY RETIREMENT (ACNY: 13-261.2, 13-370.e)

If a POLICE or FIRE member, otherwise eligible for Ordinary Disability Retirement or Accidental Disability Retirement, dies within 30 days of having filed for such retirement and such disability was directly related to such member's death, the surviving DP would have 30 days from the date of receipt of Board of Trustees notification to elect an optional mode of payout.

COVERAGE FOR COLA PAYMENTS (ACNY: 13-696.g)

With respect to the payment of the Cost-of-Living Adjustment ("COLA"), DPs, as of a member's retirement date, would be considered as surviving spouses for recipients of ADB and as eligible surviving spouse beneficiaries of deceased retirees whose retirement allowance were payable on a joint and survivor option. As such, any COLA that would otherwise be payable to the surviving spouse would first become payable to DPs beginning September 2010.

FIRE LIFE INSURANCE FUND (ACNY: 13-380.d, 13-380.f)

A DP could become the recipient of Fire Life Insurance Fund ("FLIF") benefits payable upon the death of the active or retired FIRE member.

Any FLIF benefits payable to a DP would be reduced for any unpaid member FLIF premiums.

DP PROVISIONS VALUED IN FISCAL NOTE: With respect to the changes in benefits and provisions noted above, this Fiscal Note limits the development of additional costs to the provisions which govern the additional City ADB and Spousal COLA benefits payable to DPs.

ADDITIONAL ACTUARIAL PRESENT VALUE OF BENEFITS AND EMPLOYER COSTS: Insofar as this proposed legislation relates to the NYCERS, the additional Actuarial Present Values of Benefits ("APVB") cannot be readily determined. It would depend on the number, salaries, ages, lengths of service and ages at death of members and the survivorship of their DP beneficiaries who will be affected by this proposed legislation.

However, based upon the actuarial assumptions used for this Fiscal Note, and taking into account those benefits that were valued as described in this Fiscal Note, the enactment of this proposed legislation would increase the APVB for the NYCERS, which, if funded over the future working lifetimes of NYCERS members, would result in increased annualized costs, as follows:

Table 1

Estimated Financial Impact to Establish Rights and Benefits
for Certain Domestic Partners of NYCERS Members

(\$ Thousands)

Retirement System or Pension Fund	Increase In APVB*	Estimated First Year Additional Employer Cost**
NYCERS	\$ 6,642	\$ 864
NYCTRS	2,319	234

BERS	356	45
POLICE	626	86
FIRE	829	95
Total	<u>\$10,772</u>	<u>\$1,324</u>

* As of June 30, 2008 based on the actuarial assumptions as noted herein.

** Effective Fiscal Year 2010 if enacted and signed by the Governor on or before June 30, 2010.

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

FINANCIAL IMPACT - ADDITIONAL EMPLOYER CONTRIBUTIONS - FISCAL YEARS 2010 AND LATER: If this proposed legislation were enacted during the current Legislative Session on or before June 30, 2010, the Actuary's revised actuarial assumptions and methods reflecting probabilities of payment of Accidental Death noted herein were in effect, then the enactment of this proposed legislation would increase annual employer costs to the NYCERS beginning Fiscal Year 2010.

If the Actuary's revisions in these actuarial assumptions are delayed, then increased employer contributions to the NYCERS are first impacted by the actuarial experience losses recognized during the Fiscal Year following the death of NYCERS members where payments continue to a DP.

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

* First, the point in time when the Actuary revises actuarial assumptions to reflect that certain active members and retired members who now would be expected to leave to their beneficiaries the payment of Accidental Death Benefits, would in the future be leaving these same death benefits to their respective DPs.

* Second, the point in time at which the Actuary revises actuarial assumptions to reflect possible, further, increased expectations for the payment of Spousal COLA benefits to DPs.

* Third, the impact on employer contributions of any actuarial gains or losses attributable to additional Accidental Death Benefits and the additional payment of Spousal COLA benefits to DPs.

UNMEASURED ADDITIONAL COSTS: The additional APVB and employer contributions attributable to additional Accidental Death Benefits and Spousal COLA Benefits shown herein are based on data described in the CENSUS DATA section of this Fiscal Note using the actuarial assumptions and methods as noted herein.

Additional APVB and employer contributions attributable to any other additional benefits payable/available described in the IMPACT ON BENEFITS section other than ADB and Spousal COLA benefits to DPs have not been estimated.

No estimate has been made of the cost impact to the State of New York for the payment of Special Accidental Death Benefits that may become payable to DPs.

In addition, no estimate has been made for potential increased medical benefits, administrative or other costs.

CENSUS DATA: The census data used in these calculations are based on the active and retired members included in the June 30, 2008 actuarial valuations of the NYCERS.

ACTUARIAL ASSUMPTIONS AND METHODS: The actuarial assumptions and methods used to determine additional APVB and additional employer contributions are the actuarial methods used in the June 30, 2008 (Lag) actuarial valuations of the NYCERS for use in determining Fiscal Year 2010 employer contributions.

With respect to the current actuarial assumptions used to determine ongoing employer contributions, the Actuary assumes that 100% of the members are married.

For purposes of estimating the coverage of DPs for certain benefit rights in this Fiscal Note, it was first necessary to break down the group of active members into different categories.

It was assumed that 60% of members are married with a surviving spouse and ADB eligible children, 15% of members are married with no ADB eligible children to collect benefits, 5% of members are married with no spouse but have ADB eligible children and the balance, or 20% of members, have no spouse or ADB eligible children.

From the groups representing 5% of members with ADB eligible children only and the 20% of members without eligible spouse or ADB eligible children, it was assumed that 40% such members would have DPs (i.e., 2% of members with ADB eligible children only and 8% of members who have no spouse or ADB eligible children).

For the profile of DPs relative to the members, it was assumed that 75% would be of the opposite sex to the member where males are assumed to be 3 years older relative to females. For the 25% of members with the same sex DPs, it was assumed that member and DP were the same age.

In order to determine the increase in APVB, it was necessary to develop a new baseline of liabilities which takes into account the creation of different categories of active members as noted above from the current 100% assumed married assumption.

For members who die before attainment of age 37 with surviving spouses and ADB eligible children, it was assumed that the ADB would be guaranteed to be paid for at least 25 years and then there would be a continuing annuity for the balance of the surviving spouse's lifetime after 25 years.

For members who die on and after attainment of age 37 with spouse and ADB eligible children, it was assumed that the ADB would be paid for the greater of the lifetime of the spouse or for a guaranteed number of years equal to the number of years between a member's age at death and age 62.

For the 5% of members with no surviving spouse but with ADB eligible children, it was assumed that for members dying before attainment of age 37, the ADB would be paid on a term certain basis for 25 years. For members dying on and after attainment of age 37, the ADB would be paid on a term certain basis until the year the member would have attained age 62. Thus, any member in this category who dies after age 62 was assumed to provide no ADB.

Because the number of Tier I and Tier II NYCERS members who could possibly benefit for DP ADB was minimal, no additional liabilities for such benefits were developed with respect to these members.

In order to develop the impact of DPs on the Spousal COLA benefits that would become payable, it was necessary to assess the different situations in which such benefit would become payable (i.e., for the

surviving spouse under an optional mode of payout based on a joint survivor contingency elected at point of retirement).

Such joint and survivor ("J & S") contingencies are available at Service Retirement ("SR"), Ordinary Disability Retirement ("ODR") and Accidental Disability Retirement ("ADR"). For each NYCERS the following percentages represent the elections of all existing retirees as of June 30, 2004 who chose joint and survivor option coverage:

Percentage of NYCERS Members Who Elect Joint and Survivor Coverage at Different Types of Retirement										
Type of Retirement	NYCERS M*	F*	NYCTRS M*	F*	BERS M*	F*	POLICE M*	F*	FIRE M*	F*
Service	36%	5%	51%	20%	55%	5%	8%	2%	4%	0%
Ordinary Disability	5%	5%	25%	11%	39%	8%	5%	**	5%	0%
Accidental Disability	10%	4%	47%	17%	46%	8%	7%	**	6%	0%

* M - retired members who are male, F - retired members who are female.

** Percentage less than 1%.

By utilizing the assumptions for the percentage of benefits at each type of retirement payable in the form of J & S annuities, 5% of those electing J & S forms of benefit are assumed to be payable upon death of the retirement member to his elected DP. Then, surviving DPs would be eligible for the Spousal COLA benefits upon the death of the retired member.

Additional annual employer costs have been estimated assuming the additional APVB are financed through future normal contributions under the Actuary's One-Year Lag methodology.

With respect to the age and mortality of DP beneficiaries for measuring APVB and employer cost in this Fiscal Note, it was assumed that the ages of the DP would be 3 years older for males relative to females except in NYCTRS where they were assumed to be the same age.

The DP beneficiary mortality was generally taken from the NYCERS Clerks mortality tables. However, for NYCTRS beneficiaries, mortality was based on the NYCTRS mortality tables.

For purposes of developing the APVB and employer costs for Fiscal Year 2010, it was assumed that the percentage of liabilities representing the increase in APVB for each NYCERS originally established as of June 30, 2004 would remain the same.

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 2010 Legislative Session. It is Fiscal Note 2010-10, dated March 24, 2010, 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 City Fire Pension Fund.

- {1} 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")
- New York City Fire Pension Fund ("FIRE")

{2} This includes instances where such active member was deemed to have died in the LOD while on active duty for other than training purposes with the US armed forces on or after June 19, 2005.