

5558

2011-2012 Regular Sessions

I N S E N A T E

June 1, 2011

Introduced by Sen. BALL -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, the general municipal law, the education law, the administrative code of the city of New York and the civil service law, in relation to providing death benefits and health insurance coverage to eligible survivors of public employees who die while ordered to service in the uniformed services

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

1 Section 1. The closing paragraph of subdivision a of section 60 of the
2 retirement and social security law, as added by chapter 105 of the laws
3 of 2005, is amended to read as follows:
4 Notwithstanding the provisions of any other law to the contrary and
5 solely for the purpose of determining eligibility for an ordinary death
6 benefit and/or guaranteed ordinary death benefit, a member shall be
7 considered to have died while in service upon which his or her member-
8 ship was based provided such member was on the payroll in the service
9 upon which membership is based at the time he or she was ordered to
10 active duty[, other than for training purposes,] pursuant to Title 10 of
11 the United States Code, with the armed forces of the United States OR TO
12 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
13 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
14 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
15 the laws of two thousand five which added this paragraph] JUNE FOUR-
16 TEENTH, TWO THOUSAND FIVE. Provided, further, that any such member
17 ordered to such active duty with the armed forces of the United States
18 OR IN SERVICE IN THE UNIFORMED SERVICES who died prior to rendering the
19 minimum amount of service necessary to be eligible for this benefit
20 shall be considered to have satisfied the minimum service requirement.

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

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1 S 2. Subparagraph (b) of paragraph 3 of subdivision f of section 60 of
2 the retirement and social security law, as amended by chapter 105 of the
3 laws of 2005, is amended to read as follows:

4 (b) the term "death in service" shall include the death of such a
5 member who dies while off the payroll provided he or she (i) was on the
6 payroll in such service and paid within a period of twelve months prior
7 to his or her death, or was on the payroll in the service upon which
8 membership is based at the time he or she was ordered to active duty[,
9 other than for training purposes,] pursuant to Title 10 of the United
10 States Code, with the armed forces of the United States OR TO SERVICE IN
11 THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
12 STATES CODE and died while on such active duty OR SERVICE IN THE
13 UNIFORMED SERVICES on or after [the effective date of the chapter of the
14 laws of two thousand five which amended this subparagraph] JUNE FOUR-
15 TEENTH, TWO THOUSAND FIVE, (ii) had not been otherwise gainfully
16 employed since he or she ceased to be on such payroll and (iii) had
17 credit for one or more years of continuous service since he last entered
18 or reentered the service of his or her employer. Provided, further,
19 that any such member ordered to active duty[, other than for training
20 purposes,] pursuant to Title 10 of the United States Code, with the
21 armed forces of the United States OR TO SERVICE IN THE UNIFORMED
22 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
23 who died prior to rendering the minimum amount of service necessary to
24 be eligible for this benefit shall be considered to have satisfied the
25 minimum service requirement.

26 S 3. Subdivision c of section 60-a of the retirement and social secu-
27 rity law, as amended by chapter 105 of the laws of 2005, is amended to
28 read as follows:

29 c. For the purposes of this section an employee who dies while off the
30 payroll shall be considered to be in service provided he or she (1) was
31 on the payroll in such service and paid within a period of twelve months
32 prior to his or her death, or was on the payroll in the service upon
33 which membership is based at the time he or she was ordered to active
34 duty[, other than for training purposes,] pursuant to Title 10 of the
35 United States Code, with the armed forces of the United States OR TO
36 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
37 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
38 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
39 the laws of two thousand five which amended this subdivision] JUNE FOUR-
40 TEENTH, TWO THOUSAND FIVE, (2) had not been otherwise gainfully employed
41 since he or she ceased to be on such payroll and (3) had credit for at
42 least one year of continuous service since he or she last entered or
43 reentered the service of his or her employer. Provided, further, that
44 any such member ordered to active duty[, other than for training
45 purposes,] pursuant to Title 10 of the United States Code, with the
46 armed forces of the United States OR TO SERVICE IN THE UNIFORMED
47 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
48 who died prior to rendering the minimum amount of service necessary to
49 be eligible for this benefit shall be considered to have satisfied the
50 minimum service requirement.

51 S 4. Subdivision (a) of section 60-b of the retirement and social
52 security law, as amended by chapter 105 of the laws of 2005, is amended
53 to read as follows:

54 (a) Pursuant to the provisions of section thirty-three of this arti-
55 cle, a participating employer may elect to provide a guaranteed ordinary
56 death benefit upon the death in service of its employees who (i) meet

1 all the requirements of section sixty of this article except that
2 contained in paragraph three of subdivision (a) thereof, and (ii) last
3 entered or reentered the employ of a participating employer prior to
4 April first, nineteen hundred eighty-five, and were in such employ on
5 March thirty-first, nineteen hundred eighty-five, and (iii) last joined
6 or rejoined a public retirement system of the state or a municipality
7 thereof before July first, nineteen hundred seventy-three, and (iv) had
8 not attained age sixty at the date of such entrance into such service,
9 and (v) had rendered ninety or more days of continuous service in the
10 service of such participating employer during the fifteen month period
11 immediately preceding death. For the purposes of this section an employ-
12 ee who dies while off the payroll shall be considered to be in service
13 provided he or she (1) was on the payroll in such service and paid with-
14 in a period of twelve months prior to his or her death, or was on the
15 payroll in the service upon which membership is based at the time he or
16 she was ordered to active duty[, other than for training purposes,]
17 pursuant to Title 10 of the United States Code, with the armed forces of
18 the United States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO
19 CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE and died while on such
20 active duty OR SERVICE IN THE UNIFORMED SERVICES on or after [the effec-
21 tive date of the chapter of the laws of two thousand five which amended
22 this subdivision] JUNE FOURTEENTH, TWO THOUSAND FIVE, (2) had not been
23 otherwise gainfully employed since he or she ceased to be on such
24 payroll and (3) had credit for one or more years of continuous service
25 since he or she last entered or reentered the service of his or her
26 employer. Provided, further, that any such member ordered to active
27 duty[, other than for training purposes,] pursuant to Title 10 of the
28 United States Code, with the armed forces of the United States OR TO
29 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
30 THE UNITED STATES CODE who died prior to rendering the minimum amount of
31 service necessary to be eligible for this benefit shall be considered to
32 have satisfied the minimum service requirement.

33 S 5. The closing paragraph of subdivision a of section 61 of the
34 retirement and social security law, as added by chapter 105 of the laws
35 of 2005, is amended to read as follows:

36 Notwithstanding the provisions of section two hundred forty-two, two
37 hundred forty-three or two hundred forty-four of the military law or the
38 provisions of any other law to the contrary and solely for the purpose
39 of determining eligibility for an accidental death benefit, a member
40 shall be considered to have died as the natural and proximate result of
41 an accident sustained in the performance of duty provided such member
42 was on the payroll in the service upon which membership is based at the
43 time he or she was ordered to active duty[, other than for training
44 purposes,] pursuant to Title 10 of the United States Code, with the
45 armed forces of the United States OR TO SERVICE IN THE UNIFORMED
46 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
47 and died while on such active duty OR IN SERVICE IN THE UNIFORMED
48 SERVICES on or after [the effective date of the chapter of the laws of
49 two thousand five which added this paragraph] JUNE FOURTEENTH, TWO THOU-
50 SAND FIVE.

51 S 6. The closing paragraph of subdivision a of section 360 of the
52 retirement and social security law, as added by chapter 105 of the laws
53 of 2005, is amended to read as follows:

54 Notwithstanding the provisions of any other law to the contrary and
55 solely for the purpose of determining eligibility for an ordinary death
56 benefit and/or guaranteed ordinary death benefit, a member shall be

1 considered to have died while in service upon which his or her member-
2 ship was based provided such member was on the payroll in the service
3 upon which membership is based at the time he or she was ordered to
4 active duty[, other than for training purposes,] pursuant to Title 10 of
5 the United States Code, with the armed forces of the United States OR TO
6 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
7 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
8 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
9 the laws of two thousand five which added this paragraph] JUNE FOUR-
10 TEENTH, TWO THOUSAND FIVE. Provided, further, that any such member
11 ordered to active duty with the armed forces of the United States OR TO
12 SERVICE IN THE UNIFORMED SERVICES who died prior to rendering the mini-
13 mum amount of service necessary to be eligible for this benefit shall be
14 considered to have satisfied the minimum service requirement.

15 S 7. Subparagraph (b) of paragraph 3 of subdivision g of section 360
16 of the retirement and social security law, as amended by chapter 105 of
17 the laws of 2005, is amended to read as follows:

18 (b) the term "death in service" shall include the death of such a
19 member who dies while off the payroll provided he or she (i) was on the
20 payroll in such service and paid within a period of twelve months prior
21 to his or her death, or was on the payroll in the service upon which
22 membership is based at the time he or she was ordered to active duty[,
23 other than for training purposes,] pursuant to Title 10 of the United
24 States Code, with the armed forces of the United States OR TO SERVICE IN
25 THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
26 STATES CODE and died while on such active duty OR SERVICE IN THE
27 UNIFORMED SERVICES on or after [the effective date of the chapter of the
28 laws of two thousand five which amended this subparagraph] JUNE FOUR-
29 TEENTH, TWO THOUSAND FIVE, (ii) had not been otherwise gainfully
30 employed since he or she ceased to be on such payroll and (iii) had
31 credit for one or more years of continuous service since he or she last
32 entered or reentered the service of his or her employer. Provided,
33 further, that any such member ordered to active duty[, other than for
34 training purposes,] pursuant to Title 10 of the United States Code, with
35 the armed forces of the United States OR TO SERVICE IN THE UNIFORMED
36 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
37 who died prior to rendering the minimum amount of service necessary to
38 be eligible for this benefit shall be considered to have satisfied the
39 minimum service requirement.

40 S 8. Subdivision c of section 360-a of the retirement and social secu-
41 rity law, as amended by chapter 105 of the laws of 2005, is amended to
42 read as follows:

43 c. For the purposes of this section an employee who dies while off the
44 payroll shall be considered to be in service provided he or she (1) was
45 on the payroll in such service and paid within a period of twelve months
46 prior to his or her death, or was on the payroll in the service upon
47 which membership is based at the time he or she was ordered to active
48 duty[, other than for training purposes,] pursuant to Title 10 of the
49 United States Code, with the armed forces of the United States OR TO
50 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
51 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
52 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
53 the laws of two thousand five which amended this subdivision] JUNE FOUR-
54 TEENTH, TWO THOUSAND FIVE, (2) had not been otherwise gainfully employed
55 since he or she ceased to be on such payroll and (3) had credit for at
56 least one year of continuous service since he or she last entered or

1 reentered the service of his or her employer. Provided, further, that
2 any such member ordered to active duty[, other than for training
3 purposes,] pursuant to Title 10 of the United States Code, with the
4 armed forces of the United States OR TO SERVICE IN THE UNIFORMED
5 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
6 who died prior to rendering the minimum amount of service necessary to
7 be eligible for this benefit shall be considered to have satisfied the
8 minimum service requirement.

9 S 9. Subdivision (a) of section 360-b of the retirement and social
10 security law, as amended by chapter 105 of the laws of 2005, is amended
11 to read as follows:

12 (a) Pursuant to the provisions of section three hundred thirty-three
13 of this article, a participating employer may elect to provide a guaran-
14 teed ordinary death benefit upon the death in service of its employees
15 who (i) meet all of the requirements of section three hundred sixty of
16 this title except that contained in paragraph three of subdivision (a)
17 thereof, and (ii) last entered or reentered the employ of a participat-
18 ing employer prior to April first, nineteen hundred eighty-five, and
19 were in such employ on March thirty-first, nineteen hundred eighty-five,
20 and (iii) last joined or rejoined a public retirement system of the
21 state or a municipality thereof before July first, nineteen hundred
22 seventy-three, and (iv) had not attained age sixty at the date of such
23 entrance into such service, and (v) had rendered ninety or more days of
24 continuous service in the service of such participating employer during
25 the fifteen month period immediately preceding death. For the purposes
26 of this section an employee who dies while off the payroll shall be
27 considered to be in service provided he or she (1) was on the payroll in
28 such service and paid within a period of twelve months prior to his or
29 her death, or was on the payroll in the service upon which membership is
30 based at the time he or she was ordered to active duty[, other than for
31 training purposes,] pursuant to Title 10 of the United States Code, with
32 the armed forces of the United States OR TO SERVICE IN THE UNIFORMED
33 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
34 and died while on such active duty OR SERVICE IN THE UNIFORMED SERVICES
35 on or after [the effective date of the chapter of the laws of two thou-
36 sand five which amended this subdivision] JUNE FOURTEENTH, TWO THOUSAND
37 FIVE, (2) had not been otherwise gainfully employed since he or she
38 ceased to be on such payroll and (3) had credit for one or more years of
39 continuous service since he or she last entered or reentered the service
40 of his or her employer. Provided, further, that any such member ordered
41 to active duty[, other than for training purposes,] pursuant to Title 10
42 of the United States Code, with the armed forces of the United States OR
43 TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38
44 OF THE UNITED STATES CODE who died prior to rendering the minimum amount
45 of service necessary to be eligible for this benefit shall be considered
46 to have satisfied the minimum service requirement.

47 S 10. The closing paragraph of subdivision a of section 361 of the
48 retirement and social security law, as added by chapter 105 of the laws
49 of 2005, is amended to read as follows:

50 Notwithstanding the provisions of section two hundred forty-two, two
51 hundred forty-three or two hundred forty-four of the military law or the
52 provisions of any other law to the contrary and solely for the purpose
53 of determining eligibility for an accidental death benefit and/or
54 special accidental death benefit, a member shall be considered to have
55 died as the natural and proximate result of an accident sustained in the
56 performance of duty provided such member was on the payroll in the

1 service upon which membership is based at the time he or she was ordered
2 to active duty[, other than for training purposes,] pursuant to Title 10
3 of the United States Code, with the armed forces of the United States OR
4 TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38
5 OF THE UNITED STATES CODE and died while on such active duty OR SERVICE
6 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
7 of the laws of two thousand five which added this paragraph] JUNE FOUR-
8 TEENTH, TWO THOUSAND FIVE.

9 S 11. Subdivisions e and f of section 448 of the retirement and social
10 security law, subdivision e as amended and subdivision f as added by
11 chapter 105 of the laws of 2005, are amended to read as follows:

12 e. For the purposes of this section:

13 1. A member who dies while off the payroll shall be considered to be
14 in service provided he or she (a) was on the payroll in such service and
15 paid within a period of twelve months prior to his or her death, or was
16 on the payroll in the service upon which membership is based at the time
17 he or she was ordered to active duty[, other than for training
18 purposes,] pursuant to Title 10 of the United States Code, with the
19 armed forces of the United States OR TO SERVICE IN THE UNIFORMED
20 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
21 and died while on such active duty OR SERVICE IN THE UNIFORMED SERVICES
22 on or after [the effective date of the chapter of the laws of two thou-
23 sand five which amended this subdivision] JUNE FOURTEENTH, TWO THOUSAND
24 FIVE, (b) had not been otherwise gainfully employed since he or she
25 ceased to be on such payroll and (c) had credit for one or more years of
26 continuous service since he or she last entered or reentered the service
27 of his or her employer; notwithstanding any other provision of law to
28 the contrary, a member of the New York city employees' retirement system
29 or the board of education retirement system of the city of New York
30 shall be deemed to have died on the payroll for the purposes of this
31 section in the event that death occurs while such member is on an
32 authorized leave of absence without pay for medical reasons which has
33 continuously been in effect since the member was last paid on the
34 payroll in such service, provided, however, that such member was on the
35 payroll in such service and paid within the four-year period prior to
36 his or her death; and

37 2. The benefit payable shall be in addition to any payment made on
38 account of a member's accumulated contributions.

39 3. Provided, further, that any such member ordered to active duty[,
40 other than for training purposes,] pursuant to Title 10 of the United
41 States Code, with the armed forces of the United States OR TO SERVICE IN
42 THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
43 STATES CODE who died prior to rendering the minimum amount of service
44 necessary to be eligible for this benefit shall be considered to have
45 satisfied the minimum service requirement.

46 f. Notwithstanding the provisions of any other law to the contrary and
47 solely for the purpose of determining eligibility for the death benefit
48 payable pursuant to this section, a person subject to this section shall
49 be considered to have died while in teaching service provided such
50 person was in such service at the time he or she was ordered to active
51 duty[, other than for training purposes,] pursuant to Title 10 of the
52 United States Code, with the armed forces of the United States OR TO
53 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
54 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
55 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
56 the laws of two thousand five which added this subdivision] JUNE FOUR-

TEENTH, TWO THOUSAND FIVE. Provided, further, that any such person ordered to active duty[, other than for training purposes,] pursuant to Title 10 of the United States Code, with the armed forces of the United States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirements.

S 12. Subdivision e of section 508 of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

e. For the purposes of this section:

1. A member who dies while off the payroll shall be considered to be in service provided he or she (a) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[, other than for training purposes,] pursuant to Title 10 of the United States Code, with the armed forces of the United States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE and died while on such active duty OR SERVICE IN THE UNIFORMED SERVICES on or after [the effective date of the chapter of the laws of two thousand five which amended this subdivision] JUNE FOURTEENTH, TWO THOUSAND FIVE, (b) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (c) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer; and

2. The benefit payable shall be in addition to any payment made on account of a member's accumulated contributions.

3. Provided, further, that any such member ordered to active duty[, other than for training purposes,] pursuant to Title 10 of the United States Code, with the armed forces of the United States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

S 13. The closing paragraph of subdivision a of section 509 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[, other than for training purposes,] pursuant to Title 10 of the United States Code, with the armed forces of the United States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE and died while on such active duty OR SERVICE IN THE UNIFORMED SERVICES on or after [the effective date of chapter one hundred five of the laws of two thousand five which added this paragraph] JUNE FOURTEENTH, TWO THOUSAND FIVE.

S 14. Subdivision e of section 606 of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

1 e. For the purposes of this section:

2 1. A member who dies while off the payroll shall be considered to be
3 in service provided he or she (a) was on the payroll in such service and
4 paid within a period of twelve months prior to his or her death, or was
5 on the payroll in the service upon which membership is based at the time
6 he or she was ordered to active duty[, other than for training
7 purposes,] pursuant to Title 10 of the United States Code, with the
8 armed forces of the United States OR TO SERVICE IN THE UNIFORMED
9 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
10 and died while on such active duty OR SERVICE IN THE UNIFORMED SERVICES
11 on or after [the effective date of the chapter of the laws of two thou-
12 sand five which amended this subdivision] JUNE FOURTEENTH, TWO THOUSAND
13 FIVE, (b) had not been otherwise gainfully employed since he or she
14 ceased to be on such payroll and (c) had credit for one or more years of
15 continuous service since he or she last entered or reentered the service
16 of his or her employer; notwithstanding any other provision of law to
17 the contrary, a member of the New York city employees' retirement system
18 or the board of education retirement system of the city of New York
19 shall be deemed to have died on the payroll for the purposes of this
20 section in the event that death occurs while such member is on an
21 authorized leave of absence without pay for medical reasons which has
22 continuously been in effect since the member was last paid on the
23 payroll in such service, provided, however, that such member was on the
24 payroll in such service and paid within the four-year period prior to
25 his or her death; and

26 2. The benefit payable shall be in addition to any payment made on
27 account of a member's accumulated contributions.

28 3. Provided, further, that any such member ordered to active duty[,
29 other than for training purposes,] pursuant to Title 10 of the United
30 States Code, with the armed forces of the United States OR TO SERVICE IN
31 THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
32 STATES CODE who died prior to rendering the minimum amount of service
33 necessary to be eligible for this benefit shall be considered to have
34 satisfied the minimum service requirement.

35 S 15. Subdivision a of section 607 of the retirement and social secu-
36 rity law, as amended by chapter 489 of the laws of 2008, is amended to
37 read as follows:

38 a. The eligible beneficiary of a member in service, or of a vested
39 member who dies as a result of a qualifying World Trade Center condition
40 as defined in section two of this chapter, shall be entitled to an acci-
41 dental death benefit in the form of a pension equal to fifty percent of
42 such member's wages earned during his or her last year of actual service
43 or his or her annual wage rate if he or she was credited with less than
44 one year of service since last becoming a member, if, upon application
45 filed within sixty days after the death of the member, the head of the
46 retirement system determines that such member died before the effective
47 date of retirement, as the natural and proximate result of an accident
48 not caused by his or her own willful negligence sustained in the
49 performance of his or her duties in active service and while actually a
50 member of the retirement system.

51 Notwithstanding the provisions of section two hundred forty-two, two
52 hundred forty-three or two hundred forty-four of the military law or the
53 provisions of any other law to the contrary and solely for the purpose
54 of determining eligibility for an accidental death benefit, a member
55 shall be considered to have died as the natural and proximate result of
56 an accident sustained in the performance of duty provided such member

1 was on the payroll in the service upon which membership is based at the
2 time he or she was ordered to active duty[, other than for training
3 purposes,] pursuant to Title 10 of the United States Code, with the
4 armed forces of the United States OR TO SERVICE IN THE UNIFORMED
5 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE
6 and died while on such active duty OR SERVICE IN THE UNIFORMED SERVICES
7 on or after [the effective date of chapter one hundred five of the laws
8 of two thousand five which added this paragraph] JUNE FOURTEENTH, TWO
9 THOUSAND FIVE.

10 Provided, however, the head of the retirement system in its sole
11 discretion may accept an application for an accidental death benefit
12 after the expiration of the sixty day filing period, where, but only
13 where, an ordinary death benefit has not been previously paid.

14 S 16. The second undesignated paragraph and the closing paragraph of
15 subdivision 2 of section 655 of the retirement and social security law,
16 as added by chapter 105 of the laws of 2005, are amended to read as
17 follows:

18 Notwithstanding the provisions of any other law to the contrary and
19 solely for the purpose of determining eligibility for a survivors bene-
20 fit, a member shall be considered to have died while on the state
21 payroll provided such member was on the payroll in the service upon
22 which membership is based at the time he or she was ordered to active
23 duty[, other than for training purposes,] pursuant to Title 10 of the
24 United States Code, with the armed forces of the United States OR TO
25 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
26 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
27 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
28 the laws of two thousand five which added this paragraph] JUNE FOUR-
29 TEENTH, TWO THOUSAND FIVE.

30 Provided, further, that any such member ordered to active duty[, other
31 than for training purposes,] pursuant to Title 10 of the United States
32 Code, with the armed forces of the United States OR TO SERVICE IN THE
33 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
34 STATES CODE who died prior to rendering the minimum amount of service
35 necessary to be eligible for this benefit shall be considered to have
36 satisfied the minimum service requirement.

37 S 17. The second undesignated paragraph and the closing paragraph of
38 subdivision 2 of section 656 of the retirement and social security law,
39 as added by chapter 105 of the laws of 2005, are amended to read as
40 follows:

41 Notwithstanding the provisions of any other law to the contrary and
42 solely for the purpose of determining eligibility for a survivors bene-
43 fit, a member shall be considered to have died while on the state
44 payroll provided such member was on such payroll or was on the payroll
45 in the service upon which membership is based at the time he or she was
46 ordered to active duty[, other than for training purposes,] pursuant to
47 Title 10 of the United States Code, with the armed forces of the United
48 States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF
49 TITLE 38 OF THE UNITED STATES CODE and died while on such active duty OR
50 SERVICE IN THE UNIFORMED SERVICES on or after [the effective date of the
51 chapter of the laws of two thousand five which added this paragraph]
52 JUNE FOURTEENTH, TWO THOUSAND FIVE.

53 Provided, further, that any such member ordered to active duty[, other
54 than for training purposes,] pursuant to Title 10 of the United States
55 Code, with the armed forces of the United States OR TO SERVICE IN THE
56 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED

1 STATES CODE who died prior to rendering the minimum amount of service
2 necessary to be eligible for this benefit shall be considered to have
3 satisfied the minimum service requirement.

4 S 18. Subdivision g of section 208-f of the general municipal law, as
5 added by chapter 105 of the laws of 2005, is amended to read as follows:

6 g. Notwithstanding any other provision of law to the contrary, and
7 solely for the purposes of this section, a member otherwise covered by
8 this section shall be deemed to have died as the natural and proximate
9 result of an accident sustained in the performance of duty upon which
10 his or her membership is based, and not as a result of willful negli-
11 gence on his or her part, provided that such member was in active
12 service upon which his or her membership is based at the time that such
13 member was ordered to active duty[, other than for training purposes,]
14 pursuant to Title 10 of the United States Code, with the armed forces of
15 the United States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO
16 CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE, and such member died
17 while on such active duty OR SERVICE IN THE UNIFORMED SERVICES on or
18 after [the effective date of the chapter of the laws of two thousand
19 five which added this subdivision] JUNE FOURTEENTH, TWO THOUSAND FIVE
20 while serving on such active military duty OR IN THE UNIFORMED SERVICES.

21 S 19. Subdivision f of section 512 of the education law, as added by
22 chapter 105 of the laws of 2005, is amended to read as follows:

23 f. Notwithstanding the provisions of any other law to the contrary and
24 solely for the purpose of determining eligibility for the death benefit
25 payable pursuant to this section, a person subject to this section shall
26 be considered to have died while in teaching service provided such
27 person was in such service at the time he or she was ordered to active
28 duty[, other than for training purposes,] pursuant to Title 10 of the
29 United States Code, with the armed forces of the United States OR TO
30 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
31 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
32 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
33 the laws of two thousand five which added this subdivision] JUNE FOUR-
34 TEENTH, TWO THOUSAND FIVE. Provided, further, that any such person
35 ordered to active duty[, other than for training purposes,] pursuant to
36 Title 10 of the United States Code, with the armed forces of the United
37 States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43
38 OF TITLE 38 OF THE UNITED STATES CODE who died prior to rendering the
39 minimum amount of service necessary to be eligible for this benefit
40 shall be considered to have satisfied the minimum service requirement.

41 S 20. Paragraph (b) of subdivision 25 of section 2575 of the education
42 law, as added by chapter 105 of the laws of 2005, is amended to read as
43 follows:

44 (b) Notwithstanding any other provision of law to the contrary, the
45 rules and regulations adopted pursuant to this section shall be deemed
46 to be amended to provide that a member of the retirement system shall be
47 deemed to have died as the natural and proximate result of an accident
48 sustained in the performance of duty upon which his or her membership is
49 based, and not as a result of willful negligence on his or her part,
50 provided that such member was in active service upon which his or her
51 membership is based at the time that such member was ordered to active
52 duty[, other than for training purposes,] pursuant to Title 10 of the
53 United States Code, with the armed forces of the United States OR TO
54 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
55 THE UNITED STATES CODE, and such member died while on such active duty
56 OR SERVICE IN THE UNIFORMED SERVICES on or after [the effective date of

1 the chapter of the laws of two thousand five which added this subdivi-
2 sion] JUNE FOURTEENTH, TWO THOUSAND FIVE while serving on such active
3 military duty OR IN THE UNIFORMED SERVICES.

4 S 21. Subdivision 4 of section 13-244 of the administrative code of
5 the city of New York, as added by chapter 105 of the laws of 2005, is
6 amended to read as follows:

7 4. Notwithstanding any other provision of law to the contrary, and
8 solely for the purposes of this section, a member shall be deemed to
9 have died as the natural and proximate result of an accident sustained
10 in the performance of duty upon which his or her membership is based,
11 and not as a result of willful negligence on his or her part, provided
12 that such member was in active service upon which his or her membership
13 is based at the time that such member was ordered to active duty[, other
14 than for training purposes,] pursuant to Title 10 of the United States
15 Code, with the armed forces of the United States OR TO SERVICE IN THE
16 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
17 STATES CODE, and such member died while on such active duty OR SERVICE
18 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
19 of the laws of two thousand five which added this subdivision] JUNE
20 FOURTEENTH, TWO THOUSAND FIVE while serving on such active military duty
21 OR IN THE UNIFORMED SERVICES.

22 S 22. Subdivision c of section 13-149 of the administrative code of
23 the city of New York, as added by chapter 105 of the laws of 2005, is
24 amended to read as follows:

25 c. Notwithstanding any other provision of law to the contrary, and
26 solely for the purposes of this section, a member shall be deemed to
27 have died as the natural and proximate result of an accident sustained
28 in the performance of duty upon which his or her membership is based,
29 and not as a result of willful negligence on his or her part, provided
30 that such member was in active service upon which his or her membership
31 is based at the time that such member was ordered to active duty[, other
32 than for training purposes,] pursuant to Title 10 of the United States
33 Code, with the armed forces of the United States OR TO SERVICE IN THE
34 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
35 STATES CODE, and such member died while on such active duty OR SERVICE
36 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
37 of the laws of two thousand five which added this subdivision] JUNE
38 FOURTEENTH, TWO THOUSAND FIVE while serving on such active military duty
39 OR IN THE UNIFORMED SERVICES.

40 S 23. Subdivision f of section 13-347 of the administrative code of
41 the city of New York, as added by chapter 105 of the laws of 2005, is
42 amended to read as follows:

43 f. Notwithstanding any other provision of law to the contrary, and
44 solely for the purposes of this section, a member shall be deemed to
45 have died as the natural and proximate result of an accident sustained
46 in the performance of duty upon which his or her membership is based,
47 and not as a result of willful negligence on his or her part, provided
48 that such member was in active service upon which his or her membership
49 is based at the time that such member was ordered to active duty[, other
50 than for training purposes], pursuant to Title 10 of the United States
51 Code, with the armed forces of the United States OR TO SERVICE IN THE
52 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
53 STATES CODE, and such member died while on such active duty OR SERVICE
54 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
55 of the laws of two thousand five which added this subdivision] JUNE

1 FOURTEENTH, TWO THOUSAND FIVE while serving on such active military duty
2 OR IN THE UNIFORMED SERVICES.

3 S 24. Subdivision d of section 13-544 of the administrative code of
4 the city of New York, as added by chapter 105 of the laws of 2005, is
5 amended to read as follows:

6 d. Notwithstanding any other provision of law to the contrary, and
7 solely for the purposes of this section, a member shall be deemed to
8 have died as the natural and proximate result of an accident sustained
9 in the performance of duty upon which his or her membership is based,
10 and not as a result of willful negligence on his or her part, provided
11 that such member was in active service upon which his or her membership
12 is based at the time that such member was ordered to active duty[, other
13 than for training purposes,] pursuant to Title 10 of the United States
14 Code, with the armed forces of the United States OR TO SERVICE IN THE
15 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
16 STATES CODE, and such member died while on such active duty OR SERVICE
17 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
18 of the laws of two thousand five which added this subdivision] JUNE
19 FOURTEENTH, TWO THOUSAND FIVE while serving on such active military duty
20 OR IN THE UNIFORMED SERVICES.

21 S 25. The closing paragraph of section 3-401 of the administrative
22 code of the city of New York, as added by chapter 105 of the laws of
23 2005, is amended to read as follows:

24 Notwithstanding any other provision of law to the contrary, and solely
25 for the purposes of this section, a member otherwise covered by this
26 section shall be deemed to have been killed while engaged in the
27 discharge of duty upon which his or her membership is based, provided
28 that such member was in active service upon which his or her membership
29 is based at the time that such member was ordered to active duty[, other
30 than for training purposes,] pursuant to Title 10 of the United States
31 Code, with the armed forces of the United States OR TO SERVICE IN THE
32 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
33 STATES CODE, and such member died while on such active duty OR SERVICE
34 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
35 of the laws of two thousand five which added this paragraph] JUNE FOUR-
36 TEENTH, TWO THOUSAND FIVE while serving on such active military duty OR
37 IN THE UNIFORMED SERVICES.

38 S 26. The closing paragraph of section 3-402 of the administrative
39 code of the city of New York, as added by chapter 105 of the laws of
40 2005, is amended to read as follows:

41 Notwithstanding any other provision of law to the contrary, and solely
42 for the purposes of this section, a member otherwise covered by this
43 section shall be deemed to have been killed while engaged in the
44 discharge of duty upon which his or her membership is based, provided
45 that such member was in active service upon which his or her membership
46 is based at the time that such member was ordered to active duty[, other
47 than for training purposes,] pursuant to Title 10 of the United States
48 Code, with the armed forces of the United States OR TO SERVICE IN THE
49 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
50 STATES CODE, and such member died while on such active duty OR SERVICE
51 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
52 of the laws of two thousand five which added this paragraph] JUNE FOUR-
53 TEENTH, TWO THOUSAND FIVE while serving on such active military duty OR
54 IN THE UNIFORMED SERVICES.

1 S 27. The closing paragraph of subdivision a of section 3-403 of the
2 administrative code of the city of New York, as added by chapter 105 of
3 the laws of 2005, is amended to read as follows:

4 Notwithstanding any other provision of law to the contrary, and solely
5 for the purposes of this subdivision, a member otherwise covered by this
6 subdivision shall be deemed to have been killed while engaged in the
7 discharge of duty upon which his or her membership is based, provided
8 that such member was in active service upon which his or her membership
9 is based at the time that such member was ordered to active duty[, other
10 than for training purposes,] pursuant to Title 10 of the United States
11 Code, with the armed forces of the United States OR TO SERVICE IN THE
12 UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED
13 STATES CODE, and such member died while on such active duty OR SERVICE
14 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
15 of the laws of two thousand five which added this paragraph] JUNE FOUR-
16 TEENTH, TWO THOUSAND FIVE while serving on such active military duty OR
17 IN THE UNIFORMED SERVICES.

18 S 28. Subparagraph (i) of paragraph 2 of subdivision b of section
19 12-126 of the administrative code of the city of New York, as amended by
20 chapter 430 of the laws of 2010, is amended to read as follows:

21 (i) Where the death of a member of the uniformed forces of the police
22 or fire departments is or was the natural and proximate result of an
23 accident or injury sustained while in the performance of duty, the
24 surviving spouse or domestic partner, until he or she dies, and the
25 children under the age of nineteen years and any such child who is
26 enrolled on a full-time basis in a program of undergraduate study in an
27 accredited degree-granting institution of higher education until such
28 child completes his or her educational program or reaches the age of
29 twenty-three years, whichever comes first, shall be afforded the right
30 to health insurance coverage, and health insurance coverage which is
31 predicated on the insured's enrollment in the hospital and medical
32 program for the aged and disabled under the social security act, as is
33 provided for city employees, city retirees and their dependents as set
34 forth in paragraph one of this subdivision. Where the death of a
35 uniformed member of the correction or sanitation departments has
36 occurred while such employee was in active service as the natural and
37 proximate result of an accident or injury sustained while in the
38 performance of duty, the surviving spouse or domestic partner, until he
39 or she dies, and the child of such employee who is under the age of
40 nineteen years and any such child who is enrolled on a full-time basis
41 in a program of undergraduate study in an accredited degree-granting
42 institution of higher education until such child completes his or her
43 educational program or reaches the age of twenty-three years, whichever
44 comes first, shall be afforded the right to health insurance coverage,
45 and health insurance coverage which is predicated on the insured's
46 enrollment in the hospital and medical program for the aged and disabled
47 under the social security act, as is provided for city employees, city
48 retirees and their dependents as set forth in paragraph one of this
49 subdivision. Where the death of an employee of the fire department of
50 the city of New York who was serving in a title whose duties are those
51 of an emergency medical technician or advanced emergency medical techni-
52 cian (as those terms are defined in section three thousand one of the
53 public health law), or whose duties required the direct supervision of
54 employees whose duties are those of an emergency medical technician or
55 advanced emergency medical technician (as those terms are defined in
56 section three thousand one of the public health law) is or was the

1 natural and proximate result of an accident or injury sustained while in
2 the performance of duty on or after September eleventh, two thousand
3 one, the surviving spouse or domestic partner, until he or she dies, and
4 the children under the age of nineteen years and any such child who is
5 enrolled on a full-time basis in a program of undergraduate study in an
6 accredited degree-granting institution of higher education until such
7 child completes his or her educational program or reaches the age of
8 twenty-three years, whichever comes first, shall be afforded the right
9 to health insurance coverage, and health insurance coverage which is
10 predicated on the insured's enrollment in the hospital and medical
11 program for the aged and disabled under the social security act, as is
12 provided for city employees, city retirees and their dependents as set
13 forth in paragraph one of this subdivision. The mayor may, in his or her
14 discretion, authorize the provision of such health insurance coverage
15 for the surviving spouses, domestic partners and children of employees
16 of the fleet services division of the police department who died on or
17 after October first, nineteen hundred ninety-eight and before April
18 thirtieth, nineteen hundred ninety-nine, and the surviving spouses,
19 domestic partners and children of employees of the roadway repair and
20 maintenance division of the department of transportation who died on or
21 after September first, two thousand five and before September twenty-
22 eighth, two thousand five, and the surviving spouses, domestic partners
23 and children of employees of the bureau of wastewater treatment of the
24 department of environmental protection who died on or after January
25 eighth, two thousand nine and before January tenth, two thousand nine as
26 a natural and proximate result of an accident or injury sustained while
27 in the performance of duty, subject to the same terms, conditions and
28 limitations set forth in the section. Provided, however, and notwith-
29 standing any other provision of law to the contrary, and solely for the
30 purposes of this subparagraph, a member otherwise covered by this
31 subparagraph shall be deemed to have died as the natural and proximate
32 result of an accident or injury sustained while in the performance of
33 duty upon which his or her membership is based, provided that such
34 member was in active service upon which his or her membership is based
35 at the time that such member was ordered to active duty[, other than for
36 training purposes,] pursuant to Title 10 of the United States Code, with
37 the armed forces of the United States OR TO SERVICE IN THE UNIFORMED
38 SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF THE UNITED STATES CODE,
39 and such member died while on active duty OR SERVICE IN THE UNIFORMED
40 SERVICES on or after [the effective date of local law number ninety-six
41 of the city of New York for the year two thousand five] JUNE FOURTEENTH,
42 TWO THOUSAND FIVE while serving on such active military duty OR IN THE
43 UNIFORMED SERVICES.

44 S 29. The closing paragraph of section 165-a of the civil service law,
45 as amended by section 6 of part T of chapter 56 of the laws of 2010, is
46 amended to read as follows:

47 Notwithstanding any law to the contrary, the survivors of any employee
48 subject to this section shall be entitled to the health benefits granted
49 pursuant to this section, provided that such employee died while on
50 active duty [other than for training purposes,] pursuant to Title 10 of
51 the United States Code, with the armed forces of the United States OR TO
52 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
53 THE UNITED STATES CODE, and such member died on such active duty OR
54 SERVICE IN THE UNIFORMED SERVICES on or after [the effective date of
55 chapter one hundred five of the laws of two thousand five] JUNE FOUR-
56 TEENTH, TWO THOUSAND FIVE as a result of injuries, disease or other

1 medical condition sustained or contracted in such active duty with the
2 armed forces of the United States OR IN THE UNIFORMED SERVICES.

3 S 30. This act shall take effect immediately.

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

This bill would require that public retirement systems comply with the federal Heroes Earnings Assistance and Relief Tax Act (HEART Act). This would expand the criteria in current law for receiving such accidental death benefits from dying in "active duty" to "uniformed services".

If this legislation is enacted, we anticipate that there would be few individuals affected, as most are already eligible under the "active duty" criteria.

Insofar as this legislation would affect the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS), it would lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary and plan of the affected member. It is estimated that there would be per person one-time costs of approximately three (3) times salary for members in the ERS, and twelve (12) times salary for members in the PFRS. These costs would be borne by the State of New York and all the participating employers in the ERS and the PFRS.

This estimate, dated April 7, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-165 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

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

This bill would amend the Education Law and the Retirement and Social Security Law to enable the New York State Teachers' Retirement System to provide death benefits in compliance with the Federal Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act). The criteria used in determining eligibility for death benefits under the current law would be expanded from dying in "active duty" with the Armed Forces of the United States to include dying while in "service in the uniformed services". The death benefit payable would be the accidental death benefit.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2011-46 dated May 4, 2011 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.