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

4253--D

2011-2012 Regular Sessions

I N A S S E M B L Y

February 2, 2011

Introduced by M. of A. GLICK, O'DONNELL, N. RIVERA, MARKEY, WEPRIN, TITONE, JAFFEE -- Multi-Sponsored by -- M. of A. BRENNAN, CAHILL, COLTON, DINOWITZ, GOTTFRIED, LIFTON, V. LOPEZ, McENENY, ORTIZ, PAULIN -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- 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 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law and the retirement and social security law, in relation to providing accidental death benefits to domestic partners and the children of domestic partners in the case of certain members

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

Section 1. Subdivisions 3 and 4 of section 208-b of the general municipal law, as added by chapter 882 of the laws of 1958, are amended and a new subdivision 6 is added to read as follows:

3. The death benefit shall be paid to:

a. The member's widow OR HIS OR HER DOMESTIC PARTNER, or if he OR SHE shall leave no widow OR WIDOWER, OR DOMESTIC PARTNER, or if his OR HER widow OR WIDOWER, OR DOMESTIC PARTNER shall die before receiving the total of the amounts provided in subdivision two [hereof] OF THIS SECTION, then to

b. His OR HER child or children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, under age eighteen, in equal amounts.

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

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4. Application for death benefit shall be made:
a. By the member's widow OR WIDOWER, OR DOMESTIC PARTNER.
b. By any of his OR HER children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER.
c. By any person in behalf of the widow OR WIDOWER, DOMESTIC PARTNER or children.
6. FOR PURPOSES OF THIS SECTION ONLY: A. "DOMESTIC PARTNER" MEANS A PERSON WHO, WITH RESPECT TO ANOTHER PERSON:
(I) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR
(II) IS FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER THE OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR
(III) 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 DOMESTIC PARTNERS 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 UNDER SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.
EACH PARTY TO A DOMESTIC PARTNERSHIP SHALL BE CONSIDERED TO BE THE DOMESTIC PARTNER OF THE OTHER PARTY. "DOMESTIC PARTNER" SHALL NOT INCLUDE A PERSON WHO IS RELATED TO THE OTHER PERSON BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE TO THE OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" SHALL ALSO NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE OR WHO IS THE ADOPTED CHILD OF THE OTHER PERSON OR WHO IS RELATED BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE IN NEW YORK STATE TO A PERSON WHO IS THE LAWFUL SPOUSE OF THE OTHER PERSON.
B. "PERSON" MEANS A NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER.
S 2. Section 208-f of the general municipal law is amended by adding two new subdivisions j and k to read as follows:
J. FOR THE PURPOSES OF THIS SECTION, WHERE ALL REQUIREMENTS OF THIS SECTION HAVE BEEN MET FOR THE PAYMENT OF SPECIAL ACCIDENTAL DEATH BENEFIT PURSUANT TO THIS SECTION BASED ON THE DEATH OF (1) A DECEASED MEMBER OF A PENSION OR RETIREMENT SYSTEM OF A POLICE DEPARTMENT OR PAID FIRE DEPARTMENT OF A CITY (OUTSIDE THE CITY OF NEW YORK), TOWN OR VILLAGE; (2) A DECEASED PAID UNIFORMED MEMBER OF A COUNTY SHERIFF'S DEPARTMENT (OUTSIDE THE CITY OF NEW YORK); OR (3) A DECEASED EMPLOYEE (OUTSIDE THE CITY OF NEW YORK) IN A TITLE WHOSE DUTIES REQUIRE THE SUPERVISION OF EMPLOYEES WHOSE DUTIES ARE THOSE OF AN EMERGENCY MEDICAL TECHNICIAN OR ADVANCED EMERGENCY MEDICAL TECHNICIAN (AS THOSE TERMS ARE DEFINED IN SECTION THREE THOUSAND ONE OF THE PUBLIC HEALTH LAW), THE TERMS "WIDOW" AND "WIDOWER", AS USED IN THIS SECTION, SHALL BE DEEMED TO INCLUDE THE SURVIVING DOMESTIC PARTNER AND THE TERM "DECEASED MEMBER'S CHILDREN" SHALL BE DEEMED TO INCLUDE THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER.
K. FOR PURPOSES OF THIS SECTION ONLY: 1. "DOMESTIC PARTNER" MEANS A PERSON WHO, WITH RESPECT TO ANOTHER PERSON:
(I) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY

MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR

(II) IS FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER THE OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR

(III) 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 DOMESTIC PARTNERS 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 UNDER SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.

EACH PARTY TO A DOMESTIC PARTNERSHIP SHALL BE CONSIDERED TO BE THE DOMESTIC PARTNER OF THE OTHER PARTY. "DOMESTIC PARTNER" SHALL NOT INCLUDE A PERSON WHO IS RELATED TO THE OTHER PERSON BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE TO THE OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" SHALL ALSO NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE OR WHO IS THE ADOPTED CHILD OF THE OTHER PERSON OR WHO IS RELATED BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE IN NEW YORK STATE TO A PERSON WHO IS THE LAWFUL SPOUSE OF THE OTHER PERSON.

2. "PERSON" MEANS A NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER.

S 3. Paragraphs 1 and 2 of subdivision d of section 61 of the retirement and social security law, as amended by chapter 141 of the laws of 1977, are amended and a new subdivision e is added to read as follows:

1. The member's widow or widower to continue during his or her widowhood. If he or she shall leave no widow or widower, or if his or her widow or widower shall die or [remarry] ENTER INTO A MARRIAGE OR REMARRIAGE, OR ENTER INTO ANOTHER DOMESTIC PARTNERSHIP RELATIONSHIP, before all his or her children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, shall have attained age eighteen or sooner die, then to

2. His or her child or children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, under age eighteen, divided in such manner as the comptroller, in his discretion, shall determine. Such pension shall continue as a joint and survivor pension until every such child shall have attained age eighteen or sooner die. If no widow or widower or child under age eighteen shall survive such member, at the time of his or her death, then to

E. FOR PURPOSES OF THIS SECTION ONLY, THE TERM WIDOW OR WIDOWER SHALL INCLUDE A SURVIVING DOMESTIC PARTNER AND THE PENSION ON ACCOUNT OF ACCIDENTAL DEATH AND THE RESERVE-FOR-INCREASED-TAKE-HOME-PAY SHALL BE PAY-ABLE TO SUCH SURVIVING DOMESTIC PARTNER IN THE SAME FORM AND MANNER. THE TERM "DOMESTIC PARTNER" SHALL MEAN A PERSON WHO, WITH RESPECT TO ANOTHER PERSON:

1. IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR

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

3. 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 DOMESTIC PARTNERS 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 UNDER PARAGRAPH ONE OR TWO OF THIS SUBDIVISION; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.

EACH PARTY TO A DOMESTIC PARTNERSHIP SHALL BE CONSIDERED TO BE THE DOMESTIC PARTNER OF THE OTHER PARTY. "DOMESTIC PARTNER" SHALL NOT INCLUDE A PERSON WHO IS RELATED TO THE OTHER PERSON BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE TO THE OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" SHALL ALSO NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE OR WHO IS THE ADOPTED CHILD OF THE OTHER PERSON OR WHO IS RELATED BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE IN NEW YORK STATE TO A PERSON WHO IS THE LAWFUL SPOUSE OF THE OTHER PERSON.

THE TERM "PERSON" SHALL MEAN A NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER.

S 4. Paragraphs 1 and 2 of subdivision d of section 361 of the retirement and social security law, as amended by chapter 733 of the laws of 1990, are amended to read as follows:

1. The member's widow or widower, OR DOMESTIC PARTNER, to continue during his or her lifetime. If he or she shall leave no widow or widower OR DOMESTIC PARTNER, or if his or her widow or widower OR DOMESTIC PARTNER shall die before all his or her children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, shall have attained age eighteen, or if students, before all of his or her children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, shall have attained age twenty-three, or sooner die, then to

2. His or her child or children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, under age eighteen, or, if students, his or her children under age twenty-three, divided in such manner as the comptroller, in his discretion, shall determine. Such pension shall continue as a joint and survivor pension until every such child shall have attained age eighteen, or, if a student, shall have attained age twenty-three, or sooner die. If no widow or widower OR DOMESTIC PARTNER or child under age eighteen, or, if a student, under age twenty-three, shall survive such member, at the time of his or her death, then to

S 5. Subdivision d of section 361 of the retirement and social security law is amended by adding three new undesignated paragraphs to read as follows:

FOR PURPOSES OF THIS SUBDIVISION ONLY, "DOMESTIC PARTNER" MEANS A PERSON WHO, WITH RESPECT TO ANOTHER PERSON:

(I) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR

(II) IS FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER THE OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR

(III) 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 DOMESTIC PARTNERS 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 UNDER SUBPARAGRAPH

(I) OR (II) OF THIS PARAGRAPH; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.

EACH PARTY TO A DOMESTIC PARTNERSHIP SHALL BE CONSIDERED TO BE THE DOMESTIC PARTNER OF THE OTHER PARTY. "DOMESTIC PARTNER" SHALL NOT INCLUDE A PERSON WHO IS RELATED TO THE OTHER PERSON BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE TO THE OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" SHALL ALSO NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE OR WHO IS THE ADOPTED CHILD OF THE OTHER PERSON OR WHO IS RELATED BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE IN NEW YORK STATE TO A PERSON WHO IS THE LAWFUL SPOUSE OF THE OTHER PERSON.

"PERSON" MEANS A NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER.

S 6. The opening paragraph of subdivision a, the opening paragraph of subdivision b, the opening paragraph of subdivision c and subdivision e of section 361-a of the retirement and social security law, the opening paragraph of subdivision a, the opening paragraph of subdivision b and subdivision e as amended by chapter 733 of the laws of 1990 and the opening paragraph of subdivision c as amended by chapter 161 of the laws of 2011, are amended and a new subdivision g is added to read as follows:

Notwithstanding any other provision of law, a widow or widower, OR DOMESTIC PARTNER, or the deceased member's children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower OR DOMESTIC PARTNER has died who is or are receiving the accidental death benefit provided by section three hundred sixty-one of this [chapter] TITLE, shall also be paid the special accidental death benefit authorized by this section.

The special accidental death benefit shall be payable from the pension accumulation fund, and shall consist of a pension which is equal to the salary of the deceased member reduced by the sum of each of the following benefits received by the widow or widower OR DOMESTIC PARTNER or the deceased member's children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower OR DOMESTIC PARTNER has died, on account of the death of the deceased member:

[Commencing July first, two thousand eleven the] THE special accidental death benefit paid to a widow or widower OR DOMESTIC PARTNER or the deceased member's children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower OR DOMESTIC PARTNER has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member, as increased pursuant to subdivision b of this section, in accordance with the following schedule:

e. The special accidental death benefit shall be paid to:

1. The member's widow or widower OR DOMESTIC PARTNER to continue during his or her lifetime. If he or she shall leave no widow or widower OR DOMESTIC PARTNER, or if his or her widow or widower OR DOMESTIC PARTNER shall die before all his or her children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, shall have attained age eighteen or, if a student, shall have attained the age of twenty-three or sooner die, then to

2. His or her child or children, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, under age eighteen or, if a student, under the age of twenty-three, divided in such manner as the comptroller, in his OR HER discretion, shall determine. Such pension

shall continue in the same amount as received by the member's widow or widower OR DOMESTIC PARTNER as a joint and survivor pension until every such child shall have attained age eighteen or, if a student, attained the age of twenty-three or sooner die.

G. FOR PURPOSES OF THIS SECTION ONLY:

1. "DOMESTIC PARTNER" MEANS A PERSON WHO, WITH RESPECT TO ANOTHER PERSON:

(I) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR

(II) IS FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER THE OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR

(III) 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 DOMESTIC PARTNERS 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 UNDER SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.

EACH PARTY TO A DOMESTIC PARTNERSHIP SHALL BE CONSIDERED TO BE THE DOMESTIC PARTNER OF THE OTHER PARTY. "DOMESTIC PARTNER" SHALL NOT INCLUDE A PERSON WHO IS RELATED TO THE OTHER PERSON BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE TO THE OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" SHALL ALSO NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE OR WHO IS THE ADOPTED CHILD OF THE OTHER PERSON OR WHO IS RELATED BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE IN NEW YORK STATE TO A PERSON WHO IS THE LAWFUL SPOUSE OF THE OTHER PERSON.

2. "PERSON" MEANS A NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER.

S 7. Subdivision 7 of section 501 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended and two new subdivisions 28 and 29 are added to read as follows:

7. "Eligible beneficiary" for the purposes of section five hundred nine of this article shall mean the following persons or classes of persons in the order set forth: (a) a surviving spouse OR DOMESTIC PARTNER who has not renounced survivorship rights in a separation agreement, OR until MARRIAGE OR remarriage, OR UNTIL SUCH SURVIVING DOMESTIC PARTNER ENTERS INTO ANOTHER DOMESTIC PARTNERSHIP RELATIONSHIP, (b) surviving children until age twenty-five, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER, (c) dependent parents, determined under regulations promulgated by the comptroller, (d) any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age and (e) with respect to members of the New York city employees' retirement system (other than a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member) and the board of education retirement system of the city of New York, a person whom the member shall have nominated in the form of a written designation, duly acknowledged and filed with the head of the retirement system for the purpose of section five hundred eight of this article. In the event that a class of eligible beneficiaries consists of more than one person, benefits shall be divided equally among the persons in such

class. For the purposes of section five hundred eight of this article the term "eligible beneficiary" shall mean such person as the member shall have nominated to receive the benefits provided in this article. To be effective, such a nomination must be in the form of a written designation, duly acknowledged and filed with the head of the retirement system for this specific purpose. In the event such designated beneficiary does not survive him OR HER, or if he OR SHE shall not have so designated a beneficiary, such benefits shall be payable to the deceased member's estate or as provided in section one thousand three hundred ten of the surrogate's court procedure act.

28. "DOMESTIC PARTNER" SHALL MEAN A PERSON WHO, WITH RESPECT TO ANOTHER PERSON, WHEN SUCH OTHER PERSON IS NOT A MEMBER OF A PUBLIC RETIREMENT SYSTEM OR PENSION FUND IN A CITY OF ONE MILLION OR MORE UNDER PARAGRAPH ONE OF SUBDIVISION B OF SECTION FIVE HUNDRED OF THIS ARTICLE:

(A) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR

(B) IS FORMALLY RECOGNIZED AS A BENEFICIARY OR COVERED PERSON UNDER THE OTHER PERSON'S EMPLOYMENT BENEFITS OR HEALTH INSURANCE; OR

(C) 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 DOMESTIC PARTNERS 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 UNDER PARAGRAPH (A) OR (B) OF THIS SUBDIVISION; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.

EACH PARTY TO A DOMESTIC PARTNERSHIP SHALL BE CONSIDERED TO BE THE DOMESTIC PARTNER OF THE OTHER PARTY. "DOMESTIC PARTNER" SHALL NOT INCLUDE A PERSON WHO IS RELATED TO THE OTHER PERSON BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE TO THE OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" SHALL ALSO NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE OR WHO IS THE ADOPTED CHILD OF THE OTHER PERSON OR WHO IS RELATED BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE IN NEW YORK STATE TO A PERSON WHO IS THE LAWFUL SPOUSE OF THE OTHER PERSON.

29. "PERSON" MEANS A NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER.

S 8. Subdivision d of section 601 of the retirement and social security law, as amended by chapter 408 of the laws of 2000, is amended and two new subdivisions o and p are added to read as follows:

d. "Eligible beneficiary" for the purposes of section six hundred seven of this article shall mean the following persons or classes of persons in the order set forth:

1. A surviving spouse OR DOMESTIC PARTNER who has not renounced survivorship rights in a separation agreement, OR until MARRIAGE OR remarriage, OR UNTIL SUCH SURVIVING DOMESTIC PARTNER ENTERS INTO ANOTHER DOMESTIC PARTNERSHIP RELATIONSHIP;

2. Surviving children until age twenty-five, INCLUDING THE DEPENDENT CHILD OR CHILDREN OF HIS OR HER DOMESTIC PARTNER;

3. Dependent parents, determined under regulations promulgated by the head of the retirement system;

4. Any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-

one years of age. In the event that a class of eligible beneficiaries consists of more than one person, benefits shall be divided equally among the persons in such class; and

5. With respect to members of the New York city employees' retirement system or the board of education employees' retirement system of the city of New York only, a person or persons whom the member shall have nominated in the form of a written designation, duly acknowledged and filed with the head of the retirement system for the purpose of section six hundred six of this article.

O. "DOMESTIC PARTNER" SHALL MEAN A PERSON WHO, WITH RESPECT TO ANOTHER PERSON, WHEN SUCH OTHER PERSON IS NOT A MEMBER OF A PUBLIC RETIREMENT SYSTEM OR PENSION FUND IN A CITY OF ONE MILLION OR MORE:

1. IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATIONSHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGISTERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY, OR FOREIGN JURISDICTION; OR

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

3. 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 DOMESTIC PARTNERS 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 UNDER PARAGRAPH ONE OR TWO OF THIS SUBDIVISION; OR THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.

EACH PARTY TO A DOMESTIC PARTNERSHIP SHALL BE CONSIDERED TO BE THE DOMESTIC PARTNER OF THE OTHER PARTY. "DOMESTIC PARTNER" SHALL NOT INCLUDE A PERSON WHO IS RELATED TO THE OTHER PERSON BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE TO THE OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" SHALL ALSO NOT INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE OR WHO IS THE ADOPTED CHILD OF THE OTHER PERSON OR WHO IS RELATED BY BLOOD IN A MANNER THAT WOULD BAR MARRIAGE IN NEW YORK STATE TO A PERSON WHO IS THE LAWFUL SPOUSE OF THE OTHER PERSON.

P. "PERSON" MEANS A NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER.

S 9. Notwithstanding any provision of section 25 of the retirement and social security law to the contrary, no appropriation shall be required to be included in this act to effectuate its provisions.

S 10. This act shall take effect immediately and shall apply only to members who become deceased on or after the effective date of this act.

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

This bill would amend the Retirement and Social Security Law and the general municipal law in relation to accidental death benefits for members of certain public retirement systems in New York State. It would grant accidental death benefits to domestic partners and dependent children of domestic partners.

If this bill is enacted, insofar as it affects the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS), it could lead to more deaths being classified as "accidental", since it expands the definition of beneficiaries eligible for accidental deaths. For each death newly 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 could 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, date January 27, 2012, and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-76 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 Sections 501 and 601 of the Retirement and Social Security Law to allow domestic partners, and dependent children of domestic partners, to be included on the list of eligible beneficiaries for purposes of eligibility for receipt of an accidental death benefit from the New York State Teachers' Retirement System. The accidental death benefit is available to Tier 3, 4 and 5 members of the New York State Teachers' Retirement System.

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 2012-19 dated March 7, 2012 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2012 Legislative Session.