

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

7835--B

2011-2012 Regular Sessions

I N A S S E M B L Y

May 18, 2011

Introduced by M. of A. ABBATE, AUBRY -- (at request of the State Comptroller) -- read once and referred to the Committee on Governmental Employees -- 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 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

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

LBD11146-05-1

1 minimum amount of service necessary to be eligible for this benefit
2 shall be considered to have satisfied the minimum service requirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

46 c. For the purposes of this section an employee who dies while off the
47 payroll shall be considered to be in service provided he or she (1) was
48 on the payroll in such service and paid within a period of twelve months
49 prior to his or her death, or was on the payroll in the service upon
50 which membership is based 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 amended this subdivision] JUNE FOUR-

TEENTH, TWO THOUSAND FIVE, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for at least one year of continuous service since he or she last entered or reentered the service of his or her employer. 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 9. Subdivision (a) of section 360-b of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

(a) Pursuant to the provisions of section three hundred thirty-three of this article, a participating employer may elect to provide a guaranteed ordinary death benefit upon the death in service of its employees who (i) meet all of the requirements of section three hundred sixty of this title except that contained in paragraph three of subdivision (a) thereof, and (ii) last entered or reentered the employ of a participating employer prior to April first, nineteen hundred eighty-five, and were in such employ on March thirty-first, nineteen hundred eighty-five, and (iii) last joined or rejoined a public retirement system of the state or a municipality thereof before July first, nineteen hundred seventy-three, and (iv) had not attained age sixty at the date of such entrance into such service, and (v) had rendered ninety or more days of continuous service in the service of such participating employer during the fifteen month period immediately preceding death. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) 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, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) 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. 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 10. The closing paragraph of subdivision a of section 361 of the retirement and social security law, as added by chapter 105 of the laws of 2005, 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 and/or

1 special accidental death benefit, a member shall be considered to have
2 died as the natural and proximate result of an accident sustained in the
3 performance of duty provided such member was on the payroll in the
4 service upon which membership is based at the time he or she was ordered
5 to active duty[, other than for training purposes,] pursuant to Title 10
6 of the United States Code, with the armed forces of the United States OR
7 TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38
8 OF THE UNITED STATES CODE and died while on such active duty OR SERVICE
9 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
10 of the laws of two thousand five which added this paragraph] JUNE FOUR-
11 TEENTH, TWO THOUSAND FIVE.

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

15 e. For the purposes of this section:

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

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

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

49 f. Notwithstanding the provisions of any other law to the contrary and
50 solely for the purpose of determining eligibility for the death benefit
51 payable pursuant to this section, a person subject to this section shall
52 be considered to have died while in teaching service provided such
53 person was in such service at the time he or she was ordered to active
54 duty[, other than for training purposes,] pursuant to Title 10 of the
55 United States Code, with the armed forces of the United States OR TO
56 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF

1 THE UNITED STATES CODE and died while on such active duty OR SERVICE IN
2 THE UNIFORMED SERVICES on or after [the effective date of the chapter of
3 the laws of two thousand five which added this subdivision] JUNE FOUR-
4 TEENTH, TWO THOUSAND FIVE. Provided, further, that any such person
5 ordered to active duty[, other than for training purposes,] pursuant to
6 Title 10 of the United States Code, with the armed forces of the United
7 States OR TO SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF
8 TITLE 38 OF THE UNITED STATES CODE who died prior to rendering the mini-
9 mum amount of service necessary to be eligible for this benefit shall be
10 considered to have satisfied the minimum service requirements.

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

14 e. For the purposes of this section:

15 1. A member who dies while off the payroll shall be considered to be
16 in service provided he or she (a) was on the payroll in such service and
17 paid within a period of twelve months prior to his or her death, or was
18 on the payroll in the service upon which membership is based at the time
19 he or she was 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 and died while on such active duty OR SERVICE IN THE UNIFORMED SERVICES
24 on or after [the effective date of the chapter of the laws of two thou-
25 sand five which amended this subdivision] JUNE FOURTEENTH, TWO THOUSAND
26 FIVE, (b) had not been otherwise gainfully employed since he or she
27 ceased to be on such payroll and (c) had credit for one or more years of
28 continuous service since he or she last entered or reentered the service
29 of his or her employer; and

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

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

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

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

1 S 14. Subdivision e of section 606 of the retirement and social secu-
2 rity law, as amended by chapter 105 of the laws of 2005, is amended to
3 read as follows:

4 e. For the purposes of this section:

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

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

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

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

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

54 Notwithstanding the provisions of section two hundred forty-two, two
55 hundred forty-three or two hundred forty-four of the military law or the
56 provisions of any other law to the contrary and solely for the purpose

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (b) Notwithstanding any other provision of law to the contrary, the
49 rules and regulations adopted pursuant to this section shall be deemed
50 to be amended to provide that a member of the retirement system shall be
51 deemed to have died as the natural and proximate result of an accident
52 sustained in the performance of duty upon which his or her membership is
53 based, and not as a result of willful negligence on his or her part,
54 provided that such member was in active service upon which his or her
55 membership is based at the time that such member was ordered to active
56 duty[, other than for training purposes,] pursuant to Title 10 of the

1 United States Code, with the armed forces of the United States OR TO
2 SERVICE IN THE UNIFORMED SERVICES PURSUANT TO CHAPTER 43 OF TITLE 38 OF
3 THE UNITED STATES CODE, and such member died while on such active duty
4 OR SERVICE IN THE UNIFORMED SERVICES on or after [the effective date of
5 the chapter of the laws of two thousand five which added this subdivi-
6 sion] JUNE FOURTEENTH, TWO THOUSAND FIVE while serving on such active
7 military duty OR IN THE UNIFORMED SERVICES.

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

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

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

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

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

47 f. Notwithstanding any other provision of law to the contrary, and
48 solely for the purposes of this section, a member shall be deemed to
49 have died as the natural and proximate result of an accident sustained
50 in the performance of duty upon which his or her membership is based,
51 and not as a result of willful negligence on his or her part, provided
52 that such member was in active service upon which his or her membership
53 is based at the time that such member was 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, and such member died while on such active duty OR SERVICE
2 IN THE UNIFORMED SERVICES on or after [the effective date of the chapter
3 of the laws of two thousand five which added this subdivision] JUNE
4 FOURTEENTH, TWO THOUSAND FIVE while serving on such active military duty
5 OR IN THE UNIFORMED SERVICES.

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

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

24 S 25. The closing paragraph of section 3-401 of the administrative
25 code of the city of New York, as added by chapter 105 of the laws of
26 2005, is amended to read as follows:

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

41 S 26. The closing paragraph of section 3-402 of the administrative
42 code of the city of New York, as added by chapter 105 of the laws of
43 2005, is amended to read as follows:

44 Notwithstanding any other provision of law to the contrary, and solely
45 for the purposes of this section, a member otherwise covered by this
46 section shall be deemed to have been killed while engaged in the
47 discharge of duty upon which his or her membership is based, 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 paragraph] JUNE FOUR-

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

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

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

20 S 28. Subparagraph (i) of paragraph 2 of subdivision b of section
21 12-126 of the administrative code of the city of New York, as amended by
22 chapter 430 of the laws of 2010, is amended to read as follows:

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

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

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

49 Notwithstanding any law to the contrary, the survivors of any employee
50 subject to this section shall be entitled to the health benefits granted
51 pursuant to this section, provided that such employee died while on
52 active duty [other than for training purposes,] pursuant to Title 10 of
53 the 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 on such active duty OR
56 SERVICE IN THE UNIFORMED SERVICES on or after [the effective date of

1 chapter one hundred five of the laws of two thousand five] JUNE FOUR-
2 TEENTH, TWO THOUSAND FIVE as a result of injuries, disease or other
3 medical condition sustained or contracted in such active duty with the
4 armed forces of the United States OR IN THE UNIFORMED SERVICES.

5 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.

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

PROVISIONS OF LEGISLATION: With respect to the New York City Retirement Systems ("NYCRS"), the proposed legislation would amend the Administrative Code of the City of New York, the Retirement and Social Security Law, the Education Law and the General Municipal Law to comply with the Heroes Earnings Assistance and Relief Act of 2008 ("HEART Act"), by providing death benefits and health insurance coverage to eligible survivors of members of the NYCRS who die while ordered to service in the Uniformed Services pursuant to Chapter 43 of Title 38 of the United States Code.

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

DEFINITION OF SERVICE IN THE UNIFORMED SERVICES: The term "service in the uniformed services" is defined in Subchapter 4303 of Chapter 43 of Title 38 of the United States Code, in part, to mean "the performance of duty on a voluntary or involuntary basis in a uniformed service under the competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty"

MEMBERS IMPACTED BY THE PROPOSED LEGISLATION: With respect to the NYCERS, the proposed legislation would impact members of the NYCERS who serve in the Uniformed Services on or after June 14, 2005 and die while serving in the Uniformed Services.

IMPACT ON BENEFITS PAYABLE: With respect to the NYCERS, the proposed legislation would extend to members of the NYCERS who serve in the Uniformed Services, but are not covered under existing statutes, the same death benefits and health insurance coverage as now is extended to those serving in the armed forces of the United States. For those dying in the Uniformed Services on or after June 14, 2005, death is presumed to be from accidental causes.

FINANCIAL IMPACT - OVERVIEW: With respect to the NYCERS, the ultimate cost of this proposed legislation depends on how many members would be impacted.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Overall, with respect to the NYCERS, the impact on employer contributions is expected to be minor.

If enacted on or before June 30, 2011, this proposed legislation would be expected to change employer contributions to the NYCERS beginning Fiscal Year 2014.

If enacted during the 2011 Legislative Session after June 30, 2011 but on or before December 31, 2011, this proposed legislation would also first impact employer contributions to the NYCERS beginning Fiscal Year 2014.

FINANCIAL IMPACT- POTENTIAL CHANGES IN ACTUARIAL ASSUMPTIONS AND METHODS: The impact of enactment of the proposed legislation provided in this Fiscal Note has been based on the continued use of certain current actuarial assumptions and methods.

However, this set of actuarial assumptions and methods do not represent the only possible approach for funding the NYCERS.

Historically, actuarial assumptions and methods have been reviewed on average every five years in connection with an actuarial experience study mandated by New York City Charter Section 96.

Following this review, the Actuary generally proposes changes in actuarial assumptions and methods that he believes are appropriate and reasonably related to such experience period and future expectations.

The next such review is anticipated during Fiscal Year 2012 at which time the Actuary is likely to propose new packages of actuarial assumptions and methods to be effective for use in determining employer contributions beginning Fiscal Year 2012.

It is anticipated that whatever new actuarial assumptions are recommended by the Actuary, these are likely to result in increased Actuarial Present Value of Benefits ("APVB") and employer costs as the current actuarial assumptions no longer represent the Actuary's best estimates of future experience.

Note: The Actuary has not yet committed to any particular actuarial assumptions or methodologies for determining employer costs and employer contributions in connection with the upcoming, experience review of actuarial assumptions and methods.

OTHER COSTS: Not measured in this Fiscal Note is the additional cost of this proposed legislation to provide health insurance benefits for dependents of members who die while serving in the Uniformed Services but who would not be covered by existing statutes.

Also not measured in this Fiscal Note is the impact of this proposed legislation on administrative costs of the NYCERS which is expected to be minor.

CENSUS DATA: The census data used in these calculations is that used for the actuarial valuations of the NYCERS as of June 30, 2010.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB, employer costs and employer contributions have been estimated based on the actuarial assumptions and methods in effect for the June 30, 2010 (Lag) actuarial valuation of the NYCERS for use in determining the Fiscal Year 2012 employer contributions. Additional annual employer costs and employer contributions have been estimated assuming any additional APVB would be financed through future normal contributions.

As stated earlier, the Actuary is likely to propose new packages of actuarial assumptions and methods to be effective for use in determining employer contributions beginning Fiscal Year 2012. As such, not all assumptions employed in determining the results contained in this Fiscal Note for Fiscal Years 2012 and later represent the Actuary's current best estimate of future experience. However, most of the assumptions and methods used to determine the results contained herein are generally those adopted by the NYCERS Boards of Trustees and enacted by the State Legislature and Governor, and provide consistency with the employer contributions currently being presented.

Finally, the actuarial assumptions currently employed for determining employer contributions do not represent risk-adjusted, economic evaluations. Such risk-adjusted, economic evaluations could, for certain components of the proposed legislation, produce results that differ significantly from the results shown herein.

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 2011 Legislative Session. It is Fiscal Note 2011-22, dated June 14, 2011, prepared by the Chief Actuary for the New York City Retirement Systems (i.e., 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 Department Pension Fund).