

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.

LBD11146-04-1

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-

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

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

11 e. For the purposes of this section:

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

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

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

36 S 13. The closing paragraph of subdivision a of section 509 of the  
37 retirement and social security law, as amended by chapter 489 of the  
38 laws of 2008, 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 SERVICE IN THE UNIFORMED SERVICES  
51 on or after [the effective date of chapter one hundred five of the laws  
52 of two thousand five which added this paragraph] JUNE FOURTEENTH, TWO  
53 THOUSAND FIVE.

54 S 14. Subdivision e of section 606 of the retirement and social secu-  
55 rity law, as amended by chapter 105 of the laws of 2005, is amended to  
56 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 SERVICERS 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.