

1 **DOMESTIC RELATIONS RETIREMENT SHARES**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
8 certain death benefits.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ provides that a former spouse of a member who dies before retiring may receive a
- 12 death benefit in certain circumstances; and
- 13 ▶ makes technical changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

- 20 **49-11-102**, as last amended by Laws of Utah 2014, Chapter 15
- 21 **49-12-405**, as last amended by Laws of Utah 2011, Chapter 439
- 22 **49-13-405**, as last amended by Laws of Utah 2011, Chapter 439
- 23 **49-14-501**, as last amended by Laws of Utah 2015, Chapter 166
- 24 **49-14-502**, as last amended by Laws of Utah 2015, Chapter 166
- 25 **49-14-503**, as last amended by Laws of Utah 2011, Chapter 439
- 26 **49-14-504**, as last amended by Laws of Utah 2014, Chapter 15
- 27 **49-14-505**, as enacted by Laws of Utah 2002, Chapter 250
- 28 **49-14-506**, as enacted by Laws of Utah 2003, Chapter 240
- 29 **49-15-501**, as last amended by Laws of Utah 2015, Chapter 166
- 30 **49-15-502**, as last amended by Laws of Utah 2015, Chapter 166
- 31 **49-15-503**, as last amended by Laws of Utah 2011, Chapter 439

- 32 **49-15-504**, as last amended by Laws of Utah 2014, Chapter 15
- 33 **49-15-505**, as enacted by Laws of Utah 2002, Chapter 250
- 34 **49-15-506**, as enacted by Laws of Utah 2003, Chapter 240
- 35 **49-16-501**, as last amended by Laws of Utah 2015, Chapter 166
- 36 **49-16-502**, as last amended by Laws of Utah 2015, Chapter 166
- 37 **49-16-503**, as last amended by Laws of Utah 2011, Chapter 439
- 38 **49-16-504**, as last amended by Laws of Utah 2014, Chapter 15
- 39 **49-16-505**, as enacted by Laws of Utah 2002, Chapter 250
- 40 **49-16-506**, as enacted by Laws of Utah 2002, Chapter 250
- 41 **49-16-507**, as enacted by Laws of Utah 2003, Chapter 240
- 42 **49-17-501**, as last amended by Laws of Utah 2011, Chapter 439
- 43 **49-17-502**, as last amended by Laws of Utah 2014, Chapter 15
- 44 **49-18-501**, as last amended by Laws of Utah 2011, Chapter 439
- 45 **49-18-502**, as last amended by Laws of Utah 2014, Chapter 15
- 46 **49-19-501**, as last amended by Laws of Utah 2011, Chapter 439
- 47 **49-22-502**, as last amended by Laws of Utah 2011, Chapter 439
- 48 **49-23-301**, as last amended by Laws of Utah 2015, Chapter 166
- 49 **49-23-502**, as last amended by Laws of Utah 2011, Chapter 439
- 50 **49-23-503**, as last amended by Laws of Utah 2015, Chapters 166, 463, and 463

51 ENACTS:

- 52 **49-14-507**, Utah Code Annotated 1953
- 53 **49-15-507**, Utah Code Annotated 1953
- 54 **49-16-508**, Utah Code Annotated 1953
- 55 **49-17-503**, Utah Code Annotated 1953
- 56 **49-18-503**, Utah Code Annotated 1953
- 57 **49-19-502**, Utah Code Annotated 1953



59 *Be it enacted by the Legislature of the state of Utah:*

60 Section 1. Section **49-11-102** is amended to read:

61 **49-11-102. Definitions.**

62 As used in this title:

- 63 (1) (a) "Active member" means a member who:
64 (i) is employed by a participating employer and accruing service credit; or
65 (ii) within the previous 120 days:
66 (A) has been employed by a participating employer; and
67 (B) accrued service credit.
68 (b) "Active member" does not include a retiree.
- 69 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the
70 basis of mortality tables as recommended by the actuary and adopted by the executive director,
71 including regular interest.
- 72 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and
73 adopted by the board upon which the funding of system costs and benefits are computed.
- 74 (4) (a) "Agency" means:
75 (i) a department, division, agency, office, authority, commission, board, institution, or
76 hospital of the state;
77 (ii) a county, municipality, school district, local district, or special service district;
78 (iii) a state college or university; or
79 (iv) any other participating employer.
80 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a
81 subdivision of another entity listed under Subsection (4)(a).
- 82 (5) "Allowance" or "retirement allowance" means the pension plus the annuity,
83 including any cost of living or other authorized adjustments to the pension and annuity.
- 84 (6) "Alternate payee" means a member's former spouse or family member eligible to
85 receive payments under a Domestic Relations Order in compliance with Section 49-11-612.
- 86 (7) "Amortization rate" means the board certified percent of salary required to amortize
87 the unfunded actuarial accrued liability in accordance with policies established by the board
88 upon the advice of the actuary.
- 89 (8) "Annuity" means monthly payments derived from member contributions.
- 90 (9) "Appointive officer" means an employee appointed to a position for a definite and
91 fixed term of office by official and duly recorded action of a participating employer whose
92 appointed position is designated in the participating employer's charter, creation document, or
93 similar document, and:

94 (a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in
95 Section 49-12-407 for a Tier I appointive officer; and

96 (b) whose appointive position is full-time as certified by the participating employer for
97 a Tier II appointive officer.

98 (10) (a) "At-will employee" means a person who is employed by a participating
99 employer and:

100 (i) who is not entitled to merit or civil service protection and is generally considered
101 exempt from a participating employer's merit or career service personnel systems;

102 (ii) whose on-going employment status is entirely at the discretion of the person's
103 employer; or

104 (iii) who may be terminated without cause by a designated supervisor, manager, or
105 director.

106 (b) "At-will employee" does not include a career employee who has obtained a
107 reasonable expectation of continued employment based on inclusion in a participating
108 employer's merit system, civil service protection system, or career service personnel systems,
109 policies, or plans.

110 (11) "Beneficiary" means any person entitled to receive a payment under this title
111 through a relationship with or designated by a member, participant, covered individual, or
112 alternate payee of a defined contribution plan.

113 (12) "Board" means the Utah State Retirement Board established under Section
114 49-11-202.

115 (13) "Board member" means a person serving on the Utah State Retirement Board as
116 established under Section 49-11-202.

117 (14) "Certified contribution rate" means the board certified percent of salary paid on
118 behalf of an active member to the office to maintain the system on a financially and actuarially
119 sound basis.

120 (15) "Contributions" means the total amount paid by the participating employer and the
121 member into a system or to the Utah Governors' and Legislators' Retirement Plan under
122 Chapter 19, Utah Governors' and Legislators' Retirement Act.

123 (16) "Council member" means a person serving on the Membership Council
124 established under Section 49-11-202.

125 (17) "Covered individual" means any individual covered under Chapter 20, Public
126 Employees' Benefit and Insurance Program Act.

127 (18) "Current service" means covered service under:

128 (a) Chapter 12, Public Employees' Contributory Retirement Act;

129 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

130 (c) Chapter 14, Public Safety Contributory Retirement Act;

131 (d) Chapter 15, Public Safety Noncontributory Retirement Act;

132 (e) Chapter 16, Firefighters' Retirement Act;

133 (f) Chapter 17, Judges' Contributory Retirement Act;

134 (g) Chapter 18, Judges' Noncontributory Retirement Act;

135 (h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

136 (i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

137 (j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

138 (19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a
139 system or plan offered under this title to provide a specified allowance to a retiree or a retiree's
140 spouse after retirement that is based on a set formula involving one or more of the following
141 factors:

142 (a) years of service;

143 (b) final average monthly salary; or

144 (c) a retirement multiplier.

145 (20) "Defined contribution" or "defined contribution plan" means any defined
146 contribution plan or deferred compensation plan authorized under the Internal Revenue Code
147 and administered by the board.

148 (21) "Educational institution" means a political subdivision or instrumentality of the
149 state or a combination thereof primarily engaged in educational activities or the administration
150 or servicing of educational activities, including:

151 (a) the State Board of Education and its instrumentalities;

152 (b) any institution of higher education and its branches;

153 (c) any school district and its instrumentalities;

154 (d) any vocational and technical school; and

155 (e) any entity arising out of a consolidation agreement between entities described under

156 this Subsection (21).

157 (22) "Elected official":

158 (a) means a person elected to a state office, county office, municipal office, school
159 board or school district office, local district office, or special service district office;

160 (b) includes a person who is appointed to serve an unexpired term of office described
161 under Subsection (22)(a); and

162 (c) does not include a judge or justice who is subject to a retention election under
163 Section 20A-12-201.

164 (23) (a) "Employer" means any department, educational institution, or political
165 subdivision of the state eligible to participate in a government-sponsored retirement system
166 under federal law.

167 (b) "Employer" may also include an agency financed in whole or in part by public
168 funds.

169 (24) "Exempt employee" means an employee working for a participating employer:

170 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
171 49-14-203, 49-15-203, or 49-16-203; and

172 (b) for whom a participating employer is not required to pay contributions or
173 nonelective contributions.

174 (25) "Final average monthly salary" means the amount computed by dividing the
175 compensation received during the final average salary period under each system by the number
176 of months in the final average salary period.

177 (26) "Fund" means any fund created under this title for the purpose of paying benefits
178 or costs of administering a system, plan, or program.

179 (27) (a) "Inactive member" means a member who has not been employed by a
180 participating employer for a period of at least 120 days.

181 (b) "Inactive member" does not include retirees.

182 (28) (a) "Initially entering" means hired, appointed, or elected for the first time, in
183 current service as a member with any participating employer.

184 (b) "Initially entering" does not include a person who has any prior service credit on
185 file with the office.

186 (c) "Initially entering" includes an employee of a participating employer, except for an

187 employee that is not eligible under a system or plan under this title, who:

188 (i) does not have any prior service credit on file with the office;

189 (ii) is covered by a retirement plan other than a retirement plan created under this title;

190 and

191 (iii) moves to a position with a participating employer that is covered by this title.

192 (29) "Institution of higher education" means an institution described in Section
193 53B-1-102.

194 (30) (a) "Member" means a person, except a retiree, with contributions on deposit with
195 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah
196 Governors' and Legislators' Retirement Act, or with a terminated system.

197 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)
198 of the Internal Revenue Code, if the employees have contributions on deposit with the office.
199 If leased employees constitute less than 20% of the participating employer's work force that is
200 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,
201 "member" does not include leased employees covered by a plan described in Section 414(n)(5)
202 of the federal Internal Revenue Code.

203 (31) "Member contributions" means the sum of the contributions paid to a system or
204 the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a
205 system, and which are made by:

206 (a) the member; and

207 (b) the participating employer on the member's behalf under Section 414(h) of the
208 Internal Revenue Code.

209 (32) "Nonelective contribution" means an amount contributed by a participating
210 employer into a participant's defined contribution account.

211 (33) "Normal cost rate":

212 (a) means the percent of salary that is necessary for a retirement system that is fully
213 funded to maintain its fully funded status; and

214 (b) is determined by the actuary based on the assumed rate of return established by the
215 board.

216 (34) "Office" means the Utah State Retirement Office.

217 (35) "Participant" means an individual with voluntary deferrals or nonelective

218 contributions on deposit with the defined contribution plans administered under this title.

219 (36) "Participating employer" means a participating employer, as defined by Chapter
220 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
221 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
222 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
223 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'
224 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds
225 which is participating in a system or plan as of January 1, 2002.

226 (37) "Part-time appointed board member" means a person:

227 (a) who is appointed to serve as a member of a board, commission, council, committee,
228 or panel of a participating employer; and

229 (b) whose service as a part-time appointed board member does not qualify as a regular
230 full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

231 (38) "Pension" means monthly payments derived from participating employer
232 contributions.

233 (39) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by
234 Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier
235 II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan,
236 the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23,
237 Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under
238 Section 49-11-801.

239 (40) (a) "Political subdivision" means any local government entity, including cities,
240 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally
241 separate and distinct from the state and only if its employees are not by virtue of their
242 relationship to the entity employees of the state.

243 (b) "Political subdivision" includes local districts, special service districts, or
244 authorities created by the Legislature or by local governments, including the office.

245 (c) "Political subdivision" does not include a project entity created under Title 11,
246 Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

247 (41) "Program" means the Public Employees' Insurance Program created under Chapter
248 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'

249 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
250 Disability Act.

251 (42) "Public funds" means those funds derived, either directly or indirectly, from public
252 taxes or public revenue, dues or contributions paid or donated by the membership of the
253 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,
254 the governmental, educational, and social programs and systems of the state or its political
255 subdivisions.

256 (43) "Qualified defined contribution plan" means a defined contribution plan that
257 meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

258 (44) (a) "Reemployed," "reemploy," or "reemployment" means work or service
259 performed for a participating employer after retirement, in exchange for compensation.

260 (b) Reemployment includes work or service performed on a contract for a participating
261 employer if the retiree is:

262 (i) listed as the contractor; or

263 (ii) an owner, partner, or principal of the contractor.

264 (45) "Refund interest" means the amount accrued on member contributions at a rate
265 adopted by the board.

266 (46) "Retiree" means an individual who has qualified for an allowance under this title.

267 (47) "Retirement" means the status of an individual who has become eligible, applies
268 for, and is entitled to receive an allowance under this title.

269 (48) "Retirement date" means the date selected by the member on which the member's
270 retirement becomes effective with the office.

271 (49) "Retirement related contribution":

272 (a) means any employer payment to any type of retirement plan or program made on
273 behalf of an employee; and

274 (b) does not include Social Security payments or Social Security substitute payments
275 made on behalf of an employee.

276 (50) "Service credit" means:

277 (a) the period during which an employee is employed and compensated by a
278 participating employer and meets the eligibility requirements for membership in a system or the
279 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are

280 paid to the office; and

281 (b) periods of time otherwise purchasable under this title.

282 (51) "Surviving spouse" means:

283 (a) the lawful spouse who has been married to a member for at least six months

284 immediately before the death date of the member; or

285 (b) a former lawful spouse of a member with a valid domestic relations order benefits

286 on file with the office before the member's death date in accordance with Section 49-11-612.

287 ~~[(51)]~~ (52) "System" means the individual retirement systems created by Chapter 12,

288 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'

289 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,

290 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'

291 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'

292 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement

293 Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part

294 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid

295 Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

296 ~~[(52)]~~ (53) "Tier I" means a system or plan under this title for which:

297 (a) an employee is eligible to participate if the employee initially enters regular

298 full-time employment before July 1, 2011; or

299 (b) a governor or legislator who initially enters office before July 1, 2011.

300 ~~[(53)]~~ (54) (a) "Tier II" means a system or plan under this title provided in lieu of a

301 Tier I system or plan for an employee, governor, legislator, or full-time elected official who

302 does not have Tier I service credit in a system or plan under this title:

303 (i) if the employee initially enters regular full-time employment on or after July 1,

304 2011; or

305 (ii) if the governor, legislator, or full-time elected official initially enters office on or

306 after July 1, 2011.

307 (b) "Tier II" includes:

308 (i) the Tier II hybrid system established under:

309 (A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

310 (B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

311 (ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

312 (A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

313 (B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

314 [(54)] (55) "Unfunded actuarial accrued liability" or "UAAL":

315 (a) is determined by the system's actuary; and

316 (b) means the excess, if any, of the accrued liability of a retirement system over the
317 actuarial value of its assets.

318 [(55)] (56) "Voluntary deferrals" means an amount contributed by a participant into
319 that participant's defined contribution account.

320 Section 2. Section **49-12-405** is amended to read:

321 **49-12-405. Death of married member -- Service retirement benefits to surviving**
322 **spouse.**

323 (1) Upon the request of a deceased member's [lawful] surviving spouse [at the time of
324 ~~the member's death~~], the deceased member is considered to have retired under Option Three on
325 the first day of the month following the month in which the member died if the following
326 requirements are met:

327 (a) the member has:

328 (i) 25 or more years of service credit;

329 (ii) attained age 60 with 20 or more years of service credit;

330 (iii) attained age 62 with 10 or more years of service credit; or

331 (iv) attained age 65 with four or more years of service credit; and

332 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~
333 ~~married at least six months immediately prior to the death date~~].

334 (2) The surviving spouse who requests a benefit under this section shall apply in
335 writing to the office. The allowance shall begin on the first day of the month:

336 (a) following the month in which the member died, if the application is received by the
337 office within 90 days of the member's death; or

338 (b) following the month in which the application is received by the office, if the
339 application is received by the office more than 90 days after the [~~spouse's~~] member's death.

340 (3) The Option Three benefit calculation, when there are 25 or more years of service
341 credit, shall be calculated without a reduction in allowance under Section 49-12-402.

342 (4) The benefit calculation for a surviving spouse with a valid domestic relations order
343 benefits on file with the office before the member's death date in accordance with Section
344 49-11-612 is calculated according to the manner in which the court order specified benefits to
345 be partitioned, whether as a fixed amount or as a percentage of the benefit.

346 ~~[(4)]~~ (5) Except for a return of member contributions, benefits payable under this
347 section are retirement benefits and shall be paid in addition to any payments made under
348 Section 49-12-501 and constitute a full and final settlement of the claim of the surviving
349 spouse or any other beneficiary filing claim for benefits under Section 49-12-501.

350 (6) If the death benefits under this section are partitioned among more than one
351 surviving spouse due to domestic relations order benefits on file with the office before the
352 member's death date in accordance with Section 49-11-612, the total amount received by the
353 surviving spouses may not exceed the death benefits normally provided to one surviving
354 spouse under this section.

355 Section 3. Section **49-13-405** is amended to read:

356 **49-13-405. Death of married members -- Service retirement benefits to surviving**
357 **spouse.**

358 (1) As used in this section, "member's full allowance" means an Option Three
359 allowance calculated under Section 49-13-402 without an actuarial reduction.

360 (2) Upon the request of a deceased member's ~~[lawful]~~ surviving spouse ~~[at the time of~~
361 ~~the member's death]~~, the deceased member is considered to have retired under Option Three on
362 the first day of the month following the month in which the member died if the following
363 requirements are met:

364 (a) the member has:

365 (i) 15 or more years of service credit;

366 (ii) attained age 62 with 10 or more years of service credit; or

367 (iii) attained age 65 with four or more years of service credit; and

368 (b) the member dies leaving a surviving spouse ~~[to whom the member has been~~
369 ~~married at least six months immediately prior to the death date]~~.

370 (3) The surviving spouse who requests a benefit under this section shall apply in
371 writing to the office. The allowance shall begin on the first day of the month:

372 (a) following the month in which the member died, if the application is received by the

373 office within 90 days of the member's death; or

374 (b) following the month in which the application is received by the office, if the
375 application is received by the office more than 90 days after the [spouse's] member's death.

376 (4) The allowance payable to a surviving spouse under Subsection (2) is:

377 (a) if the member has 25 or more years of service credit at the time of death, the
378 surviving spouse shall receive the member's full allowance;

379 (b) if the member has between 20-24 years of service credit and is not age 60 or older
380 at the time of death, the surviving spouse shall receive two-thirds of the member's full
381 allowance;

382 (c) if the member has between 15-19 years of service credit and is not age 62 or older
383 at the time of death, the surviving spouse shall receive one-third of the member's full
384 allowance; or

385 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
386 older with 10 or more years of service credit, or age 65 or older with four or more years of
387 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
388 with actuarial reductions.

389 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
390 benefits on file with the office before the member's death date in accordance with Section
391 49-11-612 is calculated according to the manner in which the court order specified benefits to
392 be partitioned, whether as a fixed amount or as a percentage of the benefit.

393 [~~(5)~~] (6) Except for a return of member contributions, benefits payable under this
394 section are retirement benefits and shall be paid in addition to any other payments made under
395 Section 49-13-501 and shall constitute a full and final settlement of the claim of the surviving
396 spouse or any other beneficiary filing a claim for benefits under Section 49-13-501.

397 (7) If the death benefits under this section are partitioned among more than one
398 surviving spouse due to domestic relations order benefits on file with the office before the
399 member's death date in accordance with Section 49-11-612, the total amount received by the
400 surviving spouses may not exceed the death benefits normally provided to one surviving
401 spouse under this section.

402 Section 4. Section **49-14-501** is amended to read:

403 **49-14-501. Death of active member in Division A -- Payment of benefits.**

404 (1) If an active member of this system enrolled in Division A under Section 49-14-301
405 dies, benefits are payable as follows:

406 (a) If the death is classified by the office as a line-of-duty death, the surviving spouse
407 [~~at the time of death~~] shall receive a lump sum equal to six months of the active member's final
408 average salary and an allowance equal to 30% of the deceased member's final average monthly
409 salary.

410 (b) If the death is not classified by the office as a line-of-duty death, benefits are
411 payable as follows:

412 (i) If the member has accrued less than 10 years of public safety service credit, the
413 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,
414 whichever is greater.

415 (ii) If the member has accrued 10 or more years of public safety service credit at the
416 time of death, the surviving spouse [~~at the time of death~~] shall receive the sum of \$500, plus an
417 allowance equal to 2% of the member's final average monthly salary for each year of service
418 credit accrued by the member up to a maximum of 30% of the member's final average monthly
419 salary.

420 (2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor
421 children of members covered under Division A.

422 (3) If a benefit is not distributed under this section, and the member has designated a
423 beneficiary, the member's member contributions shall be paid to the beneficiary.

424 (4) (a) A surviving spouse who requests a benefit under this section shall apply in
425 writing to the office.

426 (b) The allowance shall begin on the first day of the month following the month in
427 which the:

428 (i) member died, if the application is received by the office within 90 days of the
429 member's death; or

430 (ii) application is received by the office, if the application is received by the office
431 more than 90 days after the member's death.

432 Section 5. Section **49-14-502** is amended to read:

433 **49-14-502. Death of active member in Division B -- Payment of benefits.**

434 (1) If an active member of this system enrolled in Division B under Section 49-14-301

435 dies, benefits are payable as follows:

436 (a) If the death is classified by the office as a line-of-duty death, the surviving spouse
437 [~~at the time of death~~] shall receive:

438 (i) a lump sum equal to six months of the active member's final average salary; and

439 (ii) an allowance equal to 37.5% of the member's final average monthly salary.

440 (b) If the death is not classified by the office as a line-of-duty death, benefits are
441 payable as follows:

442 (i) If the member has accrued two or more years of public safety service credit at the
443 time of death, the death is considered a line-of-duty death and the surviving spouse [~~at the time~~
444 ~~of death~~] shall receive:

445 (A) a lump sum of \$1,500; and

446 (B) an allowance as provided under Subsection (1)(a)(ii).

447 (ii) If the member has accrued less than two years of public safety service credit at the
448 time of death, the surviving spouse [~~at the time of death~~] shall receive a refund of the member's
449 member contributions, plus 50% of the member's most recent 12 months' compensation.

450 (c) (i) If the member has accrued two or more years of public safety service credit at
451 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
452 children with a mental or physical disability shall receive a monthly allowance of \$50.

453 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or
454 as otherwise provided under Sections 49-11-609 and 49-11-610.

455 (2) [~~In the event of the death of both parents,] If the member dies and there is no
456 surviving spouse, any amounts that would have been the surviving spouse's benefit shall be
457 prorated and paid to each of the member's unmarried children to age 18.~~

458 (3) If a benefit is not distributed under [~~the previous subsections~~] Subsection (1) or (2),
459 and the member has designated a beneficiary, the member's member contributions shall be paid
460 to the beneficiary.

461 (4) The combined annual payments made to the beneficiaries of any member under this
462 section may not exceed 75% of the member's final average monthly salary.

463 (5) (a) A surviving spouse who requests a benefit under this section shall apply in
464 writing to the office.

465 (b) The allowance shall begin on the first day of the month:

466 (i) following the month in which the member died, if the application is received by the
467 office within 90 days of the member's death; or

468 (ii) following the month in which the application is received by the office, if the
469 application is received by the office more than 90 days after the member's death.

470 Section 6. Section **49-14-503** is amended to read:

471 **49-14-503. Benefits payable upon death of inactive member.**

472 (1) If an inactive member who has less than 20 years of public safety service credit
473 dies, the surviving spouse [~~at the time of death~~], or, if there is no surviving spouse [~~at the time~~
474 ~~of death~~], the member's minor children shall receive a refund of the member's member
475 contributions or \$500, whichever is greater.

476 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
477 the surviving spouse [~~at the time of death~~] shall receive an allowance in an amount of 50% of
478 the amount the member would have received had retirement occurred on the first of the month
479 following the month in which the death occurred.

480 (b) This allowance shall be based on years of service credit and final average monthly
481 salary under Section 49-14-402, reduced actuarially from age 50 to the age of the member at
482 the time of death if the member is under age 50 at the time of death.

483 (3) (a) A surviving spouse who requests a benefit under this section shall apply in
484 writing to the office.

485 (b) The allowance shall begin on the first day of the month:

486 (i) following the month in which the member died, if the application is received by the
487 office within 90 days of the member's death; or

488 (ii) following the month in which the application is received by the office, if the
489 application is received by the office more than 90 days after the member's death.

490 Section 7. Section **49-14-504** is amended to read:

491 **49-14-504. Benefits payable upon death of retired member -- Enhanced benefit**
492 **election -- Rulemaking.**

493 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
494 surviving spouse [~~at the time of death of the retiree~~] shall receive an allowance equal to 65% of
495 the allowance that was being paid to the retiree at the time of death.

496 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time

497 of retirement, a retiree may elect to increase the surviving spousal death benefit to 75% of an
498 allowance computed in accordance with Section 49-14-402.

499 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
500 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
501 pay for the increased surviving spousal death benefit above 65%.

502 (3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall
503 provide an optional surviving spousal death benefit to bring the total surviving spousal death
504 benefit up to 75% of an allowance computed in accordance with Section 49-14-402.

505 (b) A retiree may elect to purchase the optional surviving spousal death benefit until
506 July 1, 2010.

507 (c) If an election is made under Subsection (3)(b), the retiree's allowance shall be
508 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
509 pay for the increased surviving spousal death benefit above 65%.

510 (d) The board shall make rules to administer the death benefit under this Subsection
511 (3).

512 (4) If the retiree retired solely under Division B and dies leaving unmarried children
513 under the age of 18 or dependent unmarried children with a mental or physical disability, the
514 children shall qualify for a benefit as prescribed for children under Subsection 49-14-502(1)(c).

515 (5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply
516 in writing to the office.

517 (b) The allowance shall begin on the first day of the month following the month in
518 which the:

519 (i) member or participant died, if the application is received by the office within 90
520 days of the date of death of the member or participant; or

521 (ii) application is received by the office, if the application is received by the office
522 more than 90 days after the date of death of the member or participant.

523 Section 8. Section **49-14-505** is amended to read:

524 **49-14-505. Benefits for surviving spouse under Division A or Division B.**

525 The surviving spouse [~~at the time of death~~], if eligible, shall receive a benefit computed
526 under either Division A or Division B, whichever provides the larger benefit, but may not
527 receive a benefit under both divisions if it would result in a duplicate benefit.

528 Section 9. Section **49-14-506** is amended to read:

529 **49-14-506. Benefits payable upon death of active or inactive member without**
530 **spouse or minor children.**

531 If an active or inactive member dies and at the time of death the member does not have
532 a surviving spouse or minor children, the benefit payable to a designated beneficiary is a refund
533 of the member's member contributions or \$500, whichever is larger.

534 Section 10. Section **49-14-507** is enacted to read:

535 **49-14-507. Surviving spouse includes certain former spouses -- Benefit calculation**
536 **for former spouse.**

537 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
538 benefits on file with the office before the member's death date in accordance with Section
539 49-11-612 is calculated according to the manner in which the court order specified benefits to
540 be partitioned, whether as a fixed amount or as a percentage of the benefit.

541 (2) If the death benefits under this section are partitioned among more than one
542 surviving spouse due to domestic relations order benefits on file with the office before the
543 member's death date in accordance with Section 49-11-612, the total amount received by the
544 surviving spouses may not exceed the death benefits normally provided to one surviving
545 spouse under this section.

546 Section 11. Section **49-15-501** is amended to read:

547 **49-15-501. Death of active member in Division A -- Payment of benefits.**

548 (1) If an active member of this system enrolled in Division A under Section 49-15-301
549 dies, benefits are payable as follows:

550 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
551 follows:

552 (i) If the member has accrued less than 20 years of public safety service credit, the
553 surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six months of the
554 active member's final average salary and an allowance equal to 30% of the member's final
555 average monthly salary.

556 (ii) If the member has accrued 20 or more years of public safety service credit, the
557 member shall be considered to have retired with an allowance calculated under Section
558 49-15-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit

559 payable to a surviving spouse [~~at the time of death~~] under Section 49-15-504.

560 (b) If the death is not classified as a line-of-duty death by the office, benefits are
561 payable as follows:

562 (i) If the member has accrued less than 10 years of public safety service credit, the
563 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,
564 whichever is greater.

565 (ii) If the member has accrued 10 or more years, but less than 20 years of public safety
566 service credit at the time of death, the surviving spouse [~~at the time of death~~] shall receive the
567 sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for
568 each year of service credit accrued by the member up to a maximum of 30% of the member's
569 final average monthly salary.

570 (iii) If the member has accrued 20 or more years of public safety service credit, the
571 benefit shall be calculated as provided in Subsection (1)(a)(ii).

572 (2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor
573 children under Division A.

574 (3) If a benefit is not distributed under this section, and the member has designated a
575 beneficiary, the member's member contribution shall be paid to the beneficiary.

576 (4) (a) A surviving spouse who requests a benefit under this section shall apply in
577 writing to the office.

578 (b) The allowance shall begin on the first day of the month following the month in
579 which the:

580 (i) member died, if the application is received by the office within 90 days of the
581 member's death; or

582 (ii) application is received by the office, if the application is received by the office
583 more than 90 days after the member's death.

584 Section 12. Section **49-15-502** is amended to read:

585 **49-15-502. Death of active member in Division B -- Payment of benefits.**

586 (1) If an active member of this system enrolled in Division B under Section 49-15-301
587 dies, benefits are payable as follows:

588 (a) If the death is classified by the office as a line-of-duty death, the surviving spouse
589 [~~at the time of death~~] shall receive:

590 (i) a lump sum equal to six months of the active member's final average salary; and

591 (ii) an allowance equal to 37.5% of the member's final average monthly salary.

592 (b) If the death is not classified by the office as a line-of-duty death, and the member
593 has accrued two or more years of public safety service credit at the time of death, the death is
594 considered line-of-duty and the surviving spouse [~~at the time of death~~] shall receive:

595 (i) a lump sum of \$1,500; and

596 (ii) an allowance as provided under Subsection (1)(a)(ii).

597 (c) If the death is not classified by the office as a line-of-duty death, and the member
598 has accrued less than two years of public safety service credit at the time of death, the surviving
599 spouse [~~at the time of death~~] shall receive a refund of the member's member contributions, plus
600 50% of the member's most recent 12 months' compensation.

601 (d) (i) If the member has accrued two or more years of public safety service credit at
602 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
603 children with a mental or physical disability shall receive an allowance of \$50.

604 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or
605 as otherwise provided under Section 49-11-609 or 49-11-610.

606 (2) [~~In the event of the death of both parents, the~~] If the member dies and there is no
607 surviving spouse, any amounts that would have been the surviving spouse's benefit shall be
608 prorated and paid to each of the member's unmarried children to age 18.

609 (3) If a benefit is not distributed under [~~the previous subsections~~] Subsection (1) or (2),
610 and the member has designated a beneficiary, the member's member contributions shall be paid
611 to the beneficiary.

612 (4) The combined payments to beneficiaries of any member under this section may not
613 exceed 75% of the member's final average monthly salary.

614 (5) (a) A surviving spouse who requests a benefit under this section shall apply in
615 writing to the office.

616 (b) The allowance shall begin on the first day of the month:

617 (i) following the month in which the member died, if the application is received by the
618 office within 90 days of the member's death; or

619 (ii) following the month in which the application is received by the office, if the
620 application is received by the office more than 90 days after the member's death.

621 Section 13. Section **49-15-503** is amended to read:

622 **49-15-503. Benefits payable upon death of inactive member.**

623 (1) If an inactive member who has less than 20 years of public safety service credit
624 dies, the surviving spouse [~~at the time of death~~], or, if there is no surviving spouse [~~at the time~~
625 ~~of death~~], the member's minor children shall receive a refund of the member's member
626 contributions or \$500, whichever is greater.

627 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
628 the surviving spouse [~~at the time of death~~] shall receive an allowance in an amount of 50% of
629 the amount the member would have received had retirement occurred on the first of the month
630 following the month in which the death occurred.

631 (b) This allowance shall be based on years of service credit and final average monthly
632 salary under Section 49-15-402, reduced actuarially from age 50 to the age of the member at
633 the time of death if the member is under 50 years of age at the time of death.

634 (3) (a) A surviving spouse who requests a benefit under this section shall apply in
635 writing to the office.

636 (b) The allowance shall begin on the first day of the month:

637 (i) following the month in which the member died, if the application is received by the
638 office within 90 days of the member's death; or

639 (ii) following the month in which the application is received by the office, if the
640 application is received by the office more than 90 days after the member's death.

641 Section 14. Section **49-15-504** is amended to read:

642 **49-15-504. Benefits payable upon death of retired member -- Enhanced benefit**
643 **election -- Rulemaking.**

644 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
645 surviving spouse [~~at the time of death of the retiree~~] shall receive an allowance equal to 65% of
646 the allowance that was being paid to the retiree at the time of death.

647 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time
648 of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance
649 computed in accordance with Section 49-15-402.

650 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
651 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to

652 pay for the increased spousal death benefit above 65%.

653 (3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall
654 provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of
655 an allowance computed in accordance with Section 49-15-402.

656 (b) A retiree may elect to purchase the optional spousal death benefit until July 1,
657 2010.

658 (c) If an election is made under Subsection (3)(b), the retiree's allowance shall be
659 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
660 pay for the increased spousal death benefit above 65%.

661 (d) The board shall make rules to administer the death benefit under this Subsection
662 (3).

663 (4) If the retiree retired solely under Division B and dies leaving unmarried children
664 under the age of 18 or dependent unmarried children with a mental or physical disability, the
665 children shall qualify for a benefit as prescribed under Subsection 49-15-502(1)(d).

666 (5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply
667 in writing to the office.

668 (b) The allowance shall begin on the first day of the month following the month in
669 which the:

670 (i) member or participant died, if the application is received by the office within 90
671 days of the date of death of the member or participant; or

672 (ii) application is received by the office, if the application is received by the office
673 more than 90 days after the date of death of the member or participant.

674 Section 15. Section **49-15-505** is amended to read:

675 **49-15-505. Benefits for surviving spouse under Division A or Division B.**

676 The surviving spouse [~~at the time of death~~], if eligible, shall receive a benefit computed
677 under either Division A or Division B, whichever provides the larger benefit, but may not
678 receive a benefit under both divisions if it would result in a duplicate benefit.

679 Section 16. Section **49-15-506** is amended to read:

680 **49-15-506. Benefits payable upon death of active or inactive member without**
681 **spouse or minor children.**

682 If an active or inactive member dies and at the time of death the member does not have

683 a surviving spouse or minor children, the benefit payable to a designated beneficiary is a refund
684 of the member's member contributions or \$500, whichever is larger.

685 Section 17. Section **49-15-507** is enacted to read:

686 **49-15-507. Surviving spouse includes certain former spouses -- Benefit calculation**
687 **for former spouse.**

688 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
689 benefits on file with the office before the member's death date in accordance with Section
690 49-11-612 is calculated according to the manner in which the court order specified benefits to
691 be partitioned, whether as a fixed amount or as a percentage of the benefit.

692 (2) If the death benefits under this section are partitioned among more than one
693 surviving spouse due to domestic relations order benefits on file with the office before the
694 member's death date in accordance with Section 49-11-612, the total amount received by the
695 surviving spouses may not exceed the death benefits normally provided to one surviving
696 spouse under this section.

697 Section 18. Section **49-16-501** is amended to read:

698 **49-16-501. Death of active member in Division A -- Payment of benefits.**

699 (1) If an active member of this system enrolled in Division A under Section 49-16-301
700 dies, benefits are payable as follows:

701 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
702 follows:

703 (i) If the member has accrued less than 20 years of firefighter service credit, the
704 surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six months of the
705 active member's final average salary and an allowance equal to 30% of the member's final
706 average monthly salary.

707 (ii) If the member has accrued 20 or more years of firefighter service credit, the
708 member shall be considered to have retired with an allowance calculated under Section
709 49-16-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit
710 payable to a surviving spouse under Section 49-16-504.

711 (b) If the death is not classified as a line-of-duty death by the office, benefits are
712 payable as follows:

713 (i) If the member has accrued less than 10 years of firefighter service credit, the

714 beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions,
715 whichever is greater.

716 (ii) If the member has accrued 10 or more years of firefighter service credit, the
717 surviving spouse [~~at the time of death~~] shall receive a sum of \$500, plus an allowance equal to
718 2% of the member's final average monthly salary for each year of service credit accrued by the
719 member up to a maximum of 30% of the member's final average monthly salary.

720 (2) (a) If the member dies without a [~~current~~] surviving spouse, the surviving spouse's
721 allowance shall be equally divided and paid to each unmarried child until the child reaches age
722 21.

723 (b) The payment shall be made to a duly appointed guardian or as provided under
724 Sections 49-11-609 and 49-11-610.

725 (3) If the benefit is not distributed under this section, and the member has designated a
726 beneficiary, the member's member contributions shall be paid to the beneficiary.

727 (4) (a) A surviving spouse who requests a benefit under this section shall apply in
728 writing to the office.

729 (b) The allowance shall begin on the first day of the month:

730 (i) following the month in which the member died, if the application is received by the
731 office within 90 days of the member's death; or

732 (ii) following the month in which the application is received by the office, if the
733 application is received by the office more than 90 days after the member's death.

734 Section 19. Section **49-16-502** is amended to read:

735 **49-16-502. Death of active member in Division B -- Payment of benefits.**

736 (1) If an active member of this system enrolled in Division B under Section 49-16-301
737 dies, benefits are payable as follows:

738 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
739 follows:

740 (i) If the member has accrued less than 20 years of firefighter service credit, the
741 surviving spouse [~~at the time of death~~] shall receive:

742 (A) a lump sum equal to six months of the active member's final average salary; and

743 (B) an allowance equal to 37.5% of the member's final average monthly salary.

744 (ii) If the member has accrued 20 or more years of firefighter service credit, the

745 member shall be considered to have retired with an allowance calculated under Section
746 49-16-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit
747 payable to a surviving spouse under Section 49-16-504.

748 (b) If the death is not classified by the office as a line-of-duty death, the benefits are
749 payable as follows:

750 (i) If the member has accrued five or more years of firefighter service credit, the death
751 is considered line-of-duty and the surviving spouse [~~at time of death~~] shall receive:

752 (A) a lump sum of \$1,500; and

753 (B) an allowance as established under Subsection (1)(a)(i)(B).

754 (ii) If the member has accrued less than five years of firefighter service credit, the
755 surviving spouse [~~at the time of death~~] shall receive a refund of the member's contributions,
756 plus 50% of the member's most recent 12 months compensation.

757 (c) If the member has accrued five or more years of firefighter service credit, the
758 member's unmarried children until they reach age 21 or dependent unmarried children with a
759 mental or physical disability, shall receive a monthly allowance of \$75.

760 (2) (a) [~~In the event of the death of~~] If the member dies and there is no surviving
761 spouse, [the] any amounts that would have been the surviving spouse's benefits are equally
762 divided and paid to each unmarried child until the child reaches age 21.

763 (b) The payments shall be made to the surviving parent or duly appointed guardian or
764 as provided under Sections 49-11-609 and 49-11-610.

765 (3) If a benefit is not distributed under [~~the previous subsections~~] Subsection (1) or (2),
766 and the member has designated a beneficiary, the member's member contributions shall be paid
767 to the beneficiary.

768 (4) The combined monthly payments made to the beneficiaries of any member under
769 this section may not exceed 75% of the member's final average monthly salary.

770 (5) (a) A surviving spouse who requests a benefit under this section shall apply in
771 writing to the office.

772 (b) The allowance shall begin on the first day of the month:

773 (i) following the month in which the member died, if the application is received by the
774 office within 90 days of the member's death; or

775 (ii) following the month in which the application is received by the office, if the

776 application is received by the office more than 90 days after the member's death.

777 Section 20. Section **49-16-503** is amended to read:

778 **49-16-503. Benefits payable upon death of inactive member.**

779 (1) If an inactive member who has less than 20 years of firefighter service credit dies,
780 the surviving spouse [~~at the time of death~~], or, if there is no surviving spouse [~~at the time of~~
781 ~~death~~], the member's minor children shall receive a refund of the member's member
782 contributions or \$500, whichever is greater.

783 (2) (a) If an inactive member with 20 or more years of firefighter service credit dies,
784 the surviving spouse [~~at the time of death~~] shall receive an allowance in the amount of 50% of
785 the amount the member would have received had retirement occurred on the first of the month
786 following the month in which the death occurred.

787 (b) This allowance shall be based on years of service credit and final average monthly
788 salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at
789 the time of death if the member is under 50 years of age at the time of death.

790 (3) (a) A surviving spouse who requests a benefit under this section shall apply in
791 writing to the office.

792 (b) The allowance shall begin on the first day of the month:

793 (i) following the month in which the member died, if the application is received by the
794 office within 90 days of the member's death; or

795 (ii) following the month in which the application is received by the office, if the
796 application is received by the office more than 90 days after the member's death.

797 Section 21. Section **49-16-504** is amended to read:

798 **49-16-504. Benefits payable upon death of retired member.**

799 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
800 surviving spouse [~~at the time of death~~] shall receive an allowance equal to 75% of the
801 allowance that was being paid to the retiree at the time of death.

802 (2) If the retiree retired solely under Division B and dies leaving unmarried children
803 under the age of 21 or dependent unmarried children with a mental or physical disability, the
804 children shall qualify for a benefit as prescribed under Subsection 49-16-502(1)(c).

805 (3) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply
806 in writing to the office.

807 (b) The allowance shall begin on the first day of the month following the month in
808 which the:

809 (i) member or participant died, if the application is received by the office within 90
810 days of the date of death of the member or participant; or

811 (ii) application is received by the office, if the application is received by the office
812 more than 90 days after the date of death of the member or participant.

813 Section 22. Section **49-16-505** is amended to read:

814 **49-16-505. Benefits for surviving spouse under Division A or Division B.**

815 The surviving spouse [~~at the time of death~~], if eligible, shall receive a benefit computed
816 under either Division A or Division B, whichever provides the larger benefit, but may not
817 receive a benefit under both divisions if it would result in a duplicate benefit.

818 Section 23. Section **49-16-506** is amended to read:

819 **49-16-506. Minimum allowance for surviving spouse.**

820 The minimum allowance payable to the surviving spouse who qualifies for an
821 allowance under Section 49-16-501, 49-16-502, 49-16-503 or 49-16-504, shall be \$350 per
822 month.

823 Section 24. Section **49-16-507** is amended to read:

824 **49-16-507. Benefits payable upon death of active or inactive member without a**
825 **surviving spouse or minor children.**

826 If an active or inactive member dies and at the time of death the member does not have
827 a surviving spouse or minor children, the benefit payable to a designated beneficiary is a refund
828 of the member's member contributions or \$500, whichever is larger.

829 Section 25. Section **49-16-508** is enacted to read:

830 **49-16-508. Surviving spouse includes certain former spouses -- Benefit calculation**
831 **for former spouse.**

832 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
833 benefits on file with the office before the member's death date in accordance with Section
834 49-11-612 is calculated according to the manner in which the court order specified benefits to
835 be partitioned, whether as a fixed amount or as a percentage of the benefit.

836 (2) If the death benefits under this section are partitioned among more than one

837 surviving spouse due to domestic relations order benefits on file with the office before the
838 member's death date in accordance with Section 49-11-612, the total amount received by the
839 surviving spouses may not exceed the death benefits normally provided to one surviving
840 spouse under this section.

841 Section 26. Section **49-17-501** is amended to read:

842 **49-17-501. Death benefit for members before retirement -- Computation.**

843 (1) Upon the receipt of acceptable proof of death of a member before the member's
844 retirement date, the member's surviving spouse [~~at the time of death~~] shall have the choice of
845 the following death benefits:

846 (a) a refund of the member's member contributions, including refund interest, plus 65%
847 of the member's most recent 12 months' compensation prior to death; or

848 (b) an allowance equal to 65% of the allowance computed in accordance with Section
849 49-17-402, but disregarding early retirement reductions.

850 (2) If there is no surviving spouse [~~to whom the member is married at the time of~~
851 ~~death~~], member contributions, including refund interest, shall be refunded to a beneficiary, in
852 accordance with Sections 49-11-609 and 49-11-610.

853 (3) (a) A surviving spouse who requests a benefit under this section shall apply in
854 writing to the office.

855 (b) The allowance shall begin on the first day of the month:

856 (i) following the month in which the member died, if the application is received by the
857 office within 90 days of the member's death; or

858 (ii) following the month in which the application is received by the office, if the
859 application is received by the office more than 90 days after the member's death.

860 Section 27. Section **49-17-502** is amended to read:

861 **49-17-502. Benefits payable upon death of retired member.**

862 (1) (a) The death benefit payable to a retiree's surviving spouse [~~at the time of death~~] is
863 an allowance equal to 65% of the allowance which was being paid to the retiree at the time of
864 death.

865 (b) The effective date of the accrual of this allowance is the first day of the month
866 following the month in which the retiree died.

867 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time

868 of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an
869 allowance computed in accordance with Section 49-17-402.

870 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
871 reduced to reflect the actuarial equivalent necessary to pay for the increased spousal death
872 benefit above 65%.

873 (3) (a) A surviving spouse who qualifies for a monthly benefit under this section shall
874 apply in writing to the office.

875 (b) The allowance shall begin on the first day of the month following the month in
876 which the:

877 (i) member or participant died, if the application is received by the office within 90
878 days of the date of death of the member or participant; or

879 (ii) application is received by the office, if the application is received by the office
880 more than 90 days after the date of death of the member or participant.

881 Section 28. Section **49-17-503** is enacted to read:

882 **49-17-503. Surviving spouse includes certain former spouses -- Benefit calculation**
883 **for former spouse.**

884 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
885 benefits on file with the office before the member's death date in accordance with Section
886 49-11-612 is calculated according to the manner in which the court order specified benefits to
887 be partitioned, whether as a fixed amount or as a percentage of the benefit.

888 (2) If the death benefits under this section are partitioned among more than one
889 surviving spouse due to domestic relations order benefits on file with the office before the
890 member's death date in accordance with Section 49-11-612, the total amount received by the
891 surviving spouses may not exceed the death benefits normally provided to one surviving
892 spouse under this section.

893 Section 29. Section **49-18-501** is amended to read:

894 **49-18-501. Death benefit for members before retirement -- Computation.**

895 (1) Upon the receipt of acceptable proof of death of a member before the member's
896 retirement date, the member's surviving spouse [~~at the time of death~~] shall have the choice of
897 the following death benefits:

898 (a) a refund of the member's member contributions, if any, plus 65% of the member's

899 most recent 12 months' compensation prior to death; or

900 (b) an allowance equal to 65% of the allowance computed in accordance with Section
901 49-18-402, but disregarding early retirement reductions.

902 (2) If there is no surviving spouse [~~to whom the member is married at the time of~~
903 ~~death~~], member contributions shall be refunded to a beneficiary, in accordance with Sections
904 49-11-609 and 49-11-610.

905 (3) (a) A surviving spouse who requests a benefit under this section shall apply in
906 writing to the office.

907 (b) The allowance shall begin on the first day of the month:

908 (i) following the month in which the member died, if the application is received by the
909 office within 90 days of the member's death; or

910 (ii) following the month in which the application is received by the office, if the
911 application is received by the office more than 90 days after the member's death.

912 Section 30. Section **49-18-502** is amended to read:

913 **49-18-502. Benefits payable upon death of retired member.**

914 (1) The death benefit payable to a retiree's surviving spouse [~~at the time of death~~] is an
915 allowance equal to 65% of the allowance which was being paid to the retiree at the time of
916 death.

917 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time
918 of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an
919 allowance computed in accordance with Section 49-18-402.

920 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
921 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
922 pay for the increased spousal death benefit above 65%.

923 (3) (a) A surviving spouse who qualifies for a monthly benefit under this section shall
924 apply in writing to the office.

925 (b) The allowance shall begin on the first day of the month following the month in
926 which the:

927 (i) member or participant died, if the application is received by the office within 90
928 days of the date of death of the member or participant; or

929 (ii) application is received by the office, if the application is received by the office

930 more than 90 days after the date of death of the member or participant.

931 Section 31. Section **49-18-503** is enacted to read:

932 **49-18-503. Surviving spouse includes certain former spouses -- Benefit calculation**
933 **for former spouse.**

934 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
935 benefits on file with the office before the member's death date in accordance with Section
936 49-11-612 is calculated according to the manner in which the court order specified benefits to
937 be partitioned, whether as a fixed amount or as a percentage of the benefit.

938 (2) If the death benefits under this section are partitioned among more than one
939 surviving spouse due to domestic relations order benefits on file with the office before the
940 member's death date in accordance with Section 49-11-612, the total amount received by the
941 surviving spouses may not exceed the death benefits normally provided to one surviving
942 spouse under this section.

943 Section 32. Section **49-19-501** is amended to read:

944 **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

945 (1) Upon the death of a governor or legislator who has not yet retired and who has
946 completed four or more years in the elected office, the member's surviving spouse [~~at the time~~
947 ~~of death~~] shall receive an allowance equal to 50% of the allowance to which the governor or
948 legislator would have been entitled upon reaching age 65, if the governor or legislator and
949 surviving spouse had been married at least six months.

950 (2) Upon the death of a governor or legislator receiving an allowance under this plan,
951 the member's surviving spouse [~~at the time of death~~] is entitled to an allowance equal to 50% of
952 the allowance being paid to the member at the time of death.

953 (3) (a) A surviving spouse who requests a benefit under this section shall apply in
954 writing to the office.

955 (b) The allowance shall begin on the first day of the month:

956 (i) following the month in which the member died, if the application is received by the
957 office within 90 days of the member's death; or

958 (ii) following the month in which the application is received by the office, if the
959 application is received by the office more than 90 days after the member's death.

960 Section 33. Section **49-19-502** is enacted to read:

961 **49-19-502. Surviving spouse at the time of death includes certain former spouses**
 962 **-- Benefit calculation for former spouse.**

963 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
 964 benefits on file with the office before the member's death date in accordance with Section
 965 49-11-612 is calculated according to the manner in which the court order specified benefits to
 966 be partitioned, whether as a fixed amount or as a percentage of the benefit.

967 (2) If the death benefits under this section are partitioned among more than one
 968 surviving spouse due to domestic relations order benefits on file with the office before the
 969 member's death date in accordance with Section 49-11-612, the total amount received by the
 970 surviving spouses may not exceed the death benefits normally provided to one surviving
 971 spouse under this section.

972 Section 34. Section **49-22-502** is amended to read:

973 **49-22-502. Death of married members -- Service retirement benefits to surviving**
 974 **spouse.**

975 (1) As used in this section, "member's full allowance" means an Option Three
 976 allowance calculated under Section 49-22-305 without an actuarial reduction.

977 (2) Upon the request of a deceased member's ~~[lawful]~~ surviving spouse ~~[at the time of~~
 978 ~~the member's death]~~, the deceased member is considered to have retired under Option Three on
 979 the first day of the month following the month in which the member died if the following
 980 requirements are met:

981 (a) the member has:

982 (i) 15 or more years of service credit;

983 (ii) attained age 62 with 10 or more years of service credit; or

984 (iii) attained age 65 with four or more years of service credit; and

985 (b) the member dies leaving a surviving spouse ~~[to whom the member has been~~
 986 ~~married at least six months immediately prior to the death date]~~.

987 (3) The surviving spouse who requests a benefit under this section shall apply in
 988 writing to the office. The allowance shall begin on the first day of the month:

989 (a) following the month in which the member died, if the application is received by the
 990 office within 90 days of the member's death; or

991 (b) following the month in which the application is received by the office, if the

992 application is received by the office more than 90 days after the [spouse's] member's death.

993 (4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

994 (a) if the member has 25 or more years of service credit at the time of death, the
995 surviving spouse shall receive the member's full allowance;

996 (b) if the member has between 20-24 years of service credit and is not age 60 or older
997 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

998 (c) if the member has between 15-19 years of service credit and is not age 62 or older
999 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

1000 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
1001 older with 10 or more years of service credit, or age 65 or older with four or more years of
1002 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
1003 with actuarial reductions.

1004 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
1005 benefits on file with the office before the member's death date in accordance with Section
1006 49-11-612 is calculated according to the manner in which the court order specified benefits to
1007 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1008 [~~(5)~~] (6) Except for a return of member contributions, benefits payable under this
1009 section are retirement benefits and shall be paid in addition to any other payments made under
1010 Section 49-22-501 and shall constitute a full and final settlement of the claim of the surviving
1011 spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

1012 (7) If the death benefits under this section are partitioned among more than one
1013 surviving spouse due to domestic relations order benefits on file with the office before the
1014 member's death date in accordance with Section 49-11-612, the total amount received by the
1015 surviving spouses may not exceed the death benefits normally provided to one surviving
1016 spouse under this section.

1017 Section 35. Section **49-23-301** is amended to read:

1018 **49-23-301. Contributions.**

1019 (1) Participating employers and members shall pay the certified contribution rates to
1020 the office to maintain the defined benefit portion of this system on a financially and actuarially
1021 sound basis in accordance with Subsection (2).

1022 (2) (a) A participating employer shall pay up to 12% of compensation toward the

1023 certified contribution rate to the office for the defined benefit portion of this system.

1024 (b) A member shall only pay to the office the amount, if any, of the certified
1025 contribution rate for the defined benefit portion of this system that exceeds the percent of
1026 compensation paid by the participating employer under Subsection (2)(a).

1027 (c) In addition to the percent specified under Subsection (2)(a), the participating
1028 employer shall pay the corresponding Tier I system amortization rate of the employee's
1029 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1030 (3) A participating employer may not elect to pay all or part of the required member
1031 contributions under Subsection (2)(b), in addition to the required participating employer
1032 contributions.

1033 (4) (a) A member contribution is credited by the office to the account of the individual
1034 member.

1035 (b) This amount, together with refund interest, is held in trust for the payment of
1036 benefits to the member or the member's beneficiaries.

1037 (c) A member contribution is vested and nonforfeitable.

1038 (5) (a) Each member is considered to consent to payroll deductions of member
1039 contributions.

1040 (b) The payment of compensation less these payroll deductions is considered full
1041 payment for services rendered by the member.

1042 (6) Except as provided under Subsection (7), benefits provided under the defined
1043 benefit portion of the Tier II hybrid retirement system created under this part:

1044 (a) may not be increased unless the actuarial funded ratios of all systems under this title
1045 reach 100%; and

1046 (b) may be decreased only in accordance with the provisions of Section 49-23-309.

1047 (7) The Legislature authorizes an increase to the death benefit provided to a Tier II
1048 public safety service employee or firefighter member's surviving spouse [~~at the time of death~~]
1049 effective on May 12, 2015, as provided in Section 49-23-503.

1050 Section 36. Section **49-23-502** is amended to read:

1051 **49-23-502. Death of married members -- Service retirement benefits to surviving**
1052 **spouse.**

1053 (1) As used in this section, "member's full allowance" means an Option Three

1054 allowance calculated under Section 49-23-304 without an actuarial reduction.

1055 (2) Upon the request of a deceased member's ~~[lawful]~~ surviving spouse at the time of
1056 the member's death, the deceased member is considered to have retired under Option Three on
1057 the first day of the month following the month in which the member died if the following
1058 requirements are met:

1059 (a) the member has:

1060 (i) 15 or more years of service credit;

1061 (ii) attained age 62 with 10 or more years of service credit; or

1062 (iii) attained age 65 with four or more years of service credit; and

1063 (b) the member dies leaving a surviving spouse ~~[to whom the member has been~~
1064 ~~married at least six months immediately prior to the death date]~~.

1065 (3) The surviving spouse who requests a benefit under this section shall apply in
1066 writing to the office. The allowance shall begin on the first day of the month:

1067 (a) following the month in which the member died, if the application is received by the
1068 office within 90 days of the member's death; or

1069 (b) following the month in which the application is received by the office, if the
1070 application is received by the office more than 90 days after the ~~[spouse's]~~ member's death.

1071 (4) The allowance payable to a surviving spouse under Subsection (2) is:

1072 (a) if the member has 25 or more years of service credit at the time of death, the
1073 surviving spouse shall receive the member's full allowance;

1074 (b) if the member has between 20-24 years of service credit and is not age 60 or older
1075 at the time of death, the surviving spouse shall receive two-thirds of the member's full
1076 allowance;

1077 (c) if the member has between 15-19 years of service credit and is not age 62 or older
1078 at the time of death, the surviving spouse shall receive one-third of the member's full
1079 allowance; or

1080 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
1081 older with 10 or more years of service credit, or age 65 or older with four or more years of
1082 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
1083 with actuarial reductions.

1084 (5) The benefit calculation for a surviving spouse with a valid domestic relations order

1085 benefits on file with the office before the member's death date in accordance with Section
1086 49-11-612 is calculated according to the manner in which the court order specified benefits to
1087 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1088 ~~(5)~~ (6) Except for a return of member contributions, benefits payable under this
1089 section are retirement benefits and shall be paid in addition to any other payments made under
1090 Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving
1091 spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

1092 (7) If the death benefits under this section or Section 49-23-503 are partitioned among
1093 more than one surviving spouse due to domestic relations order benefits on file with the office
1094 before the member's death date in accordance with Section 49-11-612, the total amount
1095 received by the surviving spouses may not exceed the death benefits normally provided to one
1096 surviving spouse under this section.

1097 Section 37. Section **49-23-503** is amended to read:

1098 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

1099 If an active member of this system dies, benefits are payable as follows:

1100 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as
1101 follows:

1102 (a) If the member has accrued less than 20 years of public safety service or firefighter
1103 service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six
1104 months of the active member's final average salary and an allowance equal to 30% of the
1105 member's final average monthly salary.

1106 (b) If the member has accrued 20 or more years of public safety service or firefighter
1107 service credit, the member shall be considered to have retired with an Option One allowance
1108 calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse [~~at~~
1109 ~~the time of death~~] shall receive the allowance that would have been payable to the member.

1110 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this
1111 section if the death results from external force, violence, or disease directly resulting from
1112 firefighter service.

1113 (b) The lowest monthly compensation of firefighters of a city of the first class in this
1114 state at the time of death shall be considered to be the final average monthly salary of a
1115 volunteer firefighter for purposes of computing these benefits.

1116 (c) Each volunteer fire department shall maintain a current roll of all volunteer
1117 firefighters which meet the requirements of Subsection 49-23-102(13) to determine the
1118 eligibility for this benefit.

1119 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are
1120 payable under this section and the surviving spouse [~~at the time of death~~] is not eligible for
1121 benefits under Section 49-23-502.

1122 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1123 payable in accordance with Section 49-23-502.

1124 (4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall
1125 apply in writing to the office.

1126 (b) The allowance shall begin on the first day of the month following the month in
1127 which the:

1128 (i) member or participant died, if the application is received by the office within 90
1129 days of the date of death of the member or participant; or

1130 (ii) application is received by the office, if the application is received by the office
1131 more than 90 days after the date of death of the member or participant.