

1                   **DOMESTIC RELATIONS RETIREMENT SHARES**

2                                   2016 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Kay L. McIff**

5                           Senate Sponsor: Deidre M. Henderson

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7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12           This bill:

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

16 **Money Appropriated in this Bill:**

17           None

18 **Other Special Clauses:**

19           None

20 **Utah Code Sections Affected:**

21 AMENDS:

22           **49-11-102**, as last amended by Laws of Utah 2014, Chapter 15

23           **49-12-405**, as last amended by Laws of Utah 2011, Chapter 439

24           **49-13-405**, as last amended by Laws of Utah 2011, Chapter 439

25           **49-14-501**, as last amended by Laws of Utah 2015, Chapter 166

26           **49-14-502**, as last amended by Laws of Utah 2015, Chapter 166

27           **49-14-503**, as last amended by Laws of Utah 2011, Chapter 439

28           **49-14-504**, as last amended by Laws of Utah 2014, Chapter 15

29           **49-14-505**, as enacted by Laws of Utah 2002, Chapter 250

- 30 **49-14-506**, as enacted by Laws of Utah 2003, Chapter 240
- 31 **49-15-501**, as last amended by Laws of Utah 2015, Chapter 166
- 32 **49-15-502**, as last amended by Laws of Utah 2015, Chapter 166
- 33 **49-15-503**, as last amended by Laws of Utah 2011, Chapter 439
- 34 **49-15-504**, as last amended by Laws of Utah 2014, Chapter 15
- 35 **49-15-505**, as enacted by Laws of Utah 2002, Chapter 250
- 36 **49-15-506**, as enacted by Laws of Utah 2003, Chapter 240
- 37 **49-16-501**, as last amended by Laws of Utah 2015, Chapter 166
- 38 **49-16-502**, as last amended by Laws of Utah 2015, Chapter 166
- 39 **49-16-503**, as last amended by Laws of Utah 2011, Chapter 439
- 40 **49-16-504**, as last amended by Laws of Utah 2014, Chapter 15
- 41 **49-16-505**, as enacted by Laws of Utah 2002, Chapter 250
- 42 **49-16-506**, as enacted by Laws of Utah 2002, Chapter 250
- 43 **49-16-507**, as enacted by Laws of Utah 2003, Chapter 240
- 44 **49-17-501**, as last amended by Laws of Utah 2011, Chapter 439
- 45 **49-17-502**, as last amended by Laws of Utah 2014, Chapter 15
- 46 **49-18-501**, as last amended by Laws of Utah 2011, Chapter 439
- 47 **49-18-502**, as last amended by Laws of Utah 2014, Chapter 15
- 48 **49-19-501**, as last amended by Laws of Utah 2011, Chapter 439
- 49 **49-22-502**, as last amended by Laws of Utah 2011, Chapter 439
- 50 **49-23-301**, as last amended by Laws of Utah 2015, Chapter 166
- 51 **49-23-502**, as last amended by Laws of Utah 2011, Chapter 439
- 52 **49-23-503**, as last amended by Laws of Utah 2015, Chapters 166, 463, and 463

53 ENACTS:

- 54 **49-14-507**, Utah Code Annotated 1953
- 55 **49-15-507**, Utah Code Annotated 1953
- 56 **49-16-508**, Utah Code Annotated 1953
- 57 **49-17-503**, Utah Code Annotated 1953

58 [49-18-503](#), Utah Code Annotated 1953

59 [49-19-502](#), Utah Code Annotated 1953

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

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

63 **49-11-102. Definitions.**

64 As used in this title:

65 (1) (a) "Active member" means a member who:

66 (i) is employed by a participating employer and accruing service credit; or

67 (ii) within the previous 120 days:

68 (A) has been employed by a participating employer; and

69 (B) accrued service credit.

70 (b) "Active member" does not include a retiree.

71 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the  
72 basis of mortality tables as recommended by the actuary and adopted by the executive director,  
73 including regular interest.

74 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and  
75 adopted by the board upon which the funding of system costs and benefits are computed.

76 (4) (a) "Agency" means:

77 (i) a department, division, agency, office, authority, commission, board, institution, or  
78 hospital of the state;

79 (ii) a county, municipality, school district, local district, or special service district;

80 (iii) a state college or university; or

81 (iv) any other participating employer.

82 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a  
83 subdivision of another entity listed under Subsection (4)(a).

84 (5) "Allowance" or "retirement allowance" means the pension plus the annuity,  
85 including any cost of living or other authorized adjustments to the pension and annuity.

86 (6) "Alternate payee" means a member's former spouse or family member eligible to  
87 receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

88 (7) "Amortization rate" means the board certified percent of salary required to amortize  
89 the unfunded actuarial accrued liability in accordance with policies established by the board  
90 upon the advice of the actuary.

91 (8) "Annuity" means monthly payments derived from member contributions.

92 (9) "Appointive officer" means an employee appointed to a position for a definite and  
93 fixed term of office by official and duly recorded action of a participating employer whose  
94 appointed position is designated in the participating employer's charter, creation document, or  
95 similar document, and:

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

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

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

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

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

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

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

112 (11) "Beneficiary" means any person entitled to receive a payment under this title  
113 through a relationship with or designated by a member, participant, covered individual, or

114 alternate payee of a defined contribution plan.

115 (12) "Board" means the Utah State Retirement Board established under Section  
116 49-11-202.

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

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

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

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

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

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

- 130 (a) Chapter 12, Public Employees' Contributory Retirement Act;
- 131 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 132 (c) Chapter 14, Public Safety Contributory Retirement Act;
- 133 (d) Chapter 15, Public Safety Noncontributory Retirement Act;
- 134 (e) Chapter 16, Firefighters' Retirement Act;
- 135 (f) Chapter 17, Judges' Contributory Retirement Act;
- 136 (g) Chapter 18, Judges' Noncontributory Retirement Act;
- 137 (h) Chapter 19, Utah Governors' and Legislators' Retirement Act;
- 138 (i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
- 139 (j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

140 (19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a  
141 system or plan offered under this title to provide a specified allowance to a retiree or a retiree's

142 spouse after retirement that is based on a set formula involving one or more of the following  
143 factors:

- 144 (a) years of service;
- 145 (b) final average monthly salary; or
- 146 (c) a retirement multiplier.

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

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

- 153 (a) the State Board of Education and its instrumentalities;
- 154 (b) any institution of higher education and its branches;
- 155 (c) any school district and its instrumentalities;
- 156 (d) any vocational and technical school; and
- 157 (e) any entity arising out of a consolidation agreement between entities described under  
158 this Subsection (21).

159 (22) "Elected official":

- 160 (a) means a person elected to a state office, county office, municipal office, school  
161 board or school district office, local district office, or special service district office;
- 162 (b) includes a person who is appointed to serve an unexpired term of office described  
163 under Subsection (22)(a); and

164 (c) does not include a judge or justice who is subject to a retention election under  
165 Section [20A-12-201](#).

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

169 (b) "Employer" may also include an agency financed in whole or in part by public

170 funds.

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

172 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,  
173 49-14-203, 49-15-203, or 49-16-203; and

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

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

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

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

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

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

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

188 (c) "Initially entering" includes an employee of a participating employer, except for an  
189 employee that is not eligible under a system or plan under this title, who:

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

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

192 and

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

194 (29) "Institution of higher education" means an institution described in Section  
195 53B-1-102.

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

198 Governors' and Legislators' Retirement Act, or with a terminated system.

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

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

208 (a) the member; and

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

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

213 (33) "Normal cost rate":

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

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

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

219 (35) "Participant" means an individual with voluntary deferrals or nonelective  
220 contributions on deposit with the defined contribution plans administered under this title.

221 (36) "Participating employer" means a participating employer, as defined by Chapter  
222 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'  
223 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,  
224 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'  
225 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'



226 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds  
227 which is participating in a system or plan as of January 1, 2002.

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

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

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

233 (38) "Pension" means monthly payments derived from participating employer  
234 contributions.

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

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

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

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

249 (41) "Program" means the Public Employees' Insurance Program created under Chapter  
250 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'  
251 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term  
252 Disability Act.

253 (42) "Public funds" means those funds derived, either directly or indirectly, from public

254 taxes or public revenue, dues or contributions paid or donated by the membership of the  
255 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,  
256 the governmental, educational, and social programs and systems of the state or its political  
257 subdivisions.

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

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

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

264 (i) listed as the contractor; or

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

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

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

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

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

273 (49) "Retirement related contribution":

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

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

278 (50) "Service credit" means:

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

282 paid to the office; and

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

284 (51) "Surviving spouse" means:

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

286 immediately before the death date of the member; or

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

288 on file with the office before the member's death date in accordance with Section [49-11-612](#).

289 ~~[(51)]~~ (52) "System" means the individual retirement systems created by Chapter 12,

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

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

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

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

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

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

296 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid

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

298 ~~[(52)]~~ (53) "Tier I" means a system or plan under this title for which:

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

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

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

302 ~~[(53)]~~ (54) (a) "Tier II" means a system or plan under this title provided in lieu of a

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

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

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

306 2011; or

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

308 after July 1, 2011.

309 (b) "Tier II" includes:

- 310 (i) the Tier II hybrid system established under:
- 311 (A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or
- 312 (B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and
- 313 (ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:
- 314 (A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or
- 315 (B) Chapter 23, Part 4, Tier II Defined Contribution Plan.
- 316 [(54)] (55) "Unfunded actuarial accrued liability" or "UAAL":
- 317 (a) is determined by the system's actuary; and
- 318 (b) means the excess, if any, of the accrued liability of a retirement system over the
- 319 actuarial value of its assets.

320 [(55)] (56) "Voluntary deferrals" means an amount contributed by a participant into  
 321 that participant's defined contribution account.

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

323 **49-12-405. Death of married member -- Service retirement benefits to surviving**  
 324 **spouse.**

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

- 329 (a) the member has:
  - 330 (i) 25 or more years of service credit;
  - 331 (ii) attained age 60 with 20 or more years of service credit;
  - 332 (iii) attained age 62 with 10 or more years of service credit; or
  - 333 (iv) attained age 65 with four or more years of service credit; and
- 334 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~  
 335 ~~married at least six months immediately prior to the death date~~].

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

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

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

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

344 (4) The benefit calculation for a surviving spouse with a valid domestic relations order  
345 benefits on file with the office before the member's death date in accordance with Section  
346 49-11-612 is calculated according to the manner in which the court order specified benefits to  
347 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

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

358 **49-13-405. Death of married members -- Service retirement benefits to surviving**  
359 **spouse.**

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

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

366 (a) the member has:

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

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

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

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

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

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

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

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

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

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

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

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

391 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
392 benefits on file with the office before the member's death date in accordance with Section  
393 49-11-612 is calculated according to the manner in which the court order specified benefits to

394 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

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

405 **49-14-501. Death of active member in Division A -- Payment of benefits.**

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

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

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

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

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

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

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

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

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

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

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

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

435 **49-14-502. Death of active member in Division B -- Payment of benefits.**

436 (1) If an active member of this system enrolled in Division B under Section **49-14-301**  
437 dies, benefits are payable as follows:

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

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

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

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

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

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

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

449 (ii) If the member has accrued less than two years of public safety service credit at the



450 time of death, the surviving spouse [~~at the time of death~~] shall receive a refund of the member's  
451 member contributions, plus 50% of the member's most recent 12 months' compensation.

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

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

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

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

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

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

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

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

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

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

473 **49-14-503. Benefits payable upon death of inactive member.**

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

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

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

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

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

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

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

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

493 **49-14-504. Benefits payable upon death of retired member -- Enhanced benefit**  
494 **election -- Rulemaking.**

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

498 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time  
499 of retirement, a retiree may elect to increase the surviving spousal death benefit to 75% of an  
500 allowance computed in accordance with Section 49-14-402.

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

504 (3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall  
505 provide an optional surviving spousal death benefit to bring the total surviving spousal death

506 benefit up to 75% of an allowance computed in accordance with Section 49-14-402.

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

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

512 (d) The board shall make rules to administer the death benefit under this Subsection  
513 (3).

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

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

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

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

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

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

526 **49-14-505. Benefits for surviving spouse under Division A or Division B.**

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

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

531 **49-14-506. Benefits payable upon death of active or inactive member without**  
532 **spouse or minor children.**

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

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

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

537 **49-14-507. Surviving spouse includes certain former spouses -- Benefit calculation**  
538 **for former spouse.**

539 (1) The benefit calculation for a surviving spouse with a valid domestic relations order  
540 benefits on file with the office before the member's death date in accordance with Section  
541 49-11-612 is calculated according to the manner in which the court order specified benefits to  
542 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

549 **49-15-501. Death of active member in Division A -- Payment of benefits.**

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

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

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

558 (ii) If the member has accrued 20 or more years of public safety service credit, the  
559 member shall be considered to have retired with an allowance calculated under Section  
560 **49-15-402** and the surviving spouse [~~at the time of death~~] shall receive the death benefit  
561 payable to a surviving spouse [~~at the time of death~~] under Section **49-15-504**.

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

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

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

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

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

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

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

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

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

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

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

587 **49-15-502. Death of active member in Division B -- Payment of benefits.**

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

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

- 592 (i) a lump sum equal to six months of the active member's final average salary; and
- 593 (ii) an allowance equal to 37.5% of the member's final average monthly salary.

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

- 597 (i) a lump sum of \$1,500; and
- 598 (ii) an allowance as provided under Subsection (1)(a)(ii).

599 (c) If the death is not classified by the office as a line-of-duty death, and the member  
600 has accrued less than two years of public safety service credit at the time of death, the surviving  
601 spouse [~~at the time of death~~] shall receive a refund of the member's member contributions, plus  
602 50% of the member's most recent 12 months' compensation.

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

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

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

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

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

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

- 618 (b) The allowance shall begin on the first day of the month:
- 619 (i) following the month in which the member died, if the application is received by the
- 620 office within 90 days of the member's death; or
- 621 (ii) following the month in which the application is received by the office, if the
- 622 application is received by the office more than 90 days after the member's death.

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

624 **49-15-503. Benefits payable upon death of inactive member.**

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

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

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

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

- 638 (b) The allowance shall begin on the first day of the month:
- 639 (i) following the month in which the member died, if the application is received by the
- 640 office within 90 days of the member's death; or
- 641 (ii) following the month in which the application is received by the office, if the
- 642 application is received by the office more than 90 days after the member's death.

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

644 **49-15-504. Benefits payable upon death of retired member -- Enhanced benefit**  
645 **election -- Rulemaking.**

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

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

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

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

658 (b) A retiree may elect to purchase the optional spousal death benefit until July 1,  
659 2010.

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

663 (d) The board shall make rules to administer the death benefit under this Subsection  
664 (3).

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

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

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

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



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

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

677 **49-15-505. Benefits for surviving spouse under Division A or Division B.**

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

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

682 **49-15-506. Benefits payable upon death of active or inactive member without**  
683 **spouse or minor children.**

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

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

688 **49-15-507. Surviving spouse includes certain former spouses -- Benefit calculation**  
689 **for former spouse.**

690 (1) The benefit calculation for a surviving spouse with a valid domestic relations order  
691 benefits on file with the office before the member's death date in accordance with Section  
692 49-11-612 is calculated according to the manner in which the court order specified benefits to  
693 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

700 **49-16-501. Death of active member in Division A -- Payment of benefits.**

701 (1) If an active member of this system enrolled in Division A under Section **49-16-301**

702 dies, benefits are payable as follows:

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

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

709 (ii) If the member has accrued 20 or more years of firefighter service credit, the  
710 member shall be considered to have retired with an allowance calculated under Section  
711 49-16-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit  
712 payable to a surviving spouse under Section 49-16-504.

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

715 (i) If the member has accrued less than 10 years of firefighter service credit, the  
716 beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions,  
717 whichever is greater.

718 (ii) If the member has accrued 10 or more years of firefighter service credit, the  
719 surviving spouse [~~at the time of death~~] shall receive a sum of \$500, plus an allowance equal to  
720 2% of the member's final average monthly salary for each year of service credit accrued by the  
721 member up to a maximum of 30% of the member's final average monthly salary.

722 (2) (a) If the member dies without a [~~current~~] surviving spouse, the surviving spouse's  
723 allowance shall be equally divided and paid to each unmarried child until the child reaches age  
724 21.

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

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

729 (4) (a) A surviving spouse who requests a benefit under this section shall apply in

730 writing to the office.

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

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

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

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

737 **49-16-502. Death of active member in Division B -- Payment of benefits.**

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

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

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

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

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

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

747 member shall be considered to have retired with an allowance calculated under Section

748 **49-16-402** and the surviving spouse [~~at the time of death~~] shall receive the death benefit

749 payable to a surviving spouse under Section **49-16-504**.

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

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

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

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

756 (ii) If the member has accrued less than five years of firefighter service credit, the

757 surviving spouse [~~at the time of death~~] shall receive a refund of the member's contributions,

758 plus 50% of the member's most recent 12 months compensation.

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

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

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

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

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

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

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

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

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

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

780 **49-16-503. Benefits payable upon death of inactive member.**

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

785 (2) (a) If an inactive member with 20 or more years of firefighter service credit dies,

786 the surviving spouse [~~at the time of death~~] shall receive an allowance in the amount of 50% of  
787 the amount the member would have received had retirement occurred on the first of the month  
788 following the month in which the death occurred.

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

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

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

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

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

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

800 **49-16-504. Benefits payable upon death of retired member.**

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

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

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

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

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

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

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

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

816 **49-16-505. Benefits for surviving spouse under Division A or Division B.**

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

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

821 **49-16-506. Minimum allowance for surviving spouse.**

822 The minimum allowance payable to the surviving spouse who qualifies for an  
823 allowance under Section [49-16-501](#), [49-16-502](#), [49-16-503](#) or [49-16-504](#), shall be \$350 per  
824 month.

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

826 **49-16-507. Benefits payable upon death of active or inactive member without a**  
827 **surviving spouse or minor children.**

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

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

832 **49-16-508. Surviving spouse includes certain former spouses -- Benefit calculation**  
833 **for former spouse.**

834 (1) The benefit calculation for a surviving spouse with a valid domestic relations order  
835 benefits on file with the office before the member's death date in accordance with Section  
836 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to  
837 be partitioned, whether as a fixed amount or as a percentage of the benefit.

838 (2) If the death benefits under this section are partitioned among more than one  
839 surviving spouse due to domestic relations order benefits on file with the office before the  
840 member's death date in accordance with Section [49-11-612](#), the total amount received by the  
841 surviving spouses may not exceed the death benefits normally provided to one surviving

842 spouse under this section.

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

844 **49-17-501. Death benefit for members before retirement -- Computation.**

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

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

850 (b) an allowance equal to 65% of the allowance computed in accordance with Section  
851 [49-17-402](#), but disregarding early retirement reductions.

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

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

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

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

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

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

863 **49-17-502. Benefits payable upon death of retired member.**

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

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

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

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

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

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

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

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

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

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

884 **49-17-503. Surviving spouse includes certain former spouses -- Benefit calculation**  
885 **for former spouse.**

886 (1) The benefit calculation for a surviving spouse with a valid domestic relations order  
887 benefits on file with the office before the member's death date in accordance with Section  
888 49-11-612 is calculated according to the manner in which the court order specified benefits to  
889 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

896 **49-18-501. Death benefit for members before retirement -- Computation.**

897 (1) Upon the receipt of acceptable proof of death of a member before the member's



898 retirement date, the member's surviving spouse [~~at the time of death~~] shall have the choice of  
899 the following death benefits:

900 (a) a refund of the member's member contributions, if any, plus 65% of the member's  
901 most recent 12 months' compensation prior to death; or

902 (b) an allowance equal to 65% of the allowance computed in accordance with Section  
903 49-18-402, but disregarding early retirement reductions.

904 (2) If there is no surviving spouse [~~to whom the member is married at the time of~~  
905 ~~death~~], member contributions shall be refunded to a beneficiary, in accordance with Sections  
906 49-11-609 and 49-11-610.

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

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

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

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

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

915 **49-18-502. Benefits payable upon death of retired member.**

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

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

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

925 (3) (a) A surviving spouse who qualifies for a monthly benefit under this section shall

926 apply in writing to the office.

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

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

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

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

934 **49-18-503. Surviving spouse includes certain former spouses -- Benefit calculation**  
935 **for former spouse.**

936 (1) The benefit calculation for a surviving spouse with a valid domestic relations order  
937 benefits on file with the office before the member's death date in accordance with Section  
938 49-11-612 is calculated according to the manner in which the court order specified benefits to  
939 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

946 **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

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

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

954 the allowance being paid to the member at the time of death.

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

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

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

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

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

963 **49-19-502. Surviving spouse at the time of death includes certain former spouses**  
964 **-- Benefit calculation for former spouse.**

965 (1) The benefit calculation for a surviving spouse with a valid domestic relations order  
966 benefits on file with the office before the member's death date in accordance with Section  
967 49-11-612 is calculated according to the manner in which the court order specified benefits to  
968 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

975 **49-22-502. Death of married members -- Service retirement benefits to surviving**  
976 **spouse.**

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

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

982 requirements are met:

983 (a) the member has:

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

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

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

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

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

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

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

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

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

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

1000 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
1001 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

1002 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
1003 older with 10 or more years of service credit, or age 65 or older with four or more years of  
1004 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
1005 with actuarial reductions.

1006 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
1007 benefits on file with the office before the member's death date in accordance with Section  
1008 49-11-612 is calculated according to the manner in which the court order specified benefits to  
1009 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1010            [~~5~~] (6) Except for a return of member contributions, benefits payable under this  
1011 section are retirement benefits and shall be paid in addition to any other payments made under  
1012 Section 49-22-501 and shall constitute a full and final settlement of the claim of the surviving  
1013 spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

1014            (7) If the death benefits under this section are partitioned among more than one  
1015 surviving spouse due to domestic relations order benefits on file with the office before the  
1016 member's death date in accordance with Section 49-11-612, the total amount received by the  
1017 surviving spouses may not exceed the death benefits normally provided to one surviving  
1018 spouse under this section.

1019            Section 35. Section **49-23-301** is amended to read:

1020            **49-23-301. Contributions.**

1021            (1) Participating employers and members shall pay the certified contribution rates to  
1022 the office to maintain the defined benefit portion of this system on a financially and actuarially  
1023 sound basis in accordance with Subsection (2).

1024            (2) (a) A participating employer shall pay up to 12% of compensation toward the  
1025 certified contribution rate to the office for the defined benefit portion of this system.

1026            (b) A member shall only pay to the office the amount, if any, of the certified  
1027 contribution rate for the defined benefit portion of this system that exceeds the percent of  
1028 compensation paid by the participating employer under Subsection (2)(a).

1029            (c) In addition to the percent specified under Subsection (2)(a), the participating  
1030 employer shall pay the corresponding Tier I system amortization rate of the employee's  
1031 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1032            (3) A participating employer may not elect to pay all or part of the required member  
1033 contributions under Subsection (2)(b), in addition to the required participating employer  
1034 contributions.

1035            (4) (a) A member contribution is credited by the office to the account of the individual  
1036 member.

1037            (b) This amount, together with refund interest, is held in trust for the payment of

1038 benefits to the member or the member's beneficiaries.

1039 (c) A member contribution is vested and nonforfeitable.

1040 (5) (a) Each member is considered to consent to payroll deductions of member  
1041 contributions.

1042 (b) The payment of compensation less these payroll deductions is considered full  
1043 payment for services rendered by the member.

1044 (6) Except as provided under Subsection (7), benefits provided under the defined  
1045 benefit portion of the Tier II hybrid retirement system created under this part:

1046 (a) may not be increased unless the actuarial funded ratios of all systems under this title  
1047 reach 100%; and

1048 (b) may be decreased only in accordance with the provisions of Section 49-23-309.

1049 (7) The Legislature authorizes an increase to the death benefit provided to a Tier II  
1050 public safety service employee or firefighter member's surviving spouse [~~at the time of death~~]  
1051 effective on May 12, 2015, as provided in Section 49-23-503.

1052 Section 36. Section 49-23-502 is amended to read:

1053 **49-23-502. Death of married members -- Service retirement benefits to surviving**  
1054 **spouse.**

1055 (1) As used in this section, "member's full allowance" means an Option Three  
1056 allowance calculated under Section 49-23-304 without an actuarial reduction.

1057 (2) Upon the request of a deceased member's [~~lawful~~] surviving spouse at the time of  
1058 the member's death, the deceased member is considered to have retired under Option Three on  
1059 the first day of the month following the month in which the member died if the following  
1060 requirements are met:

1061 (a) the member has:

1062 (i) 15 or more years of service credit;

1063 (ii) attained age 62 with 10 or more years of service credit; or

1064 (iii) attained age 65 with four or more years of service credit; and

1065 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~]

1066 ~~married at least six months immediately prior to the death date].~~

1067 (3) The surviving spouse who requests a benefit under this section shall apply in  
1068 writing to the office. The allowance shall begin on the first day of the month:

1069 (a) following the month in which the member died, if the application is received by the  
1070 office within 90 days of the member's death; or

1071 (b) following the month in which the application is received by the office, if the  
1072 application is received by the office more than 90 days after the [~~spouse's~~] member's death.

1073 (4) The allowance payable to a surviving spouse under Subsection (2) is:

1074 (a) if the member has 25 or more years of service credit at the time of death, the  
1075 surviving spouse shall receive the member's full allowance;

1076 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
1077 at the time of death, the surviving spouse shall receive two-thirds of the member's full  
1078 allowance;

1079 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
1080 at the time of death, the surviving spouse shall receive one-third of the member's full  
1081 allowance; or

1082 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
1083 older with 10 or more years of service credit, or age 65 or older with four or more years of  
1084 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
1085 with actuarial reductions.

1086 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
1087 benefits on file with the office before the member's death date in accordance with Section  
1088 49-11-612 is calculated according to the manner in which the court order specified benefits to  
1089 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1090 [~~5~~] (6) Except for a return of member contributions, benefits payable under this  
1091 section are retirement benefits and shall be paid in addition to any other payments made under  
1092 Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving  
1093 spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

1094 (7) If the death benefits under this section or Section 49-23-503 are partitioned among  
1095 more than one surviving spouse due to domestic relations order benefits on file with the office  
1096 before the member's death date in accordance with Section 49-11-612, the total amount  
1097 received by the surviving spouses may not exceed the death benefits normally provided to one  
1098 surviving spouse under this section.

1099 Section 37. Section 49-23-503 is amended to read:

1100 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

1101 If an active member of this system dies, benefits are payable as follows:

1102 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as  
1103 follows:

1104 (a) If the member has accrued less than 20 years of public safety service or firefighter  
1105 service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six  
1106 months of the active member's final average salary and an allowance equal to 30% of the  
1107 member's final average monthly salary.

1108 (b) If the member has accrued 20 or more years of public safety service or firefighter  
1109 service credit, the member shall be considered to have retired with an Option One allowance  
1110 calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse [~~at~~  
1111 ~~the time of death~~] shall receive the allowance that would have been payable to the member.

1112 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this  
1113 section if the death results from external force, violence, or disease directly resulting from  
1114 firefighter service.

1115 (b) The lowest monthly compensation of firefighters of a city of the first class in this  
1116 state at the time of death shall be considered to be the final average monthly salary of a  
1117 volunteer firefighter for purposes of computing these benefits.

1118 (c) Each volunteer fire department shall maintain a current roll of all volunteer  
1119 firefighters which meet the requirements of Subsection 49-23-102(13) to determine the  
1120 eligibility for this benefit.

1121 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are



1122 payable under this section and the surviving spouse [~~at the time of death~~] is not eligible for  
1123 benefits under Section 49-23-502.

1124 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
1125 payable in accordance with Section 49-23-502.

1126 (4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall  
1127 apply in writing to the office.

1128 (b) The allowance shall begin on the first day of the month following the month in  
1129 which the:

1130 (i) member or participant died, if the application is received by the office within 90  
1131 days of the date of death of the member or participant; or

1132 (ii) application is received by the office, if the application is received by the office  
1133 more than 90 days after the date of death of the member or participant.