

DOMESTIC RELATIONS RETIREMENT SHARES

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay L. McIff

Senate Sponsor: Deidre M. Henderson

LONG TITLE

Committee Note:

The Retirement and Independent Entities Interim Committee recommended this bill.

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- [49-11-102](#), as last amended by Laws of Utah 2014, Chapter 15
- [49-12-405](#), as last amended by Laws of Utah 2011, Chapter 439
- [49-13-405](#), as last amended by Laws of Utah 2011, Chapter 439
- [49-14-501](#), as last amended by Laws of Utah 2015, Chapter 166



- 28 [49-14-502](#), as last amended by Laws of Utah 2015, Chapter 166
- 29 [49-14-503](#), as last amended by Laws of Utah 2011, Chapter 439
- 30 [49-14-504](#), as last amended by Laws of Utah 2014, Chapter 15
- 31 [49-14-505](#), as enacted by Laws of Utah 2002, Chapter 250
- 32 [49-14-506](#), as enacted by Laws of Utah 2003, Chapter 240
- 33 [49-15-501](#), as last amended by Laws of Utah 2015, Chapter 166
- 34 [49-15-502](#), as last amended by Laws of Utah 2015, Chapter 166
- 35 [49-15-503](#), as last amended by Laws of Utah 2011, Chapter 439
- 36 [49-15-504](#), as last amended by Laws of Utah 2014, Chapter 15
- 37 [49-15-505](#), as enacted by Laws of Utah 2002, Chapter 250
- 38 [49-15-506](#), as enacted by Laws of Utah 2003, Chapter 240
- 39 [49-16-501](#), as last amended by Laws of Utah 2015, Chapter 166
- 40 [49-16-502](#), as last amended by Laws of Utah 2015, Chapter 166
- 41 [49-16-503](#), as last amended by Laws of Utah 2011, Chapter 439
- 42 [49-16-504](#), as last amended by Laws of Utah 2014, Chapter 15
- 43 [49-16-505](#), as enacted by Laws of Utah 2002, Chapter 250
- 44 [49-16-506](#), as enacted by Laws of Utah 2002, Chapter 250
- 45 [49-16-507](#), as enacted by Laws of Utah 2003, Chapter 240
- 46 [49-17-501](#), as last amended by Laws of Utah 2011, Chapter 439
- 47 [49-17-502](#), as last amended by Laws of Utah 2014, Chapter 15
- 48 [49-18-501](#), as last amended by Laws of Utah 2011, Chapter 439
- 49 [49-18-502](#), as last amended by Laws of Utah 2014, Chapter 15
- 50 [49-19-501](#), as last amended by Laws of Utah 2011, Chapter 439
- 51 [49-22-502](#), as last amended by Laws of Utah 2011, Chapter 439
- 52 [49-23-301](#), as last amended by Laws of Utah 2015, Chapter 166
- 53 [49-23-502](#), as last amended by Laws of Utah 2011, Chapter 439
- 54 [49-23-503](#), as last amended by Laws of Utah 2015, Chapters 166, 463, and 463

55 ENACTS:

- 56 [49-14-507](#), Utah Code Annotated 1953
- 57 [49-15-507](#), Utah Code Annotated 1953
- 58 [49-16-508](#), Utah Code Annotated 1953

59 [49-17-503](#), Utah Code Annotated 1953
60 [49-18-503](#), Utah Code Annotated 1953
61 [49-19-502](#), Utah Code Annotated 1953

62

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

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

65 **49-11-102. Definitions.**

66 As used in this title:

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

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

69 (ii) within the previous 120 days:

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

71 (B) accrued service credit.

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

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

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

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

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

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

82 (iii) a state college or university; or

83 (iv) any other participating employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

117 (12) "Board" means the Utah State Retirement Board established under Section
118 49-11-202.

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

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

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

127 (16) "Council member" means a person serving on the Membership Council
128 established under Section [49-11-202](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

146 (a) years of service;

147 (b) final average monthly salary; or

148 (c) a retirement multiplier.

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

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

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

161 (22) "Elected official":

- 162 (a) means a person elected to a state office, county office, municipal office, school
163 board or school district office, local district office, or special service district office;
- 164 (b) includes a person who is appointed to serve an unexpired term of office described
165 under Subsection (22)(a); and
- 166 (c) does not include a judge or justice who is subject to a retention election under
167 Section [20A-12-201](#).

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

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

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

- 174 (a) who is not eligible for service credit under Section [49-12-203](#), [49-13-203](#),
175 [49-14-203](#), [49-15-203](#), or [49-16-203](#); and
- 176 (b) for whom a participating employer is not required to pay contributions or
177 nonelective contributions.

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

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

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

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

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

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

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

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

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

194 and

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

196 (29) "Institution of higher education" means an institution described in Section
197 [53B-1-102](#).

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

201 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)
202 of the Internal Revenue Code, if the employees have contributions on deposit with the office.

203 If leased employees constitute less than 20% of the participating employer's work force that is
204 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,
205 "member" does not include leased employees covered by a plan described in Section 414(n)(5)
206 of the federal Internal Revenue Code.

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

210 (a) the member; and

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

213 (32) "Nonelective contribution" means an amount contributed by a participating

214 employer into a participant's defined contribution account.

215 (33) "Normal cost rate":

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

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

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

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

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

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

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

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

235 (38) "Pension" means monthly payments derived from participating employer
236 contributions.

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

243 (40) (a) "Political subdivision" means any local government entity, including cities,
244 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally

245 separate and distinct from the state and only if its employees are not by virtue of their
246 relationship to the entity employees of the state.

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

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

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

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

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

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

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

266 (i) listed as the contractor; or

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

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

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

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

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

275 (49) "Retirement related contribution":

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

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

280 (50) "Service credit" means:

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

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

286 (51) "Surviving spouse" means:

287 (a) the lawful spouse who has been married to a member for at least six months
288 immediately before the death date of the member; or

289 (b) a former lawful spouse of a member with a valid domestic relations order benefits
290 on file with the office before the member's death date in accordance with Section [49-11-612](#).

291 ~~[(51)]~~ (52) "System" means the individual retirement systems created by Chapter 12,
292 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
293 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
294 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
295 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'
296 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement
297 Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part
298 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid
299 Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

300 ~~[(52)]~~ (53) "Tier I" means a system or plan under this title for which:

301 (a) an employee is eligible to participate if the employee initially enters regular
302 full-time employment before July 1, 2011; or

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

304 ~~[(53)]~~ (54) (a) "Tier II" means a system or plan under this title provided in lieu of a
305 Tier I system or plan for an employee, governor, legislator, or full-time elected official who
306 does not have Tier I service credit in a system or plan under this title:

307 (i) if the employee initially enters regular full-time employment on or after July 1,
308 2011; or

309 (ii) if the governor, legislator, or full-time elected official initially enters office on or
310 after July 1, 2011.

311 (b) "Tier II" includes:

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

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

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

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

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

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

318 [(54)] (55) "Unfunded actuarial accrued liability" or "UAAL":

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

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

322 [(55)] (56) "Voluntary deferrals" means an amount contributed by a participant into
323 that participant's defined contribution account.

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

325 **49-12-405. Death of married member -- Service retirement benefits to surviving**
326 **spouse.**

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

331 (a) the member has:

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

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

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

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

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

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

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

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

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

346 (4) The benefit calculation for a surviving spouse with a valid domestic relations order
347 benefits on file with the office before the member's death date in accordance with Section
348 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to
349 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

359 Section 3. Section [49-13-405](#) is amended to read:

360 **49-13-405. Death of married members -- Service retirement benefits to surviving**
361 **spouse.**

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

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

368 (a) the member has:

- 369 (i) 15 or more years of service credit;
- 370 (ii) attained age 62 with 10 or more years of service credit; or
- 371 (iii) attained age 65 with four or more years of service credit; and
- 372 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~
- 373 ~~married at least six months immediately prior to the death date~~].
- 374 (3) The surviving spouse who requests a benefit under this section shall apply in
- 375 writing to the office. The allowance shall begin on the first day of the month:
- 376 (a) following the month in which the member died, if the application is received by the
- 377 office within 90 days of the member's death; or
- 378 (b) following the month in which the application is received by the office, if the
- 379 application is received by the office more than 90 days after the [~~spouse's~~] member's death.
- 380 (4) The allowance payable to a surviving spouse under Subsection (2) is:
- 381 (a) if the member has 25 or more years of service credit at the time of death, the
- 382 surviving spouse shall receive the member's full allowance;
- 383 (b) if the member has between 20-24 years of service credit and is not age 60 or older
- 384 at the time of death, the surviving spouse shall receive two-thirds of the member's full
- 385 allowance;
- 386 (c) if the member has between 15-19 years of service credit and is not age 62 or older
- 387 at the time of death, the surviving spouse shall receive one-third of the member's full
- 388 allowance; or
- 389 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
- 390 older with 10 or more years of service credit, or age 65 or older with four or more years of
- 391 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
- 392 with actuarial reductions.
- 393 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
- 394 benefits on file with the office before the member's death date in accordance with Section
- 395 49-11-612 is calculated according to the manner in which the court order specified benefits to
- 396 be partitioned, whether as a fixed amount or as a percentage of the benefit.
- 397 [~~(5)~~] (6) Except for a return of member contributions, benefits payable under this
- 398 section are retirement benefits and shall be paid in addition to any other payments made under
- 399 Section 49-13-501 and shall constitute a full and final settlement of the claim of the surviving

400 spouse or any other beneficiary filing a claim for benefits under Section 49-13-501.

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

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

407 **49-14-501. Death of active member in Division A -- Payment of benefits.**

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

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

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

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

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

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

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

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

430 (b) The allowance shall begin on the first day of the month following the month in

431 which the:

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

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

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

437 **49-14-502. Death of active member in Division B -- Payment of benefits.**

438 (1) If an active member of this system enrolled in Division B under Section [49-14-301](#)
439 dies, benefits are payable as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

475 **49-14-503. Benefits payable upon death of inactive member.**

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

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

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

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

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

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

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

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

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

495 **49-14-504. Benefits payable upon death of retired member -- Enhanced benefit**
496 **election -- Rulemaking.**

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

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

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

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

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

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

514 (d) The board shall make rules to administer the death benefit under this Subsection
515 (3).

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

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

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

523 (i) member or participant died, if the application is received by the office within 90

524 days of the date of death of the member or participant; or

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

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

528 **49-14-505. Benefits for surviving spouse under Division A or Division B.**

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

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

533 **49-14-506. Benefits payable upon death of active or inactive member without**
534 **spouse or minor children.**

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

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

539 **49-14-507. Surviving spouse includes certain former spouses -- Benefit calculation**
540 **for former spouse.**

541 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
542 benefits on file with the office before the member's death date in accordance with Section
543 49-11-612 is calculated according to the manner in which the court order specified benefits to
544 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

551 **49-15-501. Death of active member in Division A -- Payment of benefits.**

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

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

555 follows:

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

560 (ii) If the member has accrued 20 or more years of public safety service credit, the
561 member shall be considered to have retired with an allowance calculated under Section
562 49-15-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit
563 payable to a surviving spouse [~~at the time of death~~] under Section 49-15-504.

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

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

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

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

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

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

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

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

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

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

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

589 **49-15-502. Death of active member in Division B -- Payment of benefits.**

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

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

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

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

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

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

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

601 (c) If the death is not classified by the office as a line-of-duty death, and the member
602 has accrued less than two years of public safety service credit at the time of death, the surviving
603 spouse [~~at the time of death~~] shall receive a refund of the member's member contributions, plus
604 50% of the member's most recent 12 months' compensation.

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

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

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

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

616 (4) The combined payments to beneficiaries of any member under this section may not

617 exceed 75% of the member's final average monthly salary.

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

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

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

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

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

626 **49-15-503. Benefits payable upon death of inactive member.**

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

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

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

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

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

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

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

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

646 **49-15-504. Benefits payable upon death of retired member -- Enhanced benefit**
647 **election -- Rulemaking.**

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

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

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

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

660 (b) A retiree may elect to purchase the optional spousal death benefit until July 1,
661 2010.

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

665 (d) The board shall make rules to administer the death benefit under this Subsection
666 (3).

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

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

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

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

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

678 Section 15. Section 49-15-505 is amended to read:

679 **49-15-505. Benefits for surviving spouse under Division A or Division B.**

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

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

684 **49-15-506. Benefits payable upon death of active or inactive member without**
685 **spouse or minor children.**

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

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

690 **49-15-507. Surviving spouse includes certain former spouses -- Benefit calculation**
691 **for former spouse.**

692 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
693 benefits on file with the office before the member's death date in accordance with Section
694 49-11-612 is calculated according to the manner in which the court order specified benefits to
695 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

702 **49-16-501. Death of active member in Division A -- Payment of benefits.**

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

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

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

710 average monthly salary.

711 (ii) If the member has accrued 20 or more years of firefighter service credit, the
712 member shall be considered to have retired with an allowance calculated under Section
713 49-16-402 and the surviving spouse [~~at the time of death~~] shall receive the death benefit
714 payable to a surviving spouse under Section 49-16-504.

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

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

720 (ii) If the member has accrued 10 or more years of firefighter service credit, the
721 surviving spouse [~~at the time of death~~] shall receive a sum of \$500, plus an allowance equal to
722 2% of the member's final average monthly salary for each year of service credit accrued by the
723 member up to a maximum of 30% of the member's final average monthly salary.

724 (2) (a) If the member dies without a [~~current~~] surviving spouse, the surviving spouse's
725 allowance shall be equally divided and paid to each unmarried child until the child reaches age
726 21.

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

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

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

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

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

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

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

739 **49-16-502. Death of active member in Division B -- Payment of benefits.**

740 (1) If an active member of this system enrolled in Division B under Section 49-16-301

741 dies, benefits are payable as follows:

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

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

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

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

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

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

750 [49-16-402](#) and the surviving spouse [~~at the time of death~~] shall receive the death benefit

751 payable to a surviving spouse under Section [49-16-504](#).

752 (b) If the death is not classified by the office as a line-of-duty death, the benefits are

753 payable as follows:

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

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

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

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

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

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

761 (c) If the member has accrued five or more years of firefighter service credit, the

762 member's unmarried children until they reach age 21 or dependent unmarried children with a

763 mental or physical disability, shall receive a monthly allowance of \$75.

764 (2) (a) [~~In the event of the death of~~] If the member dies and there is no surviving

765 spouse, [~~the~~] any amounts that would have been the surviving spouse's benefits are equally

766 divided and paid to each unmarried child until the child reaches age 21.

767 (b) The payments shall be made to the surviving parent or duly appointed guardian or

768 as provided under Sections [49-11-609](#) and [49-11-610](#).

769 (3) If a benefit is not distributed under [~~the previous subsections~~] Subsection (1) or (2),

770 and the member has designated a beneficiary, the member's member contributions shall be paid

771 to the beneficiary.

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

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

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

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

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

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

782 **49-16-503. Benefits payable upon death of inactive member.**

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

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

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

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

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

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

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

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

802 **49-16-504. Benefits payable upon death of retired member.**

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

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

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

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

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

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

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

818 **49-16-505. Benefits for surviving spouse under Division A or Division B.**

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

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

823 **49-16-506. Minimum allowance for surviving spouse.**

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

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

828 **49-16-507. Benefits payable upon death of active or inactive member without a**
829 **surviving spouse or minor children.**

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

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

834 **49-16-508. Surviving spouse includes certain former spouses -- Benefit calculation**
835 **for former spouse.**

836 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
837 benefits on file with the office before the member's death date in accordance with Section
838 49-11-612 is calculated according to the manner in which the court order specified benefits to
839 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

846 **49-17-501. Death benefit for members before retirement -- Computation.**

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

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

852 (b) an allowance equal to 65% of the allowance computed in accordance with Section
853 49-17-402, but disregarding early retirement reductions.

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

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

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

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

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

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

865 **49-17-502. Benefits payable upon death of retired member.**

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

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

871 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time
872 of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an
873 allowance computed in accordance with Section [49-17-402](#).

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

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

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

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

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

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

886 **49-17-503. Surviving spouse includes certain former spouses -- Benefit calculation**
887 **for former spouse.**

888 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
889 benefits on file with the office before the member's death date in accordance with Section
890 49-11-612 is calculated according to the manner in which the court order specified benefits to
891 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

896 spouse under this section.

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

898 **49-18-501. Death benefit for members before retirement -- Computation.**

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

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

904 (b) an allowance equal to 65% of the allowance computed in accordance with Section
905 [49-18-402](#), but disregarding early retirement reductions.

906 (2) If there is no surviving spouse [~~to whom the member is married at the time of~~
907 ~~death~~], member contributions shall be refunded to a beneficiary, in accordance with Sections
908 [49-11-609](#) and [49-11-610](#).

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

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

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

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

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

917 **49-18-502. Benefits payable upon death of retired member.**

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

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

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

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

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

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

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

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

936 **49-18-503. Surviving spouse includes certain former spouses -- Benefit calculation**
937 **for former spouse.**

938 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
939 benefits on file with the office before the member's death date in accordance with Section
940 49-11-612 is calculated according to the manner in which the court order specified benefits to
941 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

948 **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

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

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

957 (3) (a) A surviving spouse who requests a benefit under this section shall apply in

958 writing to the office.

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

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

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

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

965 **49-19-502. Surviving spouse at the time of death includes certain former spouses**
966 **-- Benefit calculation for former spouse.**

967 (1) The benefit calculation for a surviving spouse with a valid domestic relations order
968 benefits on file with the office before the member's death date in accordance with Section
969 49-11-612 is calculated according to the manner in which the court order specified benefits to
970 be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

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

977 **49-22-502. Death of married members -- Service retirement benefits to surviving**
978 **spouse.**

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

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

985 (a) the member has:

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

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

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

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

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

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

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

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

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

1000 (b) if the member has between 20-24 years of service credit and is not age 60 or older
1001 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

1002 (c) if the member has between 15-19 years of service credit and is not age 62 or older
1003 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

1004 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
1005 older with 10 or more years of service credit, or age 65 or older with four or more years of
1006 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
1007 with actuarial reductions.

1008 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
1009 benefits on file with the office before the member's death date in accordance with Section
1010 49-11-612 is calculated according to the manner in which the court order specified benefits to
1011 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1012 [~~(5)~~] (6) Except for a return of member contributions, benefits payable under this
1013 section are retirement benefits and shall be paid in addition to any other payments made under
1014 Section 49-22-501 and shall constitute a full and final settlement of the claim of the surviving
1015 spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

1016 (7) If the death benefits under this section are partitioned among more than one
1017 surviving spouse due to domestic relations order benefits on file with the office before the
1018 member's death date in accordance with Section 49-11-612, the total amount received by the
1019 surviving spouses may not exceed the death benefits normally provided to one surviving

1020 spouse under this section.

1021 Section 35. Section **49-23-301** is amended to read:

1022 **49-23-301. Contributions.**

1023 (1) Participating employers and members shall pay the certified contribution rates to
1024 the office to maintain the defined benefit portion of this system on a financially and actuarially
1025 sound basis in accordance with Subsection (2).

1026 (2) (a) A participating employer shall pay up to 12% of compensation toward the
1027 certified contribution rate to the office for the defined benefit portion of this system.

1028 (b) A member shall only pay to the office the amount, if any, of the certified
1029 contribution rate for the defined benefit portion of this system that exceeds the percent of
1030 compensation paid by the participating employer under Subsection (2)(a).

1031 (c) In addition to the percent specified under Subsection (2)(a), the participating
1032 employer shall pay the corresponding Tier I system amortization rate of the employee's
1033 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1034 (3) A participating employer may not elect to pay all or part of the required member
1035 contributions under Subsection (2)(b), in addition to the required participating employer
1036 contributions.

1037 (4) (a) A member contribution is credited by the office to the account of the individual
1038 member.

1039 (b) This amount, together with refund interest, is held in trust for the payment of
1040 benefits to the member or the member's beneficiaries.

1041 (c) A member contribution is vested and nonforfeitable.

1042 (5) (a) Each member is considered to consent to payroll deductions of member
1043 contributions.

1044 (b) The payment of compensation less these payroll deductions is considered full
1045 payment for services rendered by the member.

1046 (6) Except as provided under Subsection (7), benefits provided under the defined
1047 benefit portion of the Tier II hybrid retirement system created under this part:

1048 (a) may not be increased unless the actuarial funded ratios of all systems under this title
1049 reach 100%; and

1050 (b) may be decreased only in accordance with the provisions of Section [49-23-309](#).

1051 (7) The Legislature authorizes an increase to the death benefit provided to a Tier II
1052 public safety service employee or firefighter member's surviving spouse [~~at the time of death~~]
1053 effective on May 12, 2015, as provided in Section 49-23-503.

1054 Section 36. Section 49-23-502 is amended to read:

1055 **49-23-502. Death of married members -- Service retirement benefits to surviving**
1056 **spouse.**

1057 (1) As used in this section, "member's full allowance" means an Option Three
1058 allowance calculated under Section 49-23-304 without an actuarial reduction.

1059 (2) Upon the request of a deceased member's [~~lawful~~] surviving spouse at the time of
1060 the member's death, the deceased member is considered to have retired under Option Three on
1061 the first day of the month following the month in which the member died if the following
1062 requirements are met:

1063 (a) the member has:

1064 (i) 15 or more years of service credit;

1065 (ii) attained age 62 with 10 or more years of service credit; or

1066 (iii) attained age 65 with four or more years of service credit; and

1067 (b) the member dies leaving a surviving spouse [~~to whom the member has been~~
1068 ~~married at least six months immediately prior to the death date~~].

1069 (3) The surviving spouse who requests a benefit under this section shall apply in
1070 writing to the office. The allowance shall begin on the first day of the month:

1071 (a) following the month in which the member died, if the application is received by the
1072 office within 90 days of the member's death; or

1073 (b) following the month in which the application is received by the office, if the
1074 application is received by the office more than 90 days after the [~~spouse's~~] member's death.

1075 (4) The allowance payable to a surviving spouse under Subsection (2) is:

1076 (a) if the member has 25 or more years of service credit at the time of death, the
1077 surviving spouse shall receive the member's full allowance;

1078 (b) if the member has between 20-24 years of service credit and is not age 60 or older
1079 at the time of death, the surviving spouse shall receive two-thirds of the member's full
1080 allowance;

1081 (c) if the member has between 15-19 years of service credit and is not age 62 or older

1082 at the time of death, the surviving spouse shall receive one-third of the member's full
1083 allowance; or

1084 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
1085 older with 10 or more years of service credit, or age 65 or older with four or more years of
1086 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
1087 with actuarial reductions.

1088 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
1089 benefits on file with the office before the member's death date in accordance with Section
1090 49-11-612 is calculated according to the manner in which the court order specified benefits to
1091 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1092 [~~5~~] (6) Except for a return of member contributions, benefits payable under this
1093 section are retirement benefits and shall be paid in addition to any other payments made under
1094 Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving
1095 spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

1096 (7) If the death benefits under this section or Section 49-23-503 are partitioned among
1097 more than one surviving spouse due to domestic relations order benefits on file with the office
1098 before the member's death date in accordance with Section 49-11-612, the total amount
1099 received by the surviving spouses may not exceed the death benefits normally provided to one
1100 surviving spouse under this section.

1101 Section 37. Section 49-23-503 is amended to read:

1102 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

1103 If an active member of this system dies, benefits are payable as follows:

1104 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as
1105 follows:

1106 (a) If the member has accrued less than 20 years of public safety service or firefighter
1107 service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum equal to six
1108 months of the active member's final average salary and an allowance equal to 30% of the
1109 member's final average monthly salary.

1110 (b) If the member has accrued 20 or more years of public safety service or firefighter
1111 service credit, the member shall be considered to have retired with an Option One allowance
1112 calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse [at

1113 ~~the time of death]~~ shall receive the allowance that would have been payable to the member.

1114 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this
1115 section if the death results from external force, violence, or disease directly resulting from
1116 firefighter service.

1117 (b) The lowest monthly compensation of firefighters of a city of the first class in this
1118 state at the time of death shall be considered to be the final average monthly salary of a
1119 volunteer firefighter for purposes of computing these benefits.

1120 (c) Each volunteer fire department shall maintain a current roll of all volunteer
1121 firefighters which meet the requirements of Subsection 49-23-102(13) to determine the
1122 eligibility for this benefit.

1123 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are
1124 payable under this section and the surviving spouse [~~at the time of death~~] is not eligible for
1125 benefits under Section 49-23-502.

1126 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1127 payable in accordance with Section 49-23-502.

1128 (4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall
1129 apply in writing to the office.

1130 (b) The allowance shall begin on the first day of the month following the month in
1131 which the:

1132 (i) member or participant died, if the application is received by the office within 90
1133 days of the date of death of the member or participant; or

1134 (ii) application is received by the office, if the application is received by the office
1135 more than 90 days after the date of death of the member or participant.

Legislative Review Note
Office of Legislative Research and General Counsel