3A.04 SURVIVOR BENEFIT.

Subdivision 1. **Surviving spouse.** (a) Upon the death of a member of the legislature while serving as a member, or upon the death of a former member of the legislature with at least six full years of service or service in all or part of four regular legislative sessions, if section 3A.02, subdivision 5, paragraph (c), does not apply, the surviving spouse is entitled to a survivor benefit.

(b) The surviving spouse benefit is one-half of the retirement allowance of the member of the legislature computed as though the member were at least normal retirement age on the date of death and based upon the member's allowable service or upon eight years, whichever is greater. The augmentation provided in section 3A.02, subdivision 4, if applicable, must be applied for the period up to, and including, the month of death.

(c) Upon the death of a former legislator receiving a retirement allowance, the surviving spouse is entitled to one-half of the amount of the retirement allowance being paid to the legislator.

(d) The surviving spouse benefit is payable for the lifetime of the surviving spouse.

Subd. 1a. MS 2004 [Repealed, 2006 c 271 art 10 s 33]

Subd. 2. **Dependent children.** (a) Upon the death of a member of the legislature while serving as a member, or upon the death of a former member of the legislature who has rendered at least six full years of service or service in all or part of four regular legislative sessions and who was not receiving a retirement allowance, each dependent child of the member or former legislator is entitled to receive a survivor benefit in the following amount:

(1) for the first dependent child, a monthly benefit equal to 25 percent of the monthly retirement allowance of the member of the legislature or the former legislator computed as though the member or the former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, whichever applies, and the member's allowable service or eight years, whichever is greater;

(2) for each additional dependent child, a monthly benefit equal to 12-1/2 percent of the monthly retirement allowance of the member or the former legislator computed as provided in clause (1); and

(3) the total amount paid to the surviving spouse and to the dependent child or children may not exceed, in any one month, 100 percent of the monthly retirement allowance of the member or of the former legislator computed as provided in clause (1).

(b) The augmentation provided in section 3A.02, subdivision 4, if applicable, applies from the first day of the month next following the date of the termination of the person from service as a member of the legislature to the month of the death of the person.

(c) Upon the death of a former legislator who was receiving a retirement allowance, a surviving dependent child is entitled to the applicable percentage specified in paragraph (a), clause (1) or (2), whichever applies, of the amount of the allowance which was paid to the former legislator for the month immediately before the date of death of the former legislator.

(d) The payments for dependent children must be made to the surviving spouse or to the guardian of the estate of the dependent children, if there is one.

Subd. 2a. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Subd. 3. **Payment.** The surviving spouse and dependent child or children survivor benefits payable under this section are payable by the director monthly in the same manner as retirement allowances are authorized to be paid by this chapter.

Subd. 4. **Death refunds.** (a) Upon the death of a member of the legislature or of a former legislator who was not receiving a retirement allowance without leaving either a surviving spouse or a dependent child or dependent children, the last designated beneficiary named on a form that was filed with the director before the death of the legislator, or if no designation is filed, the estate of the member or the former legislator, upon application, is entitled to a refund.

(b) The refund is the amount of contributions credited to the person's account plus interest as provided in section 3A.03, subdivision 2, paragraph (a).

Subd. 5. **Appropriation.** The survivor benefits and the death refunds authorized by this section are appropriated to the director from the general fund when they are due and payable.

History: *1965 c 896 s 4; 1967 c 877 s 3,4; 1969 c 399 s 1; 1969 c 1115 s 2,3; 1971 c 928 s 4-6; 1973 c 653 s 5,6; 1974 c 445 s 7,8; 1975 c 368 s 7,8; 1977 c 429 s 1-3; 1978 c 796 s 8,9; 1980 c 614 s 38,39; 1981 c 224 s 5-8,274; 1986 c 444; 1989 c 319 art 11 s 13; 1991 c 269 art 2 s 1; 1996 c 438 art 1 s 1; 2006 c 271 art 10 s 20-24; art 12 s 2; 2009 c 169 art 1 s 4*