

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4349**

4
5 (By Delegates Pethtel, Jones, Canterbury,
6 Kump, Craig, Lynch and Ellem)

7 (Originating in the Committee on the Judiciary)

8 [February 12, 2014]

9
10 A BILL to amend and reenact §5-10-27 of the Code of West
11 Virginia, 1931, as amended; to amend and reenact §7-14D-20 and
12 §7-14D-21 of said code; to amend and reenact §8-22A-22 and
13 §8-22A-23 of said code; to amend and reenact §15-2-33 of said
14 code; to amend and reenact §15-2A-12 of said code; and to
15 amend and reenact §16-5V-25 and §16-5V-26 of said code, all
16 relating to retirement burial and scholarship benefits awarded
17 on behalf of deceased uniformed service officers as it relates
18 to the distribution of marital property under a Qualified
19 Domestic Relations Order.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §5-10-27 of the Code of West Virginia, be amended and
22 reenacted; that §7-14D-20 and §7-14D-21 of said code be amended and
23 reenacted; that §8-22A-22 and §8-22A-23 of said code be amended and
24 reenacted; that §15-2-33 of said code be amended and reenacted;

1 that §15-2A-12 of said code be amended and reenacted; and that
2 §16-5V-25 and §16-5V-26 of said code be amended and reenacted, all
3 to read as follows:

4 **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY**
5 **OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS**
6 **AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

7 **ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

8 **§5-10-27. Preretirement death annuities.**

9 (a) (1) Except as otherwise provided in this section, in the
10 event any member who has ten or more years of credited service or
11 any former member with ten or more years of credited service and
12 who is entitled to a deferred annuity, pursuant to section twenty-
13 one of this article, may at any time prior to the effective date of
14 his or her retirement, by written declaration duly executed and
15 filed with the board of trustees, in the same manner as if he or
16 she were then retiring from the employ of a participating public
17 employer, elect option A provided in section twenty-four of this
18 article and nominate a beneficiary whom the board finds to have had
19 an insurable interest in the life of the member. Prior to the
20 effective date of his or her retirement, a member may revoke his or
21 her election of option A and nomination of beneficiary and he or
22 she may again prior to his or her retirement elect option A and
23 nominate a beneficiary as provided in this subsection. Upon the

1 death of a member who has an option A election in force, his or her
2 beneficiary, if living, shall immediately receive an annuity
3 computed in the same manner in all respects as if the same member
4 had retired the day preceding the date of his or her death,
5 notwithstanding that he or she might not have attained age sixty
6 years, and elected the said option A. If at the time of his or her
7 retirement a member has an option A election in force, his or her
8 election of option A and nomination of beneficiary shall thereafter
9 continue in force. As an alternative to annuity option A, a member
10 or former member may elect to have the preretirement death benefit
11 paid as a return of accumulated contributions in a lump sum amount
12 to any beneficiary or beneficiaries he or she chooses.

13 (2) In the event any member or former member, who first became
14 a member of the Public Employees Retirement System after the
15 effective date of amendments made to this section during the 2006
16 regular legislative session and who has ten or more years of
17 credited service and who is entitled to a deferred annuity,
18 pursuant to section twenty-one of this article: Dies without
19 leaving a surviving spouse; but leaves surviving him or her a child
20 who is financially dependent on the member by virtue of a permanent
21 mental or physical disability upon evidence satisfactory to the
22 board; and has named the disabled child as sole beneficiary, the
23 disabled child shall immediately receive an annuity computed in the

1 same manner in all respects as if the member had: (A) Retired the
2 day preceding the date of his or her death, notwithstanding that he
3 or she might not have attained age sixty or sixty-two years, as the
4 case may be; (B) elected option A provided in section twenty-four
5 of this article; and (C) nominated his or her disabled child as
6 beneficiary. A member or former member with ten or more years of
7 credited service, who does not leave surviving him or her a spouse
8 or a disabled child, may elect to have the preretirement death
9 benefit paid as a return of accumulated contributions in a lump sum
10 amount to any beneficiary or beneficiaries he or she chooses.

11 (b) (1) In the event any member who has ten or more years of
12 credited service, or any former member with ten or more years of
13 credited service and who is entitled to a deferred annuity,
14 pursuant to section twenty-one of this article: Dies; and leaves a
15 surviving spouse, the surviving spouse shall immediately receive an
16 annuity computed in the same manner in all respects as if the
17 member had: (A) Retired the day preceding the date of his or her
18 death, notwithstanding that he or she might not have attained age
19 sixty or sixty-two years, as the case may be; (B) elected option A
20 provided in section twenty-four of this article; and (C) nominated
21 his or her surviving spouse as beneficiary. However, the surviving
22 spouse shall have the right to waive the annuity provided in this
23 section: Provided, That he or she executes a valid and notarized

1 waiver on a form provided by the board and that the member or
2 former member attests to the waiver. If the waiver is presented to
3 and accepted by the board, the member or former member, may
4 nominate a beneficiary who has an insurable interest in the
5 member's or former member's life. As an alternative to annuity
6 option A, the member or former member may elect to have the
7 preretirement death benefit paid as a return of accumulated
8 contributions in a lump sum amount to any beneficiary or
9 beneficiaries he or she chooses in the event a waiver, as provided
10 in this section, has been presented to and accepted by the board.

11 (2) Whenever any member or former member who first became a
12 member of the retirement system after the effective date of the
13 amendments to this section made during the 2006 regular legislative
14 session and who has ten or more years of credited service and who
15 is entitled to a deferred annuity, pursuant to section twenty-one
16 of this article, dies and leaves a surviving spouse, the surviving
17 spouse shall immediately receive an annuity computed in the same
18 manner in all respects as if the member had: (A) Retired the day
19 preceding the date of his or her death, notwithstanding that he or
20 she might not have attained age sixty or sixty-two years, as the
21 case may be; (B) elected option A provided in section twenty-four
22 of this article; and (C) nominated his or her surviving spouse as
23 beneficiary. However, the surviving spouse shall have the right to

1 waive the annuity provided in this section: *Provided*, That he or
2 she executes a valid and notarized waiver on a form provided by the
3 board and that the member or former member attests to the waiver.
4 If the waiver is presented to and accepted by the board, the member
5 or former member may: (1) Elect to have the preretirement death
6 benefit paid in a lump sum amount, rather than annuity option A
7 provided in section twenty-four of this article, as a return of
8 accumulated contributions to any beneficiary or beneficiaries he or
9 she chooses; or (2) may name his or her surviving child, who is
10 financially dependent on the member by virtue of a permanent mental
11 or physical disability, as his or her sole beneficiary to receive
12 an annuity computed in the same manner in all respects as if the
13 member had: (A) Retired the day preceding the date of his or her
14 death, notwithstanding that he or she might not have attained the
15 age of sixty or sixty-two as the case may be; (B) elected option A
16 provided in section twenty-four of this article; and (C) nominated
17 his or her disabled child as beneficiary.

18 (c) In the event any member who has ten or more years of
19 credited service or any former member with ten or more years of
20 credited service and who is entitled to a deferred annuity,
21 pursuant to section twenty-one of this article: (1) Dies without
22 leaving surviving him or her a spouse; but (2) leaves surviving him
23 or her an infant child or children; and (3) does not have a

1 beneficiary nominated as provided in subsection (a) of this
2 section, the infant child or children are entitled to an annuity to
3 be calculated as follows: The annuity reserve shall be calculated
4 as though the member had retired as of the date of his or her
5 decease and elected a straight life annuity and the amount of the
6 annuity reserve shall be paid in equal monthly installments to the
7 member's infant child or children until the child or children
8 attain age twenty-one or sooner marry or become emancipated;
9 however, in no event shall any child or children receive more than
10 \$250 per month each. The annuity payments shall be computed as of
11 the date of the death of the member and the amount of the annuity
12 shall remain constant during the period of payment. The annual
13 amount of the annuities payable by this section shall not exceed
14 sixty percent of the deceased member's final average salary.

15 (d) In the event any member or former member does not have ten
16 or more years of credited service, no preretirement death annuity
17 may be authorized, owed or awarded under this section, except as
18 provided in subdivision (4), subsection (a), section fifteen of
19 this article as amended during the 2005 regular session of the
20 Legislature.

21 (e) Any person qualified as a surviving dependent child under
22 this section, who is the surviving dependent child of a law-
23 enforcement officer who loses his or her life in the performance of

1 duty, in addition to any other benefits due under this or other
2 sections of this article is entitled to receive a scholarship to be
3 applied to the career development education of that person. This
4 sum, up to but not exceeding \$7,500 per year, shall be paid from
5 the fund to any higher education institution in this state, career-
6 technical education provider in this state or other entity in this
7 state approved by the board, to offset the expenses of tuition,
8 room and board, books, fees or other costs incurred in a course of
9 study at any of those institutions so long as the recipient makes
10 application to the board on an approved form and under rules as
11 provided by the board and maintains scholastic eligibility as
12 defined by the institution or the board. The board may by
13 appropriate rules define age requirements, physical and mental
14 requirements, scholastic eligibility, disbursement methods,
15 institutional qualifications and other requirements as necessary
16 and not inconsistent with this section. Scholarship benefits
17 awarded pursuant to this subsection are not subject to division or
18 payable to an alternate payee by any Qualified Domestic Relations
19 Order.

20 **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

21 **ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.**

22 **§7-14D-20. Additional death benefits and scholarships - Dependent**
23 **children.**

1 (a) In addition to the spouse death benefits in sections
2 eighteen and nineteen of this article, the surviving spouse is
3 entitled to receive and there shall be paid to the spouse \$100
4 monthly for each dependent child.

5 (b) If the surviving spouse dies or if there is no surviving
6 spouse, the fund shall pay monthly to each dependent child a sum
7 equal to one fourth of the surviving spouse's entitlement under
8 either section eighteen or nineteen ~~or twenty~~ of this article. If
9 there is neither a surviving spouse nor a dependent child, the fund
10 shall pay in equal monthly installments to the dependent parents of
11 the deceased member during their joint lifetimes a sum equal to the
12 amount which a surviving spouse, without children, would have
13 received: *Provided*, That when there is only one dependent parent
14 surviving, that parent is entitled to receive during his or her
15 lifetime one-half the amount which both parents, if living, would
16 have been entitled to receive: *Provided, however*, That if there is
17 no surviving spouse, dependent child nor dependent parent of the
18 deceased member the accumulated contributions shall be paid to a
19 named beneficiary or beneficiaries: *Provided further*, That if there
20 is no surviving spouse, dependent child, nor dependent parent of
21 the deceased member, nor any named beneficiary or beneficiaries
22 then the accumulated contributions shall be paid to the estate of
23 the deceased member.

1 (c) Any person qualifying as a dependent child under this
2 section, in addition to any other benefits due under this or other
3 sections of this article, is entitled to receive a scholarship to
4 be applied to the career development education of that person. This
5 sum, up to but not exceeding \$7,500 per year, shall be paid from
6 the fund to any higher education institution in this state,
7 career-technical education provider in this state or other entity
8 in this state approved by the board, to offset the expenses of
9 tuition, room and board, books, fees or other costs incurred in a
10 course of study at any of these institutions so long as the
11 recipient makes application to the board on an approved form and
12 under such rules as the board may provide, and maintains scholastic
13 eligibility as defined by the institution or the board. The board
14 may propose legislative rules for promulgation in accordance with
15 article three, chapter twenty-nine-a of this code which define age
16 requirements, physical and mental requirements, scholastic
17 eligibility, disbursement methods, institutional qualifications and
18 other requirements as necessary and not inconsistent with this
19 section. Scholarship benefits awarded pursuant to this subsection
20 are not subject to division or payable to an alternate payee by any
21 Qualified Domestic Relations Order.

22 **§7-14D-21. Burial benefit.**

23 Any member who dies as a result of any service related illness

1 or injury after the effective date is entitled to a lump sum burial
2 benefit of five thousand dollars. If the member is married, the
3 burial benefit shall be paid to the member's spouse. If the member
4 is not married, the burial benefit shall be paid to the member's
5 estate for the purposes of paying burial expenses, settling the
6 member's final affairs, or both. Any unspent balance shall be
7 distributed as a part of the member's estate. Burial benefits
8 awarded pursuant to this section are not subject to division or
9 payable to an alternate payee by any Qualified Domestic Relations
10 Order.

11 **CHAPTER 8. MUNICIPAL CORPORATIONS.**

12 **ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND**
13 **FIREFIGHTERS RETIREMENT SYSTEM.**

14 **§8-22A-22. Additional death benefits and scholarships - Dependent**
15 **children.**

16 (a) Except as provided in subsection (a), section nine of this
17 article, in addition to the spouse death benefits in this article,
18 the surviving spouse is entitled to receive and there shall be paid
19 to the spouse \$100 monthly for each dependent child.

20 (b) If the surviving spouse dies or if there is no surviving
21 spouse, the fund shall pay monthly to each dependent child a sum
22 equal to one hundred percent of the spouse's entitlement under this
23 article divided by the number of dependent children. If there is

1 neither a surviving spouse nor a dependent child, the fund shall
2 pay in equal monthly installments to the dependent parents of the
3 deceased member during their joint lifetimes a sum equal to the
4 amount which a surviving spouse, without children, would have
5 received: *Provided*, That when there is only one dependent parent
6 surviving, that parent is entitled to receive during his or her
7 lifetime one-half the amount which both parents, if living, would
8 have been entitled to receive: *Provided, however*, That if there is
9 no surviving spouse, dependent child or dependent parent of the
10 deceased member, the accumulated contributions shall be paid to a
11 named beneficiary or beneficiaries: *Provided further*, That if there
12 is no surviving spouse, dependent child or dependent parent of the
13 deceased member, or any named beneficiary or beneficiaries, then
14 the accumulated contributions shall be paid to the estate of the
15 deceased member.

16 (c) Any person qualifying as a dependent child under this
17 section, in addition to any other benefits due under this or other
18 sections of this article, is entitled to receive a scholarship to
19 be applied to the career development education of that person. This
20 sum, up to but not exceeding \$7,500 per year, shall be paid from
21 the fund to any higher education institution in this state,
22 career-technical education provider in this state or other entity
23 in this state approved by the board, to offset the expenses of

1 tuition, room and board, books, fees or other costs incurred in a
2 course of study at any of these institutions so long as the
3 recipient makes application to the board on an approved form and
4 under rules provided by the board and maintains scholastic
5 eligibility as defined by the institution or the board. The board
6 may propose legislative rules for promulgation in accordance with
7 article three, chapter twenty-nine-a of this code which define age
8 requirements, physical and mental requirements, scholastic
9 eligibility, disbursement methods, institutional qualifications and
10 other requirements as necessary and not inconsistent with this
11 section. Scholarship benefits awarded pursuant to this subsection
12 are not subject to division or payable to an alternate payee by any
13 Qualified Domestic Relations Order.

14 **§8-22A-23. Burial benefit.**

15 Except as provided in subsection (a), section nine of this
16 article, any member who dies as a result of any service-related
17 illness or injury after the effective date is entitled to a lump
18 sum burial benefit of \$5,000. If the member is married, the burial
19 benefit shall be paid to the member's spouse. If the member is not
20 married, the burial benefit shall be paid to the member's estate
21 for the purposes of paying burial expenses, settling the member's
22 final affairs, or both. Burial benefits awarded pursuant to this
23 section are not subject to division or payable to an alternate

1 payee by any Qualified Domestic Relations Order.

2 **CHAPTER 15. PUBLIC SAFETY.**

3 **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

4 **§15-2-33. Awards and benefits to dependents of member when the**
5 **member dies in performance of duty; to dependents of**
6 **a duty disability retirant; dependent child**
7 **scholarship and amount.**

8 (a) The surviving spouse or the dependent child or children or
9 dependent parent or parents of any member who has lost or loses his
10 or her life by reason of injury, illness or disease resulting from
11 an occupational risk or hazard inherent in or peculiar to the
12 service required of employees while the member was or is engaged in
13 the performance of his or her duties as an employee of the agency,
14 or if a retirant dies from any cause after having been retired
15 pursuant to the provisions of section twenty-nine of this article,
16 the surviving spouse or other dependent is entitled to receive and
17 shall be paid from the fund benefits as follows: To the surviving
18 spouse annually, in equal monthly installments during his or her
19 lifetime the greater of one or the other of two amounts:

20 (1) An amount equal to five and one-half percent of the total
21 salary which was or would have been earned by the deceased member
22 or duty disability retirant during twenty-five years of service
23 based on the average earnings of the member or duty disability

1 retirant while employed by the agency; or

2 (2) The sum of \$6,000.

3 (b) In addition, the surviving spouse is entitled to receive
4 and shall be paid \$100 monthly for each dependent child or
5 children. If the surviving spouse dies or if there is no surviving
6 spouse, there shall be paid monthly to each dependent child or
7 children from the fund a sum equal to twenty-five percent of the
8 surviving spouse's entitlement. If there is no surviving spouse and
9 no dependent child or children, there shall be paid annually in
10 equal monthly installments from the fund to the dependent parents
11 of the deceased member or retirant during their joint lifetimes a
12 sum equal to the amount which a surviving spouse, without children,
13 would have received: Provided, That when there is one dependent
14 parent surviving, that parent is entitled to receive during his or
15 her lifetime one-half the amount which both parents, if living,
16 would have been entitled to receive.

17 (c) Any person qualified as a surviving dependent child under
18 this section, in addition to any other benefits due under this or
19 other sections of this article, is entitled to receive a
20 scholarship to be applied to the career development education of
21 that person. This sum, up to but not exceeding \$7,500 per year,
22 shall be paid from the fund to any higher education institution in
23 this state, career-technical education provider in this state or

1 other entity in this state approved by the board, to offset the
2 expenses of tuition, room and board, books, fees or other costs
3 incurred in a course of study at any of those institutions so long
4 as the recipient makes application to the board on an approved form
5 and under rules as provided by the board and maintains scholastic
6 eligibility as defined by the institution or the board. The board
7 may, by appropriate rules, define age requirements, physical and
8 mental requirements, scholastic eligibility, disbursement methods,
9 institutional qualifications and other requirements as necessary
10 and not inconsistent with this section. Scholarship benefits
11 awarded pursuant to this subsection are not subject to division or
12 payable to an alternate payee by any Qualified Domestic Relations
13 Order.

14 (d) A surviving spouse or dependent of an employee meeting the
15 requirements of this section is entitled to receive beneficiary
16 payments on the first day following the date the deceased employee
17 is removed from payroll by the agency. A surviving spouse or
18 dependent of a member who is not currently an employee meeting the
19 requirements of this section is entitled to receive beneficiary
20 payments on the first day following the date of the deceased
21 member's death. A surviving spouse or dependent of a retirant
22 meeting the requirements of this section is entitled to receive
23 beneficiary payments on the first day of the month following the

1 date of the deceased retirant's death. Upon receipt of properly
2 executed forms from the agency and the surviving spouse or
3 dependent, the board shall process the surviving spouse or
4 dependent benefit as soon as administratively feasible.

5 (e) For the purposes of this section, the term "salary" does
6 not include any compensation paid for overtime service.

7 **ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.**

8 **§15-2A-12. Awards and benefits to dependents of employees or**
9 **retirants - When employee dies in performance of**
10 **duty, etc.; dependent child scholarship and amount.**

11 (a) The surviving spouse, the dependent child or children or
12 dependent parent or parents of any employee who has lost or shall
13 lose his or her life by reason of injury, illness or disease
14 resulting from an occupational risk or hazard inherent in or
15 peculiar to the service required of employees while the employee
16 was engaged in the performance of his or her duties as an employee
17 of the agency, or the survivor of a retirant who dies from any
18 cause after having been retired pursuant to the provisions of
19 section nine of this article, is entitled to receive and shall be
20 paid from the fund benefits as follows: To the surviving spouse
21 annually, in equal monthly installments during his or her lifetime,
22 one or the other of two amounts, which shall become payable the
23 first day of the month following the employee's or retirant's death

1 and which shall be the greater of:

2 (1) An amount equal to nine-tenths of the base salary received
3 in the preceding full twelve-month employment period by the
4 deceased employee: *Provided*, That if the employee had not been
5 employed with the agency for twelve full months prior to his or her
6 death, the amount of monthly salary shall be annualized for the
7 purpose of determining the benefit; or

8 (2) The sum of \$10,000.

9 (b) In addition, the surviving spouse is entitled to receive
10 and shall be paid \$150 monthly for each dependent child. If the
11 surviving spouse dies or if there is no surviving spouse, there
12 shall be paid monthly to each dependent child or children from the
13 fund a sum equal to one third of the surviving spouse's
14 entitlement. If there is no surviving spouse and no dependent child
15 or children, there shall be paid annually in equal monthly
16 installments from the fund to the dependent parents of the deceased
17 member during their joint lifetimes a sum equal to the amount which
18 a surviving spouse, without children, would have received:
19 *Provided*, That when there is one dependent parent surviving, that
20 parent is entitled to receive during his or her lifetime one half
21 the amount which both parents, if living, would have been entitled
22 to receive: *Provided, however*, That if there is no surviving
23 spouse, dependent child or dependent parent of the deceased member,

1 the accumulated contributions shall be paid to a named beneficiary
2 or beneficiaries: *Provided further*, That if there is no surviving
3 spouse, dependent child, dependent parent of the deceased member or
4 any named beneficiary or beneficiaries, then the accumulated
5 contributions shall be paid to the estate of the deceased member.

6 (c) Any person qualifying as a surviving dependent child under
7 this section, in addition to any other benefits due under this or
8 other sections of this article, is entitled to receive a
9 scholarship to be applied to the career development education of
10 that person. This sum, up to but not exceeding \$7,500 per year,
11 shall be paid from the fund to any higher education institution in
12 this state, career-technical education provider in this state or
13 other entity in this state approved by the board to offset the
14 expenses of tuition, room and board, books, fees or other costs
15 incurred in a course of study at any of these institutions as long
16 as the recipient makes application to the board on an approved form
17 and under rules provided by the board and maintains scholastic
18 eligibility as defined by the institution or the board. The board
19 may by appropriate rules define age requirements, physical and
20 mental requirements, scholastic eligibility, disbursement methods,
21 institutional qualifications and other requirements as necessary
22 and not inconsistent with this section. Scholarship benefits
23 awarded pursuant to this subsection are not subject to division or

1 payable to an alternate payee by any Qualified Domestic Relations
2 Order.

3 (d) A surviving spouse or dependent of an employee meeting the
4 requirements of this section is entitled to receive beneficiary
5 payments on the first day of the month following the date the
6 deceased member is removed from payroll by the agency. A surviving
7 spouse or dependent of a member who is not currently an employee
8 meeting the requirements of this section is entitled to receive
9 beneficiary payments on the first day of the month following the
10 date of the deceased member's death. A surviving spouse or
11 dependent of a retirant meeting the requirements of this section is
12 entitled to receive beneficiary payments on the first day of the
13 month following the date of the deceased retirant's death. Upon
14 receipt of properly executed forms from the agency and surviving
15 spouse or dependent, the board shall process the surviving spouse
16 or dependent benefit as soon as administratively feasible.

17 (e) It is the intent of the Legislature that the levels of
18 benefits provided by operation of this section from the effective
19 date of the enactment of this section during the regular session of
20 the Legislature, 2005, be the same levels of benefits as provided
21 by this section as amended and reenacted during the fourth
22 extraordinary session of the Legislature, 2005. Accordingly, the
23 effective date of the operation of this section as amended and

1 reenacted during the fourth extraordinary session of the
2 Legislature, 2005, is expressly made retrospective to April 9,
3 2005.

4 **CHAPTER 16. PUBLIC HEALTH.**

5 **ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.**

6 **§16-5V-25. Additional death benefits and scholarships --**
7 **Dependent children.**

8 (a) In addition to the spouse death benefits in this article,
9 the surviving spouse is entitled to receive and there shall be paid
10 to the spouse \$100 monthly for each dependent child.

11 (b) If the surviving spouse dies or if there is no surviving
12 spouse, the fund shall pay monthly to each dependent child a sum
13 equal to one hundred percent of the spouse's entitlement under this
14 article divided by the number of dependent children. If there is
15 neither a surviving spouse nor a dependent child, the fund shall
16 pay in equal monthly installments to the dependent parents of the
17 deceased member during their joint lifetimes a sum equal to the
18 amount which a surviving spouse, without children, would have
19 received: *Provided*, That when there is only one dependent parent
20 surviving, that parent is entitled to receive during his or her
21 lifetime one-half the amount which both parents, if living, would
22 have been entitled to receive: *Provided, however*, That if there is
23 no surviving spouse, dependent child or dependent parent of the

1 deceased member, the accumulated contributions shall be paid to a
2 named beneficiary or beneficiaries: *Provided further*, That if there
3 is no surviving spouse, dependent child or dependent parent of the
4 deceased member, or any named beneficiary or beneficiaries, then
5 the accumulated contributions shall be paid to the estate of the
6 deceased member.

7 (c) Any person qualifying as a dependent child under this
8 section, in addition to any other benefits due under this or other
9 sections of this article, is entitled to receive a scholarship to
10 be applied to the career development education of that person. This
11 sum, up to but not exceeding \$6,000 per year, shall be paid from
12 the fund to any university or college in this state or to any trade
13 or vocational school or other entity in this state approved by the
14 board to offset the expenses of tuition, room and board, books,
15 fees or other costs incurred in a course of study at any of these
16 institutions so long as the recipient makes application to the
17 board on an approved form and under rules provided by the board and
18 maintains scholastic eligibility as defined by the institution or
19 the board. The board may propose legislative rules for promulgation
20 in accordance with article three, chapter twenty-nine-a of this
21 code which define age requirements, physical and mental
22 requirements, scholastic eligibility, disbursement methods,
23 institutional qualifications and other requirements as necessary

1 and not inconsistent with this section. Scholarship benefits
2 awarded pursuant to this subsection are not subject to division or
3 payable to an alternate payee by any Qualified Domestic Relations
4 Order.

5 **§16-5V-26. Burial benefit.**

6 Any member who dies as a result of any service related illness
7 or injury after the effective date is entitled to a lump sum burial
8 benefit of \$5,000. If the member is married, the burial benefit
9 shall be paid to the member's spouse. If the member is not married,
10 the burial benefit shall be paid to the member's estate for the
11 purposes of paying burial expenses, settling the member's final
12 affairs, or both. Burial benefits awarded pursuant to this section
13 are not subject to division or payable to an alternate payee by any
14 Qualified Domestic Relations Order.