

## HOUSE BILL No. 2709

By Committee on Appropriations

2-22

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1 AN ACT concerning retirement and pensions; relating to the Kansas police  
2 and firemen's retirement system; providing certain death benefits to  
3 surviving spouses; amending K.S.A. 74-4959 and repealing the existing  
4 section.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 74-4959 is hereby amended to read as follows: 74-  
8 4959. (1) Upon the death from service-connected causes as defined in this  
9 act, of an active contributing member prior to retirement, the following  
10 benefits shall be payable if a report of the event, in a form acceptable to  
11 the board, is filed in the office of the executive director of the board within  
12 200 days after the date of the act of duty causing such death and an  
13 application for such benefits, in such form and manner as prescribed by the  
14 board, is filed in the office of the executive director of the board within  
15 two years of the date of death, but the board may waive such time limits  
16 for a reasonable period if in the judgment of the board the failure to meet  
17 these limits was due to lack of knowledge or incapacity:

18 (a) To the member's spouse, if lawfully wedded to the member at the  
19 time of the member's death, an annual spouse's benefit equal to *the greater*  
20 *of: (i) 50% of the member's final average salary, or (ii) the amount that*  
21 *would have been paid had the member elected the option provided for in*  
22 *K.S.A. 74-4964(5)(B), and amendments thereto, and retired as of the first*  
23 *day of the month coinciding with or following the date of death, which*  
24 *shall accrue from the first day of the month coinciding with or following*  
25 *the member's death and shall end on the first day of the month in which the*  
26 *spouse's death occurs. Commencing on the effective date of this act, any*  
27 *surviving spouse, who was receiving benefits pursuant to this section and*  
28 *who had such benefits terminated by reason of such spouse's remarriage,*  
29 *shall be entitled to once again receive benefits pursuant to this section,*  
30 *except that such surviving spouse shall not be entitled to recover any*  
31 *benefits not received after the termination of benefits by reason of such*  
32 *surviving spouse's remarriage but before the effective date of this act.*

33 (b) Subject to the provisions of K.S.A. 74-49,123, and amendments  
34 thereto, to the member's children under the age of 18 years or under the  
35 age of 23 years, if such children are full-time students as provided in  
36 K.S.A. 74-49,117, and amendments thereto, an annual children's benefit

1 equal to 10% of the member's final average salary for each such child,  
2 which shall accrue from the first day of the month coinciding with or  
3 following the member's death and shall end on the last day of the month in  
4 which such child attains the age of 18 years or dies, whichever occurs  
5 earlier or in which such child attains the age of 23 years, if such child is a  
6 full-time student as provided in K.S.A. 74-49,117, and amendments  
7 thereto, except that if there is no eligible spouse, or if upon the death of the  
8 spouse there remain one or more children under the age of 18 years or  
9 under the age of 23 years, if such children are full-time students as  
10 provided in K.S.A. 74-49,117, and amendments thereto, the annual  
11 spouse's benefit shall be paid in equal shares to such children and each  
12 child's share shall end on the last day of the month in which such child  
13 attains the age of 18 years or dies, whichever occurs earlier or in which  
14 such child attains the age of 23 years, if such child is a full-time student as  
15 provided in K.S.A. 74-49,117, and amendments thereto. Commencing on  
16 the effective date of this act, any child who was receiving benefits  
17 pursuant to this section and who had such benefits terminated by reason of  
18 such child's marriage, shall be entitled to once again receive benefits  
19 pursuant to this section subject to the limitations contained in this section,  
20 except that such child shall not be entitled to recover any benefits not  
21 received after the termination of benefits by reason of such child's  
22 marriage but before the effective date of this act.

23 (c) In no case shall benefits payable under the provisions of  
24 ~~paragraphs (a) and (b) of this subsection (1)(a) and (b)~~ exceed ~~75%~~ 90%  
25 of the member's final average salary.

26 (2) Pursuant to the provisions of K.S.A. 74-49,128, and amendments  
27 thereto, upon the death from causes not service-connected of an active  
28 contributing member prior to retirement, the member's spouse, if lawfully  
29 wedded to the member at the time of the member's death, shall receive  
30 immediately a lump-sum benefit equal to 100% of the member's final  
31 average salary and shall be entitled to receive an annual death benefit  
32 equal to the member's retirement benefit calculated as if the member had  
33 retired on the member's normal retirement date, but based upon the  
34 member's final average salary and years of credited service on the date of  
35 death but not to exceed ~~the amount of the annual spouse's benefit provided~~  
36 ~~in paragraph (a) of subsection (1) an amount equal to 50% of the~~  
37 *member's final average salary*. An application for such benefits in such  
38 form and manner as prescribed by the board must be filed in the office of  
39 the executive director of the board within two years of the date of death,  
40 but the board may waive such time limit for a reasonable period if in the  
41 judgment of the board the failure to meet this limit was due to the lack of  
42 knowledge or incapacity. On and after July 1, 1993, the annual spouse's  
43 benefit under this subsection (2) shall accrue from the first day of the

1 month coinciding with or following the member's death and shall continue  
2 until the spouse's death. Commencing on the effective date of this act, any  
3 surviving spouse, who was receiving benefits pursuant to this section and  
4 who had such benefits terminated by reason of such spouse's remarriage,  
5 shall be entitled to once again receive benefits pursuant to this section,  
6 except that such surviving spouse shall not be entitled to recover any  
7 benefits not received after the termination of benefits by reason of such  
8 surviving spouse's remarriage but before the effective date of this act. If  
9 there is no eligible spouse or if after the death of the spouse there remain  
10 one or more children of the member under the age of 18 years or one or  
11 more children of the member under the age of 23 years, if such children  
12 are full-time students as provided in K.S.A. 74-49,117, and amendments  
13 thereto, the spouse's benefit shall be payable, subject to the provisions of  
14 K.S.A. 74-49,123, and amendments thereto, in equal shares to such  
15 children and each child's share shall end on the last day of the month in  
16 which such child attains the age of 18 years or dies, whichever occurs  
17 earlier or in which such child attains the age of 23 years, if such child is a  
18 full-time student as provided in K.S.A. 74-49,117, and amendments  
19 thereto. Commencing on the effective date of this act, any child who was  
20 receiving benefits pursuant to this section and who had such benefits  
21 terminated by reason of such child's marriage, shall be entitled to once  
22 again receive benefits pursuant to this section subject to the limitations  
23 contained in this section, except that such child shall not be entitled to  
24 recover any benefits not received after the termination of benefits by  
25 reason of such child's marriage but before the effective date of this act.

26 (3) Upon the death of a member prior to retirement, if no benefits are  
27 payable under the provisions of subsection (1) or (2), the sum of the  
28 following shall be paid to the member's beneficiary: (a) The member's  
29 accumulated contributions; and (b) a lump sum death benefit equal to  
30 100% of the member's current annual salary reduced by the sum of the  
31 member's accumulated contributions paid as provided by this section.

32 (4) All payments due under this section to a minor shall be made to a  
33 legally appointed conservator of such minor as provided in ~~subsection (7)~~  
34 ~~of K.S.A. 74-4902(7)~~, and amendments thereto.

35 Sec. 2. K.S.A. 74-4959 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its  
37 publication in the statute book.