§ 655. Survivor's benefit. 1. a. The term "state employee" as used in this section shall mean a full time employee or officer of the state, whose salary is paid directly by the state.

b. For the limited purposes of this section: (1) the term "state employee" as used in this section include a full time employee or officer of the state colleges of agriculture, home economics, industrial labor relations and veterinary medicine, the state agricultural experiment station at Geneva, and any other institution or agency under the management and control of Cornell university as the representative of the board of trustees of the state university of New York, and the state college of ceramics under the management and control of Alfred university as the representative of the board of trustees of the state university of New York; (2) the payroll from which such employees are paid shall be deemed to be a state payroll; and (3) such employees shall be deemed to be paid directly by the state.

2. A survivor's benefit shall be payable upon the death of a state employee who has been a state employee for ninety or more days and who dies before the effective date of retirement, provided that such employee:

a. Was on the state payroll for ninety or more days of the one hundred twenty days immediately prior to his or her death, or

b. Had at least one year of service as a state employee and died while on the payroll following his or her return from an authorized leave of absence, or

c. Had at least one but less than five years of service as a state employee since last entering state service and died while off the payroll and while on an authorized leave of absence, provided such person was not otherwise gainfully employed since ceasing to be on the state payroll, and provided such person was on the state payroll within six months prior to his or her death, or

d. Had five or more years of service as a state employee since last

entering state service, and died while off the payroll and while on an authorized leave of absence, provided such employee was not otherwise gainfully employed since ceasing to be on the state payroll, and provided that such person was on the state payroll within one year prior to his or her death.

e. For the purpose of determining eligibility for benefits under this section, previous service rendered as an employee of an authority or commission established under the public authorities law shall be credited to a state employee as state service, provided such authority or commission has in effect, at the time of death of such employee, a provision for a survivor's benefit which is substantially equivalent to that provided in this section and in which previous state service is credited to authority or commission employees toward eligibility for such survivor's benefit.

f. For the purposes of this subdivision, a state employee holding a position having an annual salary payable over a period of less than twelve months shall be considered to be on the payroll during any period in which he would otherwise be on the payroll if the annual salary of his position were paid over the full twelve months. For purposes of paragraphs c and d of this subdivision, an employee shall not be deemed to have been gainfully employed solely on account of the performance of military duty in any capacity in the armed forces of the United States or of any reserve thereof or in the national guard.

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for a survivors benefit, a member shall be considered to have died while on the state payroll provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five.

Provided, further, that any such member ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

3. The survivor's benefit shall be payable from the survivor's benefit fund. The survivor's benefit shall be an amount which, when added to the ordinary death benefit provided under any public pension plan to which the deceased state employee belonged, equals one-half the annual rate of compensation of the state employee as of the date he or she was last on the payroll prior to death; provided, however, that such survivor's benefit, when added to any ordinary death benefit payable from a public pension plan to which such employee belonged, shall be at least two thousand dollars and shall not exceed ten thousand dollars. Any benefit, other than an accidental death benefit, payable by a public pension plan in lieu of the ordinary death benefit shall, for the purposes of this section, be deemed to be an ordinary death benefit. The portion of any ordinary death benefit attributable to the reserve-for-increased-take-home-pay shall be excluded in computing the survivor's benefit.

4. The survivor's benefit payable under this section shall be paid to such person or persons as the state employee shall have last nominated to receive the ordinary death benefit of the retirement system or pension plan supported by funds of the state of which such employee last became a member, or if such employee did not nominate such a beneficiary, or if such beneficiary has died, or if the employee was not a member of such a retirement system or pension plan, to the person last specifically designated by such employee to receive the survivor's benefit under this section, on a form prescribed by the department of audit and control and filed with the department or agency in which such employee was last employed prior to death. In the event such a designated beneficiary does not survive such employee, or if a beneficiary was not designated, the survivor's benefit shall be payable

to the estate of the state employee or as provided in section thirteen hundred ten of the surrogate's court procedure act.

5. Notwithstanding any other provisions of this section, in the case of a state employee on whose account an accidental death benefit is payable from a public pension plan to which the employee belonged, and regardless of the length of service of the deceased employee, the survivor's benefit shall be two thousand dollars and shall be payable to the person or persons first receiving the accidental death benefit.

6. Notwithstanding any other provision of this section, in the case of an employee who enters or re-enters state service at sixty-five years of age or over, the survivor's benefit shall not be payable unless such employee has completed at least one year of continuous state service following such entry or re-entry.

7. There is hereby established in the custody of the state comptroller a special fund to be known as the survivor's benefit fund. Such fund shall consist of such moneys as may be appropriated thereto by the legislature and all other moneys received by such fund from any other source pursuant to law. The fund shall be used exclusively for the purpose of making survivor's benefit payments pursuant to this section and section six hundred fifty-six and section six hundred fifty-seven of this article. Moneys of the fund shall be paid out on the audit and warrant of the state comptroller on vouchers approved by such state comptroller.

8. If the survivor's benefit is paid for a deceased employee or officer whose salary or compensation is paid from a special or administrative fund other than the general fund or other than an income fund of the state university or other than the mental hygiene services fund, the cost of such benefit shall be charged against such other fund or funds. If the amounts appropriated or allocable from such special or administrative fund or funds are insufficient for such purpose, the director of the budget may allocate such additional sums from such fund or funds as may be necessary therefor; provided however, that no transfer shall be made between two or more of such funds. Such amounts

shall be paid, at such times as required, to the state comptroller and shall be credited to the survivor's benefit fund.

9. The state comptroller shall prescribe such regulations as may be required for the effective administration and implementation of the provisions of this section including the establishment of criteria for determining eligibility of state employees. The state comptroller may enter into agreement with other agencies to perform such duties as may be necessary to implement the provisions of this section.

10. The provisions of this section shall apply to state employees who die on or after April first, nineteen hundred sixty-two and before July first, nineteen hundred seventy-four.