

**UTAH STATE RETIREMENT SYSTEMS REVISIONS**

2024 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies a defined term referencing the Utah State Retirement Investment Fund to reflect the fund name;
- ▶ requires a participating employer to maintain records supporting certifications and reports regarding employee service credit;
- ▶ provides a participating employer's liability for failing to comply with contribution, record keeping, reporting, and certification requirements;
- ▶ provides a participating employer's maximum penalty for failing to make contributions, retain records, or correctly report or certify eligibility;
- ▶ requires, in an appeal, that the Utah State Retirement Board review a hearing officer's final judgment or decision;
- ▶ provides the work required by a public safety service employee or firefighter service employee;
- ▶ clarifies that a career retirement benefit awarded to a surviving spouse is in addition to a death benefit; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**49-11-306**, as last amended by Laws of Utah 2011, Chapter 352

**49-11-602**, as last amended by Laws of Utah 2017, Chapter 141

33            **49-11-604**, as last amended by Laws of Utah 2018, Chapter 10  
 34            **49-11-613**, as last amended by Laws of Utah 2023, Chapter 37  
 35            **49-12-405**, as last amended by Laws of Utah 2016, Chapter 84  
 36            **49-13-405**, as last amended by Laws of Utah 2016, Chapter 84  
 37            **49-14-102**, as last amended by Laws of Utah 2022, Chapter 171  
 38            **49-15-102**, as last amended by Laws of Utah 2022, Chapter 171  
 39            **49-16-102 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters  
 40            37, 59 and 139  
 41            **49-16-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 310  
 42            **49-22-502**, as last amended by Laws of Utah 2016, Chapter 84  
 43            **49-23-102 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 59  
 44            **49-23-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 310  
 45            **49-23-502**, as last amended by Laws of Utah 2016, Chapter 84

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

48            Section 1. Section **49-11-306** is amended to read:

49            **49-11-306. Definitions -- Scrutinized companies investment report -- Content --**  
 50 **Reporting -- Exceptions.**

51            (1) As used in this section:

52            (a) "Active business operations" means all business operations that are not inactive  
 53 business operations.

54            (b) (i) "Business operations" means investing, with actual knowledge on or after  
 55 August 5, 1996, in Iran's petroleum sector which investment directly and significantly  
 56 contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.

57            (ii) "Business operations" does not include the retail sale of gasoline and related  
 58 consumer products.

59            (c) "Company" means any foreign sole proprietorship, organization, association,  
 60 corporation, partnership, joint venture, limited partnership, limited liability partnership, limited  
 61 liability company, or any other foreign entity or business association, including all  
 62 wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of  
 63 these entities or business associations, that exists for the purpose of making a profit.

64 (d) (i) "Direct holdings" means all publicly traded equity securities of a company that  
65 are held directly by the [public] investment fund or in an account or fund in which the [public]  
66 investment fund owns all shares or interests.

67 (ii) "Direct holdings" does not include publicly traded equity securities of a company  
68 held as part of a passive indexing investment strategy.

69 (e) "Inactive business operations" means the continued holding or renewal of rights to  
70 property previously operated for the purpose of generating revenues but not presently deployed  
71 for that purpose.

72 (f) "Investment fund" means the Utah State Retirement Investment Fund created in  
73 Section 49-11-301.

74 ~~[(f)]~~ (g) "Iran" means the Islamic Republic of Iran.

75 ~~[(g)]~~ (h) "Petroleum resources" means petroleum or natural gas.

76 ~~[(h)]~~ "Public fund" means the Utah State Retirement Investment Fund created under  
77 ~~Section 49-11-301.~~

78 (i) "Scrutinized business operations" means any active business operations that:

79 (i) are subject to or liable for sanctions under Public Law 104-172, the Iran Sanctions  
80 Act of 1996, as amended; and

81 (ii) involve the maintenance of:

82 (A) the company's existing assets or investments in Iran; or

83 (B) the deployment of new investments to Iran that meet or exceed the threshold  
84 referred to in Public Law 104-172, the Iran Sanctions Act of 1996, as amended.

85 (j) "Scrutinized company" means any company engaging in scrutinized business  
86 operations.

87 (2) (a) (i) The Utah State Retirement Office shall identify ~~[those]~~ the scrutinized  
88 companies in which the [public] investment fund has direct holdings.

89 (ii) In making the determination, the board shall review and rely on publicly available  
90 information regarding companies with business operations in Iran, including information  
91 provided by nonprofit organizations, research firms, international organizations, and  
92 government entities.

93 (b) The office shall assemble a list of all identified scrutinized companies.

94 (c) The office shall update the list, on an annual basis, with information provided and

95 received from those entities listed in Subsection (2)(a).

96 (3) The office shall prepare an annual report of [public] investment fund investments in  
97 scrutinized companies.

98 (4) The report shall include amounts and other data and statistics designed to explain  
99 the past and current extent to which public fund investments in scrutinized companies:

100 (a) are present; and

101 (b) are being prevented under Subsection (6).

102 (5) The report shall be provided to the governor, the board, the president of the Senate,  
103 the speaker of the House of Representatives, and to each member and staff of the Retirement  
104 and Independent Entities Committee created under Section 63E-1-201.

105 (6) [~~Beginning July 1, 2011, using~~] Using the most current list assembled under  
106 Subsection (2), the office shall prevent the investment of [public] investment [~~funds~~] fund's  
107 direct holdings in a scrutinized company:

108 (a) for [public] funds managed within the office, by not investing in direct holdings in a  
109 scrutinized company; and

110 (b) for [public] funds managed by contract by a professional investment manager:

111 (i) for existing contracts, by requesting that no more direct holdings be acquired in a  
112 scrutinized company; and

113 (ii) for future contracts, by stipulating in the contract that no new direct holdings be  
114 acquired in a scrutinized company.

115 (7) The provisions of this section do not apply to:

116 (a) money invested in a defined contribution plan as defined under Section 49-11-102;

117 or

118 (b) investments in a company that is primarily engaged in:

119 (i) supplying goods or services intended to relieve human suffering in Iran; or

120 (ii) promoting health, education, religious, welfare, or journalistic activities in Iran.

121 Section 2. Section **49-11-602** is amended to read:

122 **49-11-602. Participating employer to maintain records -- Time limit -- Penalties**  
123 **for failure to comply.**

124 (1) A participating employer shall:

125 (a) maintain records necessary to calculate benefits under this title and other records

126 necessary for proper administration of this title as required by the office; and

127 (b) maintain records that indicate whether an employee is receiving:

128 (i) a benefit under state or federal law that, under Subsection 49-12-102(1)(b)(vi) or

129 (vii), is excluded from the definition of benefits normally provided for purposes of Chapter 12,

130 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'

131 Noncontributory Retirement Act, or Chapter 22, New Public Employees' Tier II Contributory

132 Retirement Act; or

133 (ii) a benefit under a benefit package generally offered to similarly situated employees.

134 (2) A participating employer shall maintain all records necessary to support the

135 participating employer's reports and certifications required by Section 49-11-603.

136 [~~(2)~~] (3) A participating employer shall maintain the records required under

137 [~~Subsection (1)~~] Subsections (1) and (2) until the earliest of:

138 (a) three years after the date of retirement of the employee from a system or plan;

139 (b) three years after the date of death of the employee; or

140 (c) 65 years from the date of employment with the participating employer.

141 [~~(3)~~] (4) A participating employer shall be liable to the office for:

142 (a) any liabilities and expenses, including administrative expenses and the cost of  
143 increased benefits to members, resulting from the participating employer's failure to maintain  
144 records under this section; and

145 (b) a penalty equal to 1% of the participating employer's last month's contributions.

146 [~~(4)~~] (5) The executive director may waive all or any part of the interest, penalties,

147 expenses, and fees if the executive director finds there were extenuating circumstances

148 surrounding the participating employer's failure to comply with this section.

149 [~~(5)~~] (6) The office may estimate the length of service, compensation, or age of any  
150 member, if that information is not contained in the records.

151 [~~(6)~~] (7) (a) A participating employer shall enroll an employee, make reports, submit  
152 contributions, and provide other requested information electronically in a manner approved by  
153 the office.

154 (b) A participating employer shall treat any information provided electronically or  
155 otherwise by the office as subject to the confidentiality provisions of this title.

156 Section 3. Section **49-11-604** is amended to read:

157           **49-11-604. Office audits of participating employers -- Penalties for failure to**  
158 **comply.**

159           (1) (a) The office may perform an on-site compliance audit of a participating employer  
160 to determine compliance with reporting, contribution, and certification requirements under this  
161 title.

162           (b) The office or its independent auditor may perform an on-site compliance audit of a  
163 participating employer or request records to be provided by the participating employer,  
164 including records required to complete:

165           (i) audited financial statements;

166           (ii) schedules of employer allocations and pension reporting in accordance with  
167 Governmental Accounting Standards Board statements; and

168           (iii) service organizational controls reports.

169           (c) The office may request records to be provided by the participating employer at the  
170 time of the audit.

171           (d) Audits shall be conducted at the sole discretion of the office after reasonable notice  
172 to the participating employer of at least five working days.

173           (e) The participating employer shall extract and provide records as requested by the  
174 office in an appropriate, organized, and usable format.

175           (f) Failure of a participating employer to allow access, provide records, or comply in  
176 any way with an office audit shall result in the participating employer being liable to the office  
177 for:

178           (i) any liabilities and expenses, including administrative expenses and travel expenses,  
179 resulting from the participating employer's failure to comply with the audit; and

180           (ii) a penalty equal to 1% of the participating employer's last month's contributions.

181           (2) If the audit reveals a participating employer's failure to make contributions as  
182 required under Section 49-11-601, a failure to maintain records as required under Section  
183 49-11-602, or a failure to correctly report or certify eligibility as required under Section  
184 49-11-603, the participating employer shall [~~reimburse~~] be liable to the office for [~~the cost of~~  
185 ~~the audit.~~];

186           (a) any liability or expense, including an administrative expense or the cost of  
187 increased benefits to members, resulting from the participating employer's failure to fully

188 comply with the participating employer's reporting, contribution, certification, or record  
189 keeping requirements under this title; and

190 (b) a penalty, not to exceed 50% of the participating employer's total contributions for  
191 the time period of the error.

192 (3) If the audit reveals that an incorrect benefit has been paid by the office to a  
193 member, participant, alternate payee, or beneficiary due to a participating employer's failure to  
194 comply with the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to  
195 the liabilities contained in Subsection (2), the participating employer shall be liable to the  
196 office for the following:

197 (a) the actuarial cost of correcting the incorrect benefit; and

198 (b) administrative expenses.

199 (4) The executive director may waive all or any part of the interest, penalties, expenses,  
200 and fees if the executive director finds there were extenuating circumstances surrounding the  
201 participating employer's failure to comply with this section.

202 Section 4. Section **49-11-613** is amended to read:

203 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**  
204 **reconsideration -- Judicial review -- Docketing abstract of final administrative order.**

205 (1) (a) A member, retiree, participant, alternative payee, covered individual, employer,  
206 participating employer, and covered employer shall inform themselves of their benefits, rights,  
207 obligations, and employment rights under this title.

208 (b) Subject to Subsection (8), any dispute regarding a benefit, right, obligation, or  
209 employment right under this title is subject to the procedures provided under this section.

210 (c) (i) A person who disputes a benefit, right, obligation, or employment right under  
211 this title shall request a ruling by the executive director who may delegate the decision to the  
212 deputy director.

213 (ii) A request for a ruling to the executive director under this section shall constitute  
214 the initiation of an action for purposes of the limitations periods described in Section  
215 49-11-613.5.

216 (d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any  
217 benefit, right, obligation, or employment right under this title may request a review of that  
218 claim by a hearing officer within the time period described in Section 49-11-613.5.

219 (e) (i) The executive director, on behalf of the board, may request that the hearing  
220 officer review a dispute regarding any benefit, right, obligation, or employment right under this  
221 title by filing a notice of board action and providing notice to all affected parties in accordance  
222 with rules adopted by the board.

223 (ii) The filing of a notice of board action shall constitute the initiation of an action for  
224 purposes of the limitations periods described in Section 49-11-613.5.

225 (2) The hearing officer shall:

226 (a) be hired by the executive director after consultation with the board;

227 (b) follow and enforce the procedures and requirements of:

228 (i) this title;

229 (ii) the rules adopted by the board in accordance with Subsection (10); and

230 (iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically  
231 modified under this title or the rules adopted by the board in accordance with Subsection (10);

232 (c) hear and determine all facts relevant to a decision, including facts pertaining to  
233 applications for benefits under any system, plan, or program under this title and all matters  
234 pertaining to the administration of the office; and

235 (d) make conclusions of law in determining the person's rights under any system, plan,  
236 or program under this title and matters pertaining to the administration of the office.

237 (3) The board shall review and approve or deny all [~~decisions~~] final orders and  
238 judgments of the hearing officer in accordance with rules adopted by the board in accordance  
239 with Subsection (10).

240 (4) The moving party in any proceeding brought under this section shall bear the  
241 burden of proof.

242 (5) A party may file an application for reconsideration by the board upon any of the  
243 following grounds:

244 (a) that the board acted in excess of the board's powers;

245 (b) that the order or the award was procured by fraud;

246 (c) that the evidence does not justify the determination of the hearing officer; or

247 (d) that the party has discovered new material evidence that could not, with reasonable  
248 diligence, have been discovered or procured prior to the hearing.

249 (6) The board shall affirm, reverse, or modify the [~~decision~~] final order or judgment of

250 the hearing officer, or remand the application to the hearing officer for further consideration.

251 (7) A party aggrieved by the board's final decision under Subsection (6) may obtain  
252 judicial review by complying with the procedures and requirements of:

253 (a) this title;

254 (b) rules adopted by the board in accordance with Subsection (10); and

255 (c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically  
256 modified under this title or the rules adopted by the board in accordance with Subsection (10).

257 (8) The program shall provide an appeals process for medical claims that complies  
258 with federal law.

259 (9) (a) (i) Any interested party may file, in a district court of any county in the state, an  
260 abstract of a final administrative order approved by the board in accordance with this section.

261 (ii) Upon receiving the filing of an abstract, the clerk of the district court shall:

262 (A) docket the abstract; and

263 (B) note the date of the abstract's receipt on the abstract and in the docket.

264 (b) (i) From the day on which an interested party files the abstract with a district court,  
265 the final administrative order approved by the board is a lien upon the real property of the  
266 obligor situated in that county.

267 (ii) Unless satisfied, the lien is for a period of eight years after the day on which the  
268 board approves the final administrative order.

269 (c) The final administrative order approved by the board fixing the liability of the  
270 obligor has the same effect as any other money judgment entered by a district court.

271 (d) (i) Except as provided in Subsection (9)(d)(ii), an attachment, a garnishment, or an  
272 execution on a judgment included in or accruing under a final administrative order approved by  
273 the board and filed and docketed in accordance with Subsection (9)(a) has the same manner  
274 and same effect as an attachment, a garnishment, or an execution on a judgment of a district  
275 court.

276 (ii) A writ of garnishment on earnings continues to operate, and to require the  
277 garnishee to withhold the nonexempt portion of earnings at each succeeding earnings  
278 disbursement interval, until the office or a court releases the writ of garnishment in writing.

279 (e) The lien and enforcement remedies provided by this section are in addition to any  
280 other lien or remedy provided by law.

281 (f) A party may bring an action upon a final administrative order approved by the board  
282 within eight years after the day on which the board approves the final administrative order.

283 (g) A final administrative order may be renewed administratively by complying with  
284 the procedures and requirements provided in rule adopted by the board in accordance with  
285 Subsection (10).

286 (10) (a) The board shall make rules to implement this section and to establish  
287 procedures and requirements for adjudicative proceedings.

288 (b) The rules shall be substantially similar to or incorporate provisions of the Utah  
289 Rules of Civil Procedure, the Utah Rules of Evidence, and Title 63G, Chapter 4,  
290 Administrative Procedures Act.

291 Section 5. Section **49-12-405** is amended to read:

292 **49-12-405. Death of married member -- Service retirement benefits to surviving**  
293 **spouse.**

294 (1) Upon the request of a deceased member's surviving spouse, the deceased member is  
295 considered to have retired under Option Three on the first day of the month following the  
296 month in which the member died if the following requirements are met:

297 (a) the member has:

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

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

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

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

302 (b) the member dies leaving a surviving spouse.

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

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

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

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

311 (4) The benefit calculation for a surviving spouse with a valid domestic relations order

312 benefits on file with the office before the member's death date in accordance with Section  
313 49-11-612 is calculated according to the manner in which the court order specified benefits to  
314 be partitioned, whether as a fixed amount or as a percentage of the benefit.

315 (5) (a) Except for a return of member contributions, benefits payable under this section  
316 are retirement benefits and shall be paid in addition to any payments made under Section  
317 49-12-501 [~~and constitute a full and final settlement of the claim of the surviving spouse or any~~  
318 ~~other beneficiary filing claim for benefits under Section 49-12-501~~].

319 (b) Payments made under this section and Section 49-12-501 shall constitute a full and  
320 final settlement of the claim of the surviving spouse or any other beneficiary.

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

326 Section 6. Section **49-13-405** is amended to read:

327 **49-13-405. Death of married members -- Service retirement benefits to surviving**  
328 **spouse.**

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

331 (2) Upon the request of a deceased member's surviving spouse, the deceased member is  
332 considered to have retired under Option Three on the first day of the month following the  
333 month in which the member died if the following requirements are met:

334 (a) the member has:

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

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

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

338 (b) the member dies leaving a surviving spouse.

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

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

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

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

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

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

351 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
352 at the time of death, the surviving spouse shall receive one-third of the member's full  
353 allowance; or

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

358 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
359 benefits on file with the office before the member's death date in accordance with Section  
360 49-11-612 is calculated according to the manner in which the court order specified benefits to  
361 be partitioned, whether as a fixed amount or as a percentage of the benefit.

362 (6) (a) Except for a return of member contributions, benefits payable under this section  
363 are retirement benefits and shall be paid in addition to any other payments made under Section  
364 49-13-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse  
365 or any other beneficiary filing a claim for benefits under Section 49-13-501~~].

366 (b) Payments made under this section and Section 49-13-501 shall constitute a full and  
367 final settlement of the claim of the surviving spouse or any other beneficiary.

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

373 Section 7. Section **49-14-102** is amended to read:

374 **49-14-102. Definitions.**

375 As used in this chapter:

376 (1) (a) "Compensation" means the total amount of payments that are includable in  
377 gross income received by a public safety service employee as base income for the regularly  
378 scheduled work period. The participating employer shall establish the regularly scheduled  
379 work period. Base income shall be determined prior to the deduction of member contributions  
380 or any amounts the public safety service employee authorizes to be deducted for salary deferral  
381 or other benefits authorized by federal law.

382 (b) "Compensation" includes performance-based bonuses and cost-of-living  
383 adjustments.

384 (c) "Compensation" does not include:

385 (i) overtime;

386 (ii) sick pay incentives;

387 (iii) retirement pay incentives;

388 (iv) the monetary value of remuneration paid in kind, including a residence, use of  
389 equipment or uniform, travel, or similar payments;

390 (v) a lump-sum payment or special payments covering accumulated leave; and

391 (vi) all contributions made by a participating employer under this system or under any  
392 other employee benefit system or plan maintained by a participating employer for the benefit of  
393 a member or participant.

394 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
395 under Internal Revenue Code Section 401(a)(17).

396 (2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

397 (3) (a) "Final average salary" means the amount calculated by averaging the highest  
398 three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and  
399 (d).

400 (b) Except as provided in Subsection (3)(c), the percentage increase in annual  
401 compensation in any one of the years used may not exceed the previous year's compensation by  
402 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
403 of the dollar during the previous year, as measured by a United States Bureau of Labor  
404 Statistics Consumer Price Index average as determined by the board.

405 (c) In cases where the participating employer provides acceptable documentation to the  
406 office, the limitation in Subsection (3)(b) may be exceeded if:

407 (i) the public safety service employee has transferred from another agency; or

408 (ii) the public safety service employee has been promoted to a new position.

409 (d) The annual compensation used to calculate final average salary shall be based on a  
410 period, as determined by the board, consistent with the period used to determine years of  
411 service credit in accordance with Subsection (10).

412 (4) (a) "Line-of-duty death" means a death resulting from:

413 (i) external force, violence, or disease occasioned by an act of duty as a public safety  
414 service employee; or

415 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
416 training or another strenuous activity required as an act of duty as a public safety service  
417 employee.

418 (b) "Line-of-duty death" does not include a death that:

419 (i) occurs during an activity that is required as an act of duty as a public safety service  
420 employee if the activity is not a strenuous activity, including an activity that is clerical,  
421 administrative, or of a nonmanual nature;

422 (ii) occurs during the commission of a crime committed by the employee;

423 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or  
424 nonprescribed, contributes to the employee's death; or

425 (iv) occurs in a manner other than as described in Subsection (4)(a).

426 (5) "Participating employer" means an employer that meets the participation  
427 requirements of Section 49-14-201.

428 (6) (a) "Public safety service" means employment [~~normally requiring an average of~~  
429 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements described  
430 in Subsection (6)(d) rendered by a member who is:

431 (i) a law enforcement officer in accordance with Section 53-13-103;

432 (ii) a correctional officer in accordance with Section 53-13-104;

433 (iii) a special function officer approved in accordance with Sections 49-14-201 and  
434 53-13-105;

435 (iv) a dispatcher who is certified in accordance with Section 53-6-303;

436 (v) a full-time member of the Board of Pardons and Parole created under Section  
437 77-27-2;

438 (vi) the commissioner of the Department of Public Safety; or

439 (vii) the executive director of the Department of Corrections.

440 (b) Except for a position described in Subsection (6)(a)(iv), (v), (vi), or (vii), "public  
441 safety service" also requires that, in the course of employment, the employee's life or personal  
442 safety is at risk.

443 (c) Except for the minimum hour requirement, Subsections (6)(a) and (b) do not apply  
444 to any person who was eligible for service credit in this system before January 1, 1984.

445 (d) "Public safety service" requires actual work in the public safety position:

446 (i) during each pay period that is equal to or greater than the hours that the participating  
447 employer has certified to the office as the regular work period necessary to accomplish the  
448 normal duties and responsibilities of the position; and

449 (ii) that is at least 2,080 hours per year.

450 (7) "Public safety service employee" means an employee of a participating employer  
451 who performs public safety service under this chapter.

452 (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
453 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
454 physical law enforcement, prison security, disaster relief, or other emergency response activity.

455 (b) "Strenuous activity" includes participating in a participating employer sanctioned  
456 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

457 (9) "System" means the Public Safety Contributory Retirement System created under  
458 this chapter.

459 (10) "Years of service credit" means the number of periods, each to consist of 12 full  
460 months as determined by the board, whether consecutive or not, during which a public safety  
461 service employee was employed by a participating employer, including time the public safety  
462 service employee was absent in the service of the United States government on military duty.

463 Section 8. Section **49-15-102** is amended to read:

464 **49-15-102. Definitions.**

465 As used in this chapter:

466 (1) (a) "Compensation" means the total amount of payments that are includable in

467 gross income received by a public safety service employee as base income for the regularly  
468 scheduled work period. The participating employer shall establish the regularly scheduled  
469 work period. Base income shall be determined prior to the deduction of any amounts the  
470 public safety service employee authorizes to be deducted for salary deferral or other benefits  
471 authorized by federal law.

472 (b) "Compensation" includes performance-based bonuses and cost-of-living  
473 adjustments.

474 (c) "Compensation" does not include:

475 (i) overtime;

476 (ii) sick pay incentives;

477 (iii) retirement pay incentives;

478 (iv) the monetary value of remuneration paid in kind, as in a residence, use of  
479 equipment or uniform, travel, or similar payments;

480 (v) a lump-sum payment or special payment covering accumulated leave; and

481 (vi) all contributions made by a participating employer under this system or under any  
482 other employee benefit system or plan maintained by a participating employer for the benefit of  
483 a member or participant.

484 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
485 under Internal Revenue Code Section 401(a)(17).

486 (2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

487 (3) (a) "Final average salary" means the amount calculated by averaging the highest  
488 three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and  
489 (d).

490 (b) Except as provided in Subsection (3)(c), the percentage increase in annual  
491 compensation in any one of the years used may not exceed the previous year's compensation by  
492 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
493 of the dollar during the previous year, as measured by a United States Bureau of Labor  
494 Statistics Consumer Price Index average as determined by the board.

495 (c) In cases where the participating employer provides acceptable documentation to the  
496 office, the limitation in Subsection (3)(b) may be exceeded if:

497 (i) the public safety service employee has transferred from another agency; or

- 498 (ii) the public safety service employee has been promoted to a new position.
- 499 (d) The annual compensation used to calculate final average salary shall be based on a  
500 period, as determined by the board, consistent with the period used to determine years of  
501 service credit in accordance with Subsection (10).
- 502 (4) (a) "Line-of-duty death" means a death resulting from:
- 503 (i) external force, violence, or disease occasioned by an act of duty as a public safety  
504 service employee; or
- 505 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
506 training or another strenuous activity required as an act of duty as a public safety service  
507 employee.
- 508 (b) "Line-of-duty death" does not include a death that:
- 509 (i) occurs during an activity that is required as an act of duty as a public safety service  
510 employee if the activity is not a strenuous activity, including an activity that is clerical,  
511 administrative, or of a nonmanual nature;
- 512 (ii) occurs during the commission of a crime committed by the employee;
- 513 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or  
514 nonprescribed, contributes to the employee's death; or
- 515 (iv) occurs in a manner other than as described in Subsection (4)(a).
- 516 (5) "Participating employer" means an employer that meets the participation  
517 requirements of Section 49-15-201.
- 518 (6) (a) "Public safety service" means employment [~~normally requiring an average of~~  
519 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements described  
520 in Subsection (6)(c) rendered by a member who is:
- 521 (i) a law enforcement officer in accordance with Section 53-13-103;
- 522 (ii) a correctional officer in accordance with Section 53-13-104;
- 523 (iii) a special function officer approved in accordance with Sections 49-15-201 and  
524 53-13-105;
- 525 (iv) a dispatcher who is certified in accordance with Section 53-6-303;
- 526 (v) a full-time member of the Board of Pardons and Parole created under Section  
527 77-27-2;
- 528 (vi) the commissioner of the Department of Public Safety; or

529 (vii) the executive director of the Department of Corrections.

530 (b) Except for a position described in Subsection (6)(a)(iv), (v), (vi), or (vii), "public  
531 safety service" also requires that, in the course of employment, the employee's life or personal  
532 safety is at risk.

533 (c) "Public safety service" requires actual work in the public safety position:

534 (i) during each pay period that is equal to or greater than the hours that the participating  
535 employer has certified to the office as the regular work period necessary to accomplish the  
536 normal duties and responsibilities of the position; and

537 (ii) that is at least 2,080 hours per year.

538 (7) "Public safety service employee" means an employee of a participating employer  
539 who performs public safety service under this chapter.

540 (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
541 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
542 physical law enforcement, prison security, disaster relief, or other emergency response activity.

543 (b) "Strenuous activity" includes participating in a participating employer sanctioned  
544 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

545 (9) "System" means the Public Safety Noncontributory Retirement System created  
546 under this chapter.

547 (10) "Years of service credit" means the number of periods, each to consist of 12 full  
548 months as determined by the board, whether consecutive or not, during which a public safety  
549 service employee was employed by a participating employer, including time the public safety  
550 service employee was absent in the service of the United States government on military duty.

551 Section 9. Section **49-16-102 (Superseded 07/01/24)** is amended to read:

552 **49-16-102 (Superseded 07/01/24). Definitions.**

553 As used in this chapter:

554 (1) (a) "Compensation" means the total amount of payments that are includable as  
555 gross income received by a firefighter service employee as base income for the regularly  
556 scheduled work period. The participating employer shall establish the regularly scheduled  
557 work period. Base income shall be determined prior to the deduction of member contributions  
558 or any amounts the firefighter service employee authorizes to be deducted for salary deferral or  
559 other benefits authorized by federal law.

- 560 (b) "Compensation" includes performance-based bonuses and cost-of-living  
561 adjustments.
- 562 (c) "Compensation" does not include:
- 563 (i) overtime;
- 564 (ii) sick pay incentives;
- 565 (iii) retirement pay incentives;
- 566 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,  
567 or similar payments;
- 568 (v) a lump-sum payment or special payments covering accumulated leave; and
- 569 (vi) all contributions made by a participating employer under this system or under any  
570 other employee benefit system or plan maintained by a participating employer for the benefit of  
571 a member or participant.
- 572 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
573 under Section 401(a)(17), Internal Revenue Code.
- 574 (2) (a) "Disability" means the complete inability, due to objective medical impairment,  
575 whether physical or mental, to perform firefighter service.
- 576 (b) "Disability" does not include the inability to meet an employer's required standards  
577 or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined  
578 under Subsection (2)(a).
- 579 (3) "Emergency medical service personnel" means an individual who:
- 580 (a) is:
- 581 (i) a paramedic;
- 582 (ii) an advanced emergency medical services technician; or
- 583 (iii) an emergency medical services technician;
- 584 (b) is required to be licensed or certified under Section 26B-4-116; and
- 585 (c) has a primary job duty to provide emergency medical services as a first responder.
- 586 (4) (a) "Final average salary" means the amount calculated by averaging the highest  
587 three years of annual compensation preceding retirement subject to Subsections (4)(b), (c), and  
588 (d).
- 589 (b) Except as provided in Subsection (4)(c), the percentage increase in annual  
590 compensation in any one of the years used may not exceed the previous year's compensation by

591 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
592 of the dollar during the previous year, as measured by a United States Bureau of Labor  
593 Statistics Consumer Price Index average as determined by the board.

594 (c) In cases where the participating employer provides acceptable documentation to the  
595 office the limitation in Subsection (4)(b) may be exceeded if:

596 (i) the member has transferred from another agency; or

597 (ii) the member has been promoted to a new position.

598 (d) The annual compensation used to calculate final average salary shall be based on a  
599 period, as determined by the board, consistent with the period used to determine years of  
600 service credit in accordance with Subsection (14).

601 (5) (a) "Firefighter service" means employment [~~normally requiring an average of~~  
602 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements described  
603 in Subsection (5)(c) rendered by a member who is:

604 (i) a firefighter service employee trained in firefighter techniques and assigned to a  
605 position of hazardous duty with a regularly constituted fire department;

606 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire  
607 marshal; or

608 (iii) an emergency medical service personnel.

609 (b) "Firefighter service" does not include secretarial staff or other similar employees.

610 (c) "Firefighter service" requires actual work in the firefighter position:

611 (i) during each pay period that is equal to or greater than the hours that the participating  
612 employer has certified to the office as the regular work period necessary to accomplish the  
613 normal duties and responsibilities of the position; and

614 (ii) that is at least 2,080 hours per year.

615 (6) (a) "Firefighter service employee" means an employee of a participating employer  
616 who provides firefighter service under this chapter.

617 (b) "Firefighter service employee" does not include an employee of a regularly  
618 constituted fire department who does not perform firefighter service.

619 (7) (a) "Line-of-duty death or disability" means a death or disability resulting from:

620 (i) external force, violence, or disease directly resulting from firefighter service; or

621 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous

622 training or another strenuous activity required as an act of duty as a firefighter service  
623 employee.

624 (b) "Line-of-duty death or disability" does not include a death or disability that:

625 (i) occurs during an activity that is required as an act of duty as a firefighter service  
626 employee if the activity is not a strenuous activity, including an activity that is clerical,  
627 administrative, or of a nonmanual nature;

628 (ii) occurs during the commission of a crime committed by the employee;

629 (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether  
630 prescribed or nonprescribed, contributes to the employee's death or disability; or

631 (iv) occurs in a manner other than as described in Subsection (7)(a).

632 (c) "Line-of-duty death or disability" includes the death or disability of a paid  
633 firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid  
634 firefighter has five years of firefighter service credit.

635 (8) "Objective medical impairment" means an impairment resulting from an injury or  
636 illness that is diagnosed by a physician or physician assistant and that is based on accepted  
637 objective medical tests or findings rather than subjective complaints.

638 (9) "Participating employer" means an employer that meets the participation  
639 requirements of Section 49-16-201.

640 (10) "Regularly constituted fire department" means a fire department that employs a  
641 fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid  
642 employment per year.

643 (11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
644 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
645 physical law enforcement, prison security, disaster relief, or other emergency response activity.

646 (b) "Strenuous activity" includes participating in a participating employer sanctioned  
647 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

648 (12) "System" means the Firefighters' Retirement System created under this chapter.

649 (13) (a) "Volunteer firefighter" means any individual who is not regularly employed as  
650 a firefighter service employee, but who:

651 (i) has been trained in firefighter techniques and skills;

652 (ii) continues to receive regular firefighter training; and

653 (iii) is on the rolls of a legally organized volunteer fire department that provides  
654 ongoing training and serves a political subdivision of the state.

655 (b) "Volunteer firefighter" does not include an individual who volunteers assistance but  
656 does not meet the requirements of Subsection (13)(a).

657 (14) "Years of service credit" means the number of periods, each to consist of 12 full  
658 months as determined by the board, whether consecutive or not, during which a firefighter  
659 service employee was employed by a participating employer or received full-time pay while on  
660 sick leave, including any time the firefighter service employee was absent in the service of the  
661 United States on military duty.

662 Section 10. Section **49-16-102 (Effective 07/01/24)** is amended to read:

663 **49-16-102 (Effective 07/01/24). Definitions.**

664 As used in this chapter:

665 (1) (a) "Compensation" means the total amount of payments that are includable as  
666 gross income received by a firefighter service employee as base income for the regularly  
667 scheduled work period. The participating employer shall establish the regularly scheduled  
668 work period. Base income shall be determined prior to the deduction of member contributions  
669 or any amounts the firefighter service employee authorizes to be deducted for salary deferral or  
670 other benefits authorized by federal law.

671 (b) "Compensation" includes performance-based bonuses and cost-of-living  
672 adjustments.

673 (c) "Compensation" does not include:

674 (i) overtime;

675 (ii) sick pay incentives;

676 (iii) retirement pay incentives;

677 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,  
678 or similar payments;

679 (v) a lump-sum payment or special payments covering accumulated leave; and

680 (vi) all contributions made by a participating employer under this system or under any  
681 other employee benefit system or plan maintained by a participating employer for the benefit of  
682 a member or participant.

683 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed

684 under Section 401(a)(17), Internal Revenue Code.

685 (2) (a) "Disability" means the complete inability, due to objective medical impairment,  
686 whether physical or mental, to perform firefighter service.

687 (b) "Disability" does not include the inability to meet an employer's required standards  
688 or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined  
689 under Subsection (2)(a).

690 (3) "Emergency medical service personnel" means an individual who:

691 (a) is:

692 (i) a paramedic;

693 (ii) an advanced emergency medical services technician; or

694 (iii) an emergency medical services technician;

695 (b) is required to be licensed or certified under Section 53-2d-402; and

696 (c) has a primary job duty to provide emergency medical services as a first responder.

697 (4) (a) "Final average salary" means the amount calculated by averaging the highest  
698 three years of annual compensation preceding retirement subject to Subsections (4)(b), (c), and  
699 (d).

700 (b) Except as provided in Subsection (4)(c), the percentage increase in annual  
701 compensation in any one of the years used may not exceed the previous year's compensation by  
702 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
703 of the dollar during the previous year, as measured by a United States Bureau of Labor  
704 Statistics Consumer Price Index average as determined by the board.

705 (c) In cases where the participating employer provides acceptable documentation to the  
706 office the limitation in Subsection (4)(b) may be exceeded if:

707 (i) the member has transferred from another agency; or

708 (ii) the member has been promoted to a new position.

709 (d) The annual compensation used to calculate final average salary shall be based on a  
710 period, as determined by the board, consistent with the period used to determine years of  
711 service credit in accordance with Subsection (14).

712 (5) (a) "Firefighter service" means employment [~~normally requiring an average of~~  
713 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements described  
714 in Subsection (5)(c) rendered by a member who is:

- 715 (i) a firefighter service employee trained in firefighter techniques and assigned to a  
716 position of hazardous duty with a regularly constituted fire department;
- 717 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire  
718 marshal; or
- 719 (iii) an emergency medical service personnel.
- 720 (b) "Firefighter service" does not include secretarial staff or other similar employees.
- 721 (c) "Firefighter service" requires actual work in the firefighter position:
- 722 (i) during each pay period that is equal to or greater than the hours that the participating  
723 employer has certified to the office as the regular work period necessary to accomplish the  
724 normal duties and responsibilities of the position; and
- 725 (ii) that is at least 2,080 hours per year.
- 726 (6) (a) "Firefighter service employee" means an employee of a participating employer  
727 who provides firefighter service under this chapter.
- 728 (b) "Firefighter service employee" does not include an employee of a regularly  
729 constituted fire department who does not perform firefighter service.
- 730 (7) (a) "Line-of-duty death or disability" means a death or disability resulting from:
- 731 (i) external force, violence, or disease directly resulting from firefighter service; or
- 732 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
733 training or another strenuous activity required as an act of duty as a firefighter service  
734 employee.
- 735 (b) "Line-of-duty death or disability" does not include a death or disability that:
- 736 (i) occurs during an activity that is required as an act of duty as a firefighter service  
737 employee if the activity is not a strenuous activity, including an activity that is clerical,  
738 administrative, or of a nonmanual nature;
- 739 (ii) occurs during the commission of a crime committed by the employee;
- 740 (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether  
741 prescribed or nonprescribed, contributes to the employee's death or disability; or
- 742 (iv) occurs in a manner other than as described in Subsection (7)(a).
- 743 (c) "Line-of-duty death or disability" includes the death or disability of a paid  
744 firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid  
745 firefighter has five years of firefighter service credit.

746 (8) "Objective medical impairment" means an impairment resulting from an injury or  
747 illness that is diagnosed by a physician or physician assistant and that is based on accepted  
748 objective medical tests or findings rather than subjective complaints.

749 (9) "Participating employer" means an employer that meets the participation  
750 requirements of Section 49-16-201.

751 (10) "Regularly constituted fire department" means a fire department that employs a  
752 fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid  
753 employment per year.

754 (11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
755 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
756 physical law enforcement, prison security, disaster relief, or other emergency response activity.

757 (b) "Strenuous activity" includes participating in a participating employer sanctioned  
758 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

759 (12) "System" means the Firefighters' Retirement System created under this chapter.

760 (13) (a) "Volunteer firefighter" means any individual who is not regularly employed as  
761 a firefighter service employee, but who:

762 (i) has been trained in firefighter techniques and skills;

763 (ii) continues to receive regular firefighter training; and

764 (iii) is on the rolls of a legally organized volunteer fire department that provides  
765 ongoing training and serves a political subdivision of the state.

766 (b) "Volunteer firefighter" does not include an individual who volunteers assistance but  
767 does not meet the requirements of Subsection (13)(a).

768 (14) "Years of service credit" means the number of periods, each to consist of 12 full  
769 months as determined by the board, whether consecutive or not, during which a firefighter  
770 service employee was employed by a participating employer or received full-time pay while on  
771 sick leave, including any time the firefighter service employee was absent in the service of the  
772 United States on military duty.

773 Section 11. Section **49-22-502** is amended to read:

774 **49-22-502. Death of married members -- Service retirement benefits to surviving**  
775 **spouse.**

776 (1) As used in this section, "member's full allowance" means an Option Three

777 allowance calculated under Section 49-22-305 without an actuarial reduction.

778 (2) Upon the request of a deceased member's surviving spouse, the deceased member is  
779 considered to have retired under Option Three on the first day of the month following the  
780 month in which the member died if the following requirements are met:

781 (a) the member has:

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

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

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

785 (b) the member dies leaving a surviving spouse.

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

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

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

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

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

795 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
796 at the time of death, the surviving spouse shall receive  $\frac{2}{3}$  of the member's full allowance;

797 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
798 at the time of death, the surviving spouse shall receive  $\frac{1}{3}$  of the member's full allowance; or

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

803 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
804 benefits on file with the office before the member's death date in accordance with Section  
805 49-11-612 is calculated according to the manner in which the court order specified benefits to  
806 be partitioned, whether as a fixed amount or as a percentage of the benefit.

807 (6) (a) Except for a return of member contributions, benefits payable under this section

808 are retirement benefits and shall be paid in addition to any other payments made under Section  
809 49-22-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse~~  
810 ~~or any other beneficiary filing a claim for benefits under Section 49-22-501~~].

811 (b) Payments made under this section and Section 49-22-501 shall constitute a full and  
812 final settlement of the claim of the surviving spouse or any other beneficiary.

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

818 Section 12. Section **49-23-102 (Superseded 07/01/24)** is amended to read:

819 **49-23-102 (Superseded 07/01/24). Definitions.**

820 As used in this chapter:

821 (1) (a) "Compensation" means the total amount of payments that are includable in  
822 gross income received by a public safety service employee or a firefighter service employee as  
823 base income for the regularly scheduled work period. The participating employer shall  
824 establish the regularly scheduled work period. Base income shall be determined prior to the  
825 deduction of any amounts the public safety service employee or firefighter service employee  
826 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

827 (b) "Compensation" includes performance-based bonuses and cost-of-living  
828 adjustments.

829 (c) "Compensation" does not include:

830 (i) overtime;

831 (ii) sick pay incentives;

832 (iii) retirement pay incentives;

833 (iv) the monetary value of remuneration paid in kind, as in a residence, use of  
834 equipment or uniform, travel, or similar payments;

835 (v) a lump-sum payment or special payment covering accumulated leave; and

836 (vi) all contributions made by a participating employer under this system or under any  
837 other employee benefit system or plan maintained by a participating employer for the benefit of  
838 a member or participant.

839 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
840 under Section 401(a)(17), Internal Revenue Code.

841 (2) "Corresponding Tier I system" means the system or plan that would have covered  
842 the member if the member had initially entered employment before July 1, 2011.

843 (3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

844 (4) "Emergency medical service personnel" means an individual who:

845 (a) is:

846 (i) a paramedic;

847 (ii) an advanced emergency medical services technician; or

848 (iii) an emergency medical services technician;

849 (b) is required to be licensed or certified under Section 26B-4-116; and

850 (c) has a primary job duty to provide emergency medical services as a first responder.

851 (5) (a) "Final average salary" means the amount calculated by averaging the highest  
852 five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d),  
853 (e), and (f).

854 (b) Except as provided in Subsection (5)(c), the percentage increase in annual  
855 compensation in any one of the years used may not exceed the previous year's compensation by  
856 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
857 of the dollar during the previous year, as measured by a United States Bureau of Labor  
858 Statistics Consumer Price Index average as determined by the board.

859 (c) In cases where the participating employer provides acceptable documentation to the  
860 office, the limitation in Subsection (5)(b) may be exceeded if:

861 (i) the member has transferred from another agency; or

862 (ii) the member has been promoted to a new position.

863 (d) If the member retires more than six months from the date of termination of  
864 employment, the member is considered to have been in service at the member's last rate of pay  
865 from the date of the termination of employment to the effective date of retirement for purposes  
866 of computing the member's final average salary only.

867 (e) If the member has less than five years of service credit in this system, final average  
868 salary means the average annual compensation paid to the member during the full period of  
869 service credit.

870 (f) The annual compensation used to calculate final average salary shall be based on a  
871 period, as determined by the board, consistent with the period used to determine years of  
872 service credit in accordance with Subsection (15).

873 (6) (a) "Firefighter service" means employment [~~normally requiring an average of~~  
874 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of  
875 Subsection (6)(c) rendered by a member who is:

876 (i) a firefighter service employee trained in firefighter techniques and assigned to a  
877 position of hazardous duty with a regularly constituted fire department;

878 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire  
879 marshal;

880 (iii) a firefighter service employee who is:

881 (A) hired on or after July 1, 2021;

882 (B) trained in firefighter techniques;

883 (C) assigned to a position of hazardous duty; and

884 (D) employed by the state as a participating employer; or

885 (iv) an emergency medical service personnel.

886 (b) "Firefighter service" does not include secretarial staff or other similar employees.

887 (c) "Firefighter service" requires actual work in the firefighter position:

888 (i) during each pay period that is equal to or greater than the hours that the participating  
889 employer has certified to the office as the regular work period necessary to accomplish the  
890 normal duties and responsibilities of the position; and

891 (ii) that is at least 2,080 hours per year.

892 (7) (a) "Firefighter service employee" means an employee of a participating employer  
893 who provides firefighter service under this chapter.

894 (b) "Firefighter service employee" does not include an employee of a regularly  
895 constituted fire department who does not perform firefighter service.

896 (8) (a) "Line-of-duty death" means a death resulting from:

897 (i) external force, violence, or disease occasioned by an act of duty as a public safety  
898 service or firefighter service employee; or

899 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous  
900 training or another strenuous activity required as an act of duty as a public safety service or

901 firefighter service employee.

902 (b) "Line-of-duty death" does not include a death that:

903 (i) occurs during an activity that is required as an act of duty as a public safety service  
904 or firefighter service employee if the activity is not a strenuous activity, including an activity  
905 that is clerical, administrative, or of a nonmanual nature;

906 (ii) occurs during the commission of a crime committed by the employee;

907 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or  
908 nonprescribed, contributes to the employee's death; or

909 (iv) occurs in a manner other than as described in Subsection (8)(a).

910 (9) "Participating employer" means an employer that meets the participation  
911 requirements of:

912 (a) Sections 49-14-201 and 49-14-202;

913 (b) Sections 49-15-201 and 49-15-202;

914 (c) Sections 49-16-201 and 49-16-202; or

915 (d) Sections 49-23-201 and 49-23-202.

916 (10) (a) "Public safety service" means employment [~~normally requiring an average of~~  
917 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of  
918 Subsection (10)(c) rendered by a member who is:

919 (i) a law enforcement officer in accordance with Section 53-13-103;

920 (ii) a correctional officer in accordance with Section 53-13-104;

921 (iii) a special function officer approved in accordance with Sections 49-15-201 and  
922 53-13-105;

923 (iv) a dispatcher who is certified in accordance with Section 53-6-303;

924 (v) a full-time member of the Board of Pardons and Parole created under Section  
925 77-27-2;

926 (vi) the commissioner of the Department of Public Safety; or

927 (vii) the executive director of the Department of Corrections.

928 (b) Except for a position described in Subsection (10)(a)(iv), (v), (vi), or (vii), "public  
929 safety service" also requires that, in the course of employment, the employee's life or personal  
930 safety is at risk.

931 (c) "Public safety service" requires actual work in the public safety position:

932           (i) during each pay period that is equal to or greater than the hours that the participating  
933 employer has certified to the office as the regular work period necessary to accomplish the  
934 normal duties and responsibilities of the position; and

935           (ii) that is at least 2,080 hours per year.

936           (11) "Public safety service employee" means an employee of a participating employer  
937 who performs public safety service under this chapter.

938           (12) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
939 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
940 physical law enforcement, prison security, disaster relief, or other emergency response activity.

941           (b) "Strenuous activity" includes participating in a participating employer sanctioned  
942 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

943           (13) "System" means the New Public Safety and Firefighter Tier II Contributory  
944 Retirement System created under this chapter.

945           (14) (a) "Volunteer firefighter" means any individual who is not regularly employed as  
946 a firefighter service employee, but who:

947           (i) has been trained in firefighter techniques and skills;

948           (ii) continues to receive regular firefighter training; and

949           (iii) is on the rolls of a legally organized volunteer fire department that provides  
950 ongoing training and serves a political subdivision of the state.

951           (b) An individual that volunteers assistance but does not meet the requirements of  
952 Subsection (14)(a) is not a volunteer firefighter for purposes of this chapter.

953           (15) "Years of service credit" means:

954           (a) a period, consisting of 12 full months as determined by the board; or

955           (b) a period determined by the board, whether consecutive or not, during which a  
956 regular full-time employee performed services for a participating employer, including any time  
957 the regular full-time employee was absent on a paid leave of absence granted by a participating  
958 employer or was absent in the service of the United States government on military duty as  
959 provided by this chapter.

960           Section 13. Section **49-23-102 (Effective 07/01/24)** is amended to read:

961           **49-23-102 (Effective 07/01/24). Definitions.**

962           As used in this chapter:

963 (1) (a) "Compensation" means the total amount of payments that are includable in  
964 gross income received by a public safety service employee or a firefighter service employee as  
965 base income for the regularly scheduled work period. The participating employer shall  
966 establish the regularly scheduled work period. Base income shall be determined prior to the  
967 deduction of any amounts the public safety service employee or firefighter service employee  
968 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

969 (b) "Compensation" includes performance-based bonuses and cost-of-living  
970 adjustments.

971 (c) "Compensation" does not include:

972 (i) overtime;

973 (ii) sick pay incentives;

974 (iii) retirement pay incentives;

975 (iv) the monetary value of remuneration paid in kind, as in a residence, use of  
976 equipment or uniform, travel, or similar payments;

977 (v) a lump-sum payment or special payment covering accumulated leave; and

978 (vi) all contributions made by a participating employer under this system or under any  
979 other employee benefit system or plan maintained by a participating employer for the benefit of  
980 a member or participant.

981 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
982 under Section 401(a)(17), Internal Revenue Code.

983 (2) "Corresponding Tier I system" means the system or plan that would have covered  
984 the member if the member had initially entered employment before July 1, 2011.

985 (3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

986 (4) "Emergency medical service personnel" means an individual who:

987 (a) is:

988 (i) a paramedic;

989 (ii) an advanced emergency medical services technician; or

990 (iii) an emergency medical services technician;

991 (b) is required to be licensed or certified under Section 53-2d-402; and

992 (c) has a primary job duty to provide emergency medical services as a first responder.

993 (5) (a) "Final average salary" means the amount calculated by averaging the highest

994 five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d),  
995 (e), and (f).

996 (b) Except as provided in Subsection (5)(c), the percentage increase in annual  
997 compensation in any one of the years used may not exceed the previous year's compensation by  
998 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
999 of the dollar during the previous year, as measured by a United States Bureau of Labor  
1000 Statistics Consumer Price Index average as determined by the board.

1001 (c) In cases where the participating employer provides acceptable documentation to the  
1002 office, the limitation in Subsection (5)(b) may be exceeded if:

1003 (i) the member has transferred from another agency; or

1004 (ii) the member has been promoted to a new position.

1005 (d) If the member retires more than six months from the date of termination of  
1006 employment, the member is considered to have been in service at the member's last rate of pay  
1007 from the date of the termination of employment to the effective date of retirement for purposes  
1008 of computing the member's final average salary only.

1009 (e) If the member has less than five years of service credit in this system, final average  
1010 salary means the average annual compensation paid to the member during the full period of  
1011 service credit.

1012 (f) The annual compensation used to calculate final average salary shall be based on a  
1013 period, as determined by the board, consistent with the period used to determine years of  
1014 service credit in accordance with Subsection (15).

1015 (6) (a) "Firefighter service" means employment [~~normally requiring an average of~~  
1016 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of  
1017 Subsection (6)(c) rendered by a member who is:

1018 (i) a firefighter service employee trained in firefighter techniques and assigned to a  
1019 position of hazardous duty with a regularly constituted fire department;

1020 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire  
1021 marshal;

1022 (iii) a firefighter service employee who is:

1023 (A) hired on or after July 1, 2021;

1024 (B) trained in firefighter techniques;

- 1025 (C) assigned to a position of hazardous duty; and
- 1026 (D) employed by the state as a participating employer; or
- 1027 (iv) an emergency medical service personnel.
- 1028 (b) "Firefighter service" does not include secretarial staff or other similar employees.
- 1029 (c) "Firefighter service" requires actual work in the firefighter position:
- 1030 (i) during each pay period that is equal to or greater than the hours that the participating
- 1031 employer has certified to the office as the regular work period necessary to accomplish the
- 1032 normal duties and responsibilities of the position; and
- 1033 (ii) that is at least 2,080 hours per year.
- 1034 (7) (a) "Firefighter service employee" means an employee of a participating employer
- 1035 who provides firefighter service under this chapter.
- 1036 (b) "Firefighter service employee" does not include an employee of a regularly
- 1037 constituted fire department who does not perform firefighter service.
- 1038 (8) (a) "Line-of-duty death" means a death resulting from:
- 1039 (i) external force, violence, or disease occasioned by an act of duty as a public safety
- 1040 service or firefighter service employee; or
- 1041 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
- 1042 training or another strenuous activity required as an act of duty as a public safety service or
- 1043 firefighter service employee.
- 1044 (b) "Line-of-duty death" does not include a death that:
- 1045 (i) occurs during an activity that is required as an act of duty as a public safety service
- 1046 or firefighter service employee if the activity is not a strenuous activity, including an activity
- 1047 that is clerical, administrative, or of a nonmanual nature;
- 1048 (ii) occurs during the commission of a crime committed by the employee;
- 1049 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or
- 1050 nonprescribed, contributes to the employee's death; or
- 1051 (iv) occurs in a manner other than as described in Subsection (8)(a).
- 1052 (9) "Participating employer" means an employer that meets the participation
- 1053 requirements of:
- 1054 (a) Sections 49-14-201 and 49-14-202;
- 1055 (b) Sections 49-15-201 and 49-15-202;

- 1056 (c) Sections 49-16-201 and 49-16-202; or  
1057 (d) Sections 49-23-201 and 49-23-202.
- 1058 (10) (a) "Public safety service" means employment [~~normally requiring an average of~~  
1059 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of  
1060 Subsection (10)(c) rendered by a member who is:
- 1061 (i) a law enforcement officer in accordance with Section 53-13-103;
  - 1062 (ii) a correctional officer in accordance with Section 53-13-104;
  - 1063 (iii) a special function officer approved in accordance with Sections 49-15-201 and  
1064 53-13-105;
  - 1065 (iv) a dispatcher who is certified in accordance with Section 53-6-303;
  - 1066 (v) a full-time member of the Board of Pardons and Parole created under Section  
1067 77-27-2;
  - 1068 (vi) the commissioner of the Department of Public Safety; or
  - 1069 (vii) the executive director of the Department of Corrections.
- 1070 (b) Except for a position described in Subsection (10)(a)(iv), (v), (vi), or (vii), "public  
1071 safety service" also requires that, in the course of employment, the employee's life or personal  
1072 safety is at risk.
- 1073 (c) "Public safety service" requires actual work in the public safety position:
- 1074 (i) during each pay period that is equal to or greater than the hours that the participating  
1075 employer has certified to the office as the regular work period necessary to accomplish the  
1076 normal duties and responsibilities of the position; and
  - 1077 (ii) that is at least 2,080 hours per year.
- 1078 (11) "Public safety service employee" means an employee of a participating employer  
1079 who performs public safety service under this chapter.
- 1080 (12) (a) "Strenuous activity" means engagement involving a difficult, stressful, or  
1081 vigorous fire suppression, rescue, hazardous material response, emergency medical service,  
1082 physical law enforcement, prison security, disaster relief, or other emergency response activity.
- 1083 (b) "Strenuous activity" includes participating in a participating employer sanctioned  
1084 and funded training exercise that involves difficult, stressful, or vigorous physical activity.
- 1085 (13) "System" means the New Public Safety and Firefighter Tier II Contributory  
1086 Retirement System created under this chapter.

1087 (14) (a) "Volunteer firefighter" means any individual who is not regularly employed as  
1088 a firefighter service employee, but who:

- 1089 (i) has been trained in firefighter techniques and skills;
- 1090 (ii) continues to receive regular firefighter training; and
- 1091 (iii) is on the rolls of a legally organized volunteer fire department that provides  
1092 ongoing training and serves a political subdivision of the state.

1093 (b) An individual that volunteers assistance but does not meet the requirements of  
1094 Subsection (14)(a) is not a volunteer firefighter for purposes of this chapter.

1095 (15) "Years of service credit" means:

- 1096 (a) a period, consisting of 12 full months as determined by the board; or
- 1097 (b) a period determined by the board, whether consecutive or not, during which a  
1098 regular full-time employee performed services for a participating employer, including any time  
1099 the regular full-time employee was absent on a paid leave of absence granted by a participating  
1100 employer or was absent in the service of the United States government on military duty as  
1101 provided by this chapter.

1102 Section 14. Section **49-23-502** is amended to read:

1103 **49-23-502. Death of married members -- Service retirement benefits to surviving**  
1104 **spouse.**

1105 (1) As used in this section, "member's full allowance" means an Option Three  
1106 allowance calculated under Section 49-23-304 without an actuarial reduction.

1107 (2) Upon the request of a deceased member's surviving spouse at the time of the  
1108 member's death, the deceased member is considered to have retired under Option Three on the  
1109 first day of the month following the month in which the member died if the following  
1110 requirements are met:

1111 (a) the member has:

- 1112 (i) 15 or more years of service credit;
- 1113 (ii) attained age 62 with 10 or more years of service credit; or
- 1114 (iii) attained age 65 with four or more years of service credit; and

1115 (b) the member dies leaving a surviving spouse.

1116 (3) The surviving spouse who requests a benefit under this section shall apply in  
1117 writing to the office. The allowance shall begin on the first day of the month:

1118 (a) following the month in which the member died, if the application is received by the  
1119 office within 90 days of the member's death; or

1120 (b) following the month in which the application is received by the office, if the  
1121 application is received by the office more than 90 days after the member's death.

1122 (4) The allowance payable to a surviving spouse under Subsection (2) is:

1123 (a) if the member has 25 or more years of service credit at the time of death, the  
1124 surviving spouse shall receive the member's full allowance;

1125 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
1126 at the time of death, the surviving spouse shall receive two-thirds of the member's full  
1127 allowance;

1128 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
1129 at the time of death, the surviving spouse shall receive one-third of the member's full  
1130 allowance; or

1131 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
1132 older with 10 or more years of service credit, or age 65 or older with four or more years of  
1133 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
1134 with actuarial reductions.

1135 (5) The benefit calculation for a surviving spouse with a valid domestic relations order  
1136 benefits on file with the office before the member's death date in accordance with Section  
1137 49-11-612 is calculated according to the manner in which the court order specified benefits to  
1138 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1139 (6) (a) Except for a return of member contributions, benefits payable under this section  
1140 are retirement benefits and shall be paid in addition to any other payments made under Section  
1141 49-23-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse  
1142 or any other beneficiary filing a claim for benefits under Section 49-23-501~~].

1143 (b) Payments made under this section and Section 49-23-501 shall constitute a full and  
1144 final settlement of the claim of the surviving spouse or any other beneficiary.

1145 (7) If the death benefits under this section or Section 49-23-503 are partitioned among  
1146 more than one surviving spouse due to domestic relations order benefits on file with the office  
1147 before the member's death date in accordance with Section 49-11-612, the total amount  
1148 received by the surviving spouses may not exceed the death benefits normally provided to one

1149 surviving spouse under this section.

1150 Section 15. **Effective date.**

1151 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

1152 (2) The actions affecting Sections 49-16-102 (Effective 07/01/24) and 49-23-102

1153 (Effective 07/01/24) take effect on July 1, 2024.