

1 **UTAH STATE RETIREMENT SYSTEMS REVISIONS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Cheryl K. Acton

6

LONG TITLE

7 **Committee Note:**

8 The Retirement and Independent Entities Interim Committee recommended this bill.

9 Legislative Vote: 10 voting for 0 voting against 5 absent

10 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

14 ▶ modifies a defined term referencing the Utah State Retirement Investment Fund to
15 reflect the fund name;

16 ▶ requires a participating employer to maintain records supporting certifications and
17 reports regarding employee service credit;

18 ▶ provides a participating employer's liability for failing to comply with contribution,
19 record keeping, reporting, and certification requirements;

20 ▶ provides a participating employer's maximum penalty for failing to make
21 contributions, retain records, or correctly report or certify eligibility;

22 ▶ requires, in an appeal, that the Utah State Retirement Board review a hearing
23 officer's final judgment or decision;

24 ▶ provides the work required by a public safety service employee or firefighter service
25 employee;

26 ▶ clarifies that a career retirement benefit awarded to a surviving spouse is in addition
27



28 to a death benefit; and
29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides a special effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **49-11-306**, as last amended by Laws of Utah 2011, Chapter 352
- 37 **49-11-602**, as last amended by Laws of Utah 2017, Chapter 141
- 38 **49-11-604**, as last amended by Laws of Utah 2018, Chapter 10
- 39 **49-11-613**, as last amended by Laws of Utah 2023, Chapter 37
- 40 **49-12-405**, as last amended by Laws of Utah 2016, Chapter 84
- 41 **49-13-405**, as last amended by Laws of Utah 2016, Chapter 84
- 42 **49-14-102**, as last amended by Laws of Utah 2022, Chapter 171
- 43 **49-15-102**, as last amended by Laws of Utah 2022, Chapter 171
- 44 **49-16-102 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters
- 45 37, 59 and 139
- 46 **49-16-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 310
- 47 **49-22-502**, as last amended by Laws of Utah 2016, Chapter 84
- 48 **49-23-102 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 59
- 49 **49-23-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 310
- 50 **49-23-502**, as last amended by Laws of Utah 2016, Chapter 84

51

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

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

54 **49-11-306. Definitions -- Scrutinized companies investment report -- Content --**
55 **Reporting -- Exceptions.**

56 (1) As used in this section:

57 (a) "Active business operations" means all business operations that are not inactive
58 business operations.

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

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

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

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

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

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

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

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

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

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

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

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

86 (ii) involve the maintenance of:

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

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

90 (j) "Scrutinized company" means any company engaging in scrutinized business
91 operations.

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

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

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

99 (c) The office shall update the list, on an annual basis, with information provided and
100 received from those entities listed in Subsection (2)(a).

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

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

105 (a) are present; and

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

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

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

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

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

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

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

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

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

122 or

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

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

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

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

127 **49-11-602. Participating employer to maintain records -- Time limit -- Penalties**
128 **for failure to comply.**

129 (1) A participating employer shall:

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

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

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

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

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

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

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

137 Retirement Act; or

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

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

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

141 [~~(2)~~] (3) A participating employer shall maintain the records required under

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

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

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

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

146 [~~(3)~~] (4) A participating employer shall be liable to the office for:

147 (a) any liabilities and expenses, including administrative expenses and the cost of

148 increased benefits to members, resulting from the participating employer's failure to maintain

149 records under this section; and

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

151 [~~(4)~~] (5) The executive director may waive all or any part of the interest, penalties,

152 expenses, and fees if the executive director finds there were extenuating circumstances
153 surrounding the participating employer's failure to comply with this section.

154 [~~(5)~~] (6) The office may estimate the length of service, compensation, or age of any
155 member, if that information is not contained in the records.

156 [~~(6)~~] (7) (a) A participating employer shall enroll an employee, make reports, submit
157 contributions, and provide other requested information electronically in a manner approved by
158 the office.

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

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

162 **49-11-604. Office audits of participating employers -- Penalties for failure to**
163 **comply.**

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

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

170 (i) audited financial statements;

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

173 (iii) service organizational controls reports.

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

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

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

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

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

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

186 (2) If the audit reveals a participating employer's failure to make contributions as
187 required under Section 49-11-601, a failure to maintain records as required under Section
188 49-11-602, or a failure to correctly report or certify eligibility as required under Section
189 49-11-603, the participating employer shall ~~[reimburse]~~ be liable to the office for [the cost of
190 the audit.]:

191 (a) any liability or expense, including an administrative expense or the cost of
192 increased benefits to members, resulting from the participating employer's failure to fully
193 comply with the participating employer's reporting, contribution, certification, or record
194 keeping requirements under this title; and

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

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

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

203 (b) administrative expenses.

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

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

208 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
209 **reconsideration -- Judicial review -- Docketing abstract of final administrative order.**

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

213 (b) Subject to Subsection (8), any dispute regarding a benefit, right, obligation, or

214 employment right under this title is subject to the procedures provided under this section.

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

218 (ii) A request for a ruling to the executive director under this section shall constitute
219 the initiation of an action for purposes of the limitations periods described in Section
220 49-11-613.5.

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

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

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

230 (2) The hearing officer shall:

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

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

233 (i) this title;

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

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

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

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

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

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

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

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

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

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

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

254 (6) The board shall affirm, reverse, or modify the [~~decision~~] final order or judgment of
255 the hearing officer, or remand the application to the hearing officer for further consideration.

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

258 (a) this title;

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

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

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

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

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

267 (A) docket the abstract; and

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

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

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

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

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

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

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

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

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

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

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

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

297 **49-12-405. Death of married member -- Service retirement benefits to surviving**
298 **spouse.**

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

302 (a) the member has:

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

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

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

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

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

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

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

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

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

316 (4) The benefit calculation for a surviving spouse with a valid domestic relations order
317 benefits on file with the office before the member's death date in accordance with Section
318 49-11-612 is calculated according to the manner in which the court order specified benefits to
319 be partitioned, whether as a fixed amount or as a percentage of the benefit.

320 (5) (a) Except for a return of member contributions, benefits payable under this section
321 are retirement benefits and shall be paid in addition to any payments made under Section
322 49-12-501 [~~and constitute a full and final settlement of the claim of the surviving spouse or any~~
323 ~~other beneficiary filing claim for benefits under Section 49-12-501~~].

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

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

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

332 **49-13-405. Death of married members -- Service retirement benefits to surviving**
333 **spouse.**

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

336 (2) Upon the request of a deceased member's surviving spouse, the deceased member is
337 considered to have retired under Option Three on the first day of the month following the

338 month in which the member died if the following requirements are met:

339 (a) the member has:

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

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

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

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

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

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

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

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

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

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

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

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

363 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
364 benefits on file with the office before the member's death date in accordance with Section
365 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to
366 be partitioned, whether as a fixed amount or as a percentage of the benefit.

367 (6) (a) Except for a return of member contributions, benefits payable under this section
368 are retirement benefits and shall be paid in addition to any other payments made under Section

369 ~~49-13-501 [and shall constitute a full and final settlement of the claim of the surviving spouse~~
370 ~~or any other beneficiary filing a claim for benefits under Section 49-13-501].~~

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

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

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

379 **49-14-102. Definitions.**

380 As used in this chapter:

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

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

389 (c) "Compensation" does not include:

390 (i) overtime;

391 (ii) sick pay incentives;

392 (iii) retirement pay incentives;

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

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

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

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

400 under Internal Revenue Code Section 401(a)(17).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

433 (6) (a) "Public safety service" means employment [~~normally requiring an average of~~
434 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements described
435 in Subsection (6)(d) rendered by a member who is:

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

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

438 (iii) a special function officer approved in accordance with Sections 49-14-201 and
439 53-13-105;

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

441 (v) a full-time member of the Board of Pardons and Parole created under Section
442 77-27-2;

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

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

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

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

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

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

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

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

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

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

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

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

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

469 **49-15-102. Definitions.**

470 As used in this chapter:

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

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

479 (c) "Compensation" does not include:

480 (i) overtime;

481 (ii) sick pay incentives;

482 (iii) retirement pay incentives;

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

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

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

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

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

492 (3) (a) "Final average salary" means the amount calculated by averaging the highest

493 three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and
494 (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

521 (5) "Participating employer" means an employer that meets the participation
522 requirements of Section [49-15-201](#).

523 (6) (a) "Public safety service" means employment [~~normally requiring an average of~~

524 ~~2,080 hours of regularly scheduled employment per year]~~ meeting the requirements described
525 in Subsection (6)(c) rendered by a member who is:

- 526 (i) a law enforcement officer in accordance with Section 53-13-103;
- 527 (ii) a correctional officer in accordance with Section 53-13-104;
- 528 (iii) a special function officer approved in accordance with Sections 49-15-201 and
529 53-13-105;

- 530 (iv) a dispatcher who is certified in accordance with Section 53-6-303;
- 531 (v) a full-time member of the Board of Pardons and Parole created under Section
532 77-27-2;

- 533 (vi) the commissioner of the Department of Public Safety; or
- 534 (vii) the executive director of the Department of Corrections.

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

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

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

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

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

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

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

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

552 (10) "Years of service credit" means the number of periods, each to consist of 12 full
553 months as determined by the board, whether consecutive or not, during which a public safety
554 service employee was employed by a participating employer, including time the public safety

555 service employee was absent in the service of the United States government on military duty.

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

557 **49-16-102 (Superseded 07/01/24). Definitions.**

558 As used in this chapter:

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

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

567 (c) "Compensation" does not include:

568 (i) overtime;

569 (ii) sick pay incentives;

570 (iii) retirement pay incentives;

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

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

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

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

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

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

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

585 (a) is:

- 586 (i) a paramedic;
- 587 (ii) an advanced emergency medical services technician; or
- 588 (iii) an emergency medical services technician;
- 589 (b) is required to be licensed or certified under Section 26B-4-116; and
- 590 (c) has a primary job duty to provide emergency medical services as a first responder.

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

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

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

- 601 (i) the member has transferred from another agency; or
- 602 (ii) the member has been promoted to a new position.

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

606 (5) (a) "Firefighter service" means employment [~~normally requiring an average of~~
607 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements described
608 in Subsection (5)(c) rendered by a member who is:

- 609 (i) a firefighter service employee trained in firefighter techniques and assigned to a
610 position of hazardous duty with a regularly constituted fire department;
- 611 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire
612 marshal; or
- 613 (iii) an emergency medical service personnel.

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

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

- 616 (i) during each pay period that is equal to or greater than the hours that the participating

617 employer has certified to the office as the regular work period necessary to accomplish the
618 normal duties and responsibilities of the position; and

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

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

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

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

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

626 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
627 training or another strenuous activity required as an act of duty as a firefighter service
628 employee.

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

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

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

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

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

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

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

643 (9) "Participating employer" means an employer that meets the participation
644 requirements of Section [49-16-201](#).

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

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

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

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

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

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

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

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

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

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

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

668 **49-16-102 (Effective 07/01/24). Definitions.**

669 As used in this chapter:

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

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

678 (c) "Compensation" does not include:

- 679 (i) overtime;
- 680 (ii) sick pay incentives;
- 681 (iii) retirement pay incentives;
- 682 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,
- 683 or similar payments;
- 684 (v) a lump-sum payment or special payments covering accumulated leave; and
- 685 (vi) all contributions made by a participating employer under this system or under any
- 686 other employee benefit system or plan maintained by a participating employer for the benefit of
- 687 a member or participant.
- 688 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
- 689 under Section 401(a)(17), Internal Revenue Code.
- 690 (2) (a) "Disability" means the complete inability, due to objective medical impairment,
- 691 whether physical or mental, to perform firefighter service.
- 692 (b) "Disability" does not include the inability to meet an employer's required standards
- 693 or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined
- 694 under Subsection (2)(a).
- 695 (3) "Emergency medical service personnel" means an individual who:
- 696 (a) is:
- 697 (i) a paramedic;
- 698 (ii) an advanced emergency medical services technician; or
- 699 (iii) an emergency medical services technician;
- 700 (b) is required to be licensed or certified under Section [53-2d-402](#); and
- 701 (c) has a primary job duty to provide emergency medical services as a first responder.
- 702 (4) (a) "Final average salary" means the amount calculated by averaging the highest
- 703 three years of annual compensation preceding retirement subject to Subsections (4)(b), (c), and
- 704 (d).
- 705 (b) Except as provided in Subsection (4)(c), the percentage increase in annual
- 706 compensation in any one of the years used may not exceed the previous year's compensation by
- 707 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
- 708 of the dollar during the previous year, as measured by a United States Bureau of Labor
- 709 Statistics Consumer Price Index average as determined by the board.

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

- 712 (i) the member has transferred from another agency; or
- 713 (ii) the member has been promoted to a new position.

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

717 (5) (a) "Firefighter service" means employment [~~normally requiring an average of~~
718 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements described
719 in Subsection (5)(c) rendered by a member who is:

- 720 (i) a firefighter service employee trained in firefighter techniques and assigned to a
721 position of hazardous duty with a regularly constituted fire department;
- 722 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire
723 marshal; or
- 724 (iii) an emergency medical service personnel.

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

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

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

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

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

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

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

- 736 (i) external force, violence, or disease directly resulting from firefighter service; or
- 737 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
738 training or another strenuous activity required as an act of duty as a firefighter service
739 employee.

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

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

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

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

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

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

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

754 (9) "Participating employer" means an employer that meets the participation
755 requirements of Section [49-16-201](#).

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

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

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

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

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

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

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

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

771 (b) "Volunteer firefighter" does not include an individual who volunteers assistance but

772 does not meet the requirements of Subsection (13)(a).

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

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

779 **49-22-502. Death of married members -- Service retirement benefits to surviving**
780 **spouse.**

781 (1) As used in this section, "member's full allowance" means an Option Three
782 allowance calculated under Section **49-22-305** without an actuarial reduction.

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

786 (a) the member has:

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

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

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

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

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

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

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

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

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

800 (b) if the member has between 20-24 years of service credit and is not age 60 or older
801 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

802 (c) if the member has between 15-19 years of service credit and is not age 62 or older

803 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or
804 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
805 older with 10 or more years of service credit, or age 65 or older with four or more years of
806 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
807 with actuarial reductions.

808 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
809 benefits on file with the office before the member's death date in accordance with Section
810 49-11-612 is calculated according to the manner in which the court order specified benefits to
811 be partitioned, whether as a fixed amount or as a percentage of the benefit.

812 (6) (a) Except for a return of member contributions, benefits payable under this section
813 are retirement benefits and shall be paid in addition to any other payments made under Section
814 49-22-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse~~
815 ~~or any other beneficiary filing a claim for benefits under Section 49-22-501~~].

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

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

823 Section 12. Section 49-23-102 (Superseded 07/01/24) is amended to read:
824 49-23-102 (Superseded 07/01/24). **Definitions.**

825 As used in this chapter:

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

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

- 834 (c) "Compensation" does not include:
- 835 (i) overtime;
- 836 (ii) sick pay incentives;
- 837 (iii) retirement pay incentives;
- 838 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
- 839 equipment or uniform, travel, or similar payments;
- 840 (v) a lump-sum payment or special payment covering accumulated leave; and
- 841 (vi) all contributions made by a participating employer under this system or under any
- 842 other employee benefit system or plan maintained by a participating employer for the benefit of
- 843 a member or participant.
- 844 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
- 845 under Section 401(a)(17), Internal Revenue Code.
- 846 (2) "Corresponding Tier I system" means the system or plan that would have covered
- 847 the member if the member had initially entered employment before July 1, 2011.
- 848 (3) "Dispatcher" means the same as that term is defined in Section [53-6-102](#).
- 849 (4) "Emergency medical service personnel" means an individual who:
- 850 (a) is:
- 851 (i) a paramedic;
- 852 (ii) an advanced emergency medical services technician; or
- 853 (iii) an emergency medical services technician;
- 854 (b) is required to be licensed or certified under Section [26B-4-116](#); and
- 855 (c) has a primary job duty to provide emergency medical services as a first responder.
- 856 (5) (a) "Final average salary" means the amount calculated by averaging the highest
- 857 five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d),
- 858 (e), and (f).
- 859 (b) Except as provided in Subsection (5)(c), the percentage increase in annual
- 860 compensation in any one of the years used may not exceed the previous year's compensation by
- 861 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
- 862 of the dollar during the previous year, as measured by a United States Bureau of Labor
- 863 Statistics Consumer Price Index average as determined by the board.
- 864 (c) In cases where the participating employer provides acceptable documentation to the

865 office, the limitation in Subsection (5)(b) may be exceeded if:

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

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

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

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

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

878 (6) (a) "Firefighter service" means employment [~~normally requiring an average of~~
879 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of
880 Subsection (6)(c) rendered by a member who is:

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

883 (ii) the state fire marshal appointed under Section [53-7-103](#) or a deputy state fire
884 marshal;

885 (iii) a firefighter service employee who is:

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

887 (B) trained in firefighter techniques;

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

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

890 (iv) an emergency medical service personnel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

915 (9) "Participating employer" means an employer that meets the participation
916 requirements of:

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

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

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

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

921 (10) (a) "Public safety service" means employment [~~normally requiring an average of~~
922 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of
923 Subsection (10)(c) rendered by a member who is:

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

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

926 (iii) a special function officer approved in accordance with Sections 49-15-201 and

927 53-13-105;

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

929 (v) a full-time member of the Board of Pardons and Parole created under Section

930 77-27-2;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

966 **49-23-102 (Effective 07/01/24). Definitions.**

967 As used in this chapter:

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

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

976 (c) "Compensation" does not include:

977 (i) overtime;

978 (ii) sick pay incentives;

979 (iii) retirement pay incentives;

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

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

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

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

988 (2) "Corresponding Tier I system" means the system or plan that would have covered

989 the member if the member had initially entered employment before July 1, 2011.

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

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

992 (a) is:

993 (i) a paramedic;

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

995 (iii) an emergency medical services technician;

996 (b) is required to be licensed or certified under Section [53-2d-402](#); and

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

998 (5) (a) "Final average salary" means the amount calculated by averaging the highest
999 five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d),
1000 (e), and (f).

1001 (b) Except as provided in Subsection (5)(c), the percentage increase in annual
1002 compensation in any one of the years used may not exceed the previous year's compensation by
1003 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
1004 of the dollar during the previous year, as measured by a United States Bureau of Labor
1005 Statistics Consumer Price Index average as determined by the board.

1006 (c) In cases where the participating employer provides acceptable documentation to the
1007 office, the limitation in Subsection (5)(b) may be exceeded if:

1008 (i) the member has transferred from another agency; or

1009 (ii) the member has been promoted to a new position.

1010 (d) If the member retires more than six months from the date of termination of
1011 employment, the member is considered to have been in service at the member's last rate of pay
1012 from the date of the termination of employment to the effective date of retirement for purposes
1013 of computing the member's final average salary only.

1014 (e) If the member has less than five years of service credit in this system, final average
1015 salary means the average annual compensation paid to the member during the full period of
1016 service credit.

1017 (f) The annual compensation used to calculate final average salary shall be based on a
1018 period, as determined by the board, consistent with the period used to determine years of
1019 service credit in accordance with Subsection (15).

1020 (6) (a) "Firefighter service" means employment [~~normally requiring an average of~~
1021 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of
1022 Subsection (6)(c) rendered by a member who is:

1023 (i) a firefighter service employee trained in firefighter techniques and assigned to a
1024 position of hazardous duty with a regularly constituted fire department;

1025 (ii) the state fire marshal appointed under Section [53-7-103](#) or a deputy state fire
1026 marshal;

1027 (iii) a firefighter service employee who is:

1028 (A) hired on or after July 1, 2021;

1029 (B) trained in firefighter techniques;

1030 (C) assigned to a position of hazardous duty; and

1031 (D) employed by the state as a participating employer; or

1032 (iv) an emergency medical service personnel.

1033 (b) "Firefighter service" does not include secretarial staff or other similar employees.

1034 (c) "Firefighter service" requires actual work in the firefighter position:

1035 (i) during each pay period that is equal to or greater than the hours that the participating
1036 employer has certified to the office as the regular work period necessary to accomplish the
1037 normal duties and responsibilities of the position; and

1038 (ii) that is at least 2,080 hours per year.

1039 (7) (a) "Firefighter service employee" means an employee of a participating employer
1040 who provides firefighter service under this chapter.

1041 (b) "Firefighter service employee" does not include an employee of a regularly
1042 constituted fire department who does not perform firefighter service.

1043 (8) (a) "Line-of-duty death" means a death resulting from:

1044 (i) external force, violence, or disease occasioned by an act of duty as a public safety
1045 service or firefighter service employee; or

1046 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
1047 training or another strenuous activity required as an act of duty as a public safety service or
1048 firefighter service employee.

1049 (b) "Line-of-duty death" does not include a death that:

1050 (i) occurs during an activity that is required as an act of duty as a public safety service

1051 or firefighter service employee if the activity is not a strenuous activity, including an activity
1052 that is clerical, administrative, or of a nonmanual nature;

1053 (ii) occurs during the commission of a crime committed by the employee;

1054 (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or
1055 nonprescribed, contributes to the employee's death; or

1056 (iv) occurs in a manner other than as described in Subsection (8)(a).

1057 (9) "Participating employer" means an employer that meets the participation
1058 requirements of:

1059 (a) Sections 49-14-201 and 49-14-202;

1060 (b) Sections 49-15-201 and 49-15-202;

1061 (c) Sections 49-16-201 and 49-16-202; or

1062 (d) Sections 49-23-201 and 49-23-202.

1063 (10) (a) "Public safety service" means employment [~~normally requiring an average of~~
1064 ~~2,080 hours of regularly scheduled employment per year~~] meeting the requirements of
1065 Subsection (10)(c) rendered by a member who is:

1066 (i) a law enforcement officer in accordance with Section 53-13-103;

1067 (ii) a correctional officer in accordance with Section 53-13-104;

1068 (iii) a special function officer approved in accordance with Sections 49-15-201 and
1069 53-13-105;

1070 (iv) a dispatcher who is certified in accordance with Section 53-6-303;

1071 (v) a full-time member of the Board of Pardons and Parole created under Section
1072 77-27-2;

1073 (vi) the commissioner of the Department of Public Safety; or

1074 (vii) the executive director of the Department of Corrections.

1075 (b) Except for a position described in Subsection (10)(a)(iv), (v), (vi), or (vii), "public
1076 safety service" also requires that, in the course of employment, the employee's life or personal
1077 safety is at risk.

1078 (c) "Public safety service" requires actual work in the public safety position:

1079 (i) during each pay period that is equal to or greater than the hours that the participating
1080 employer has certified to the office as the regular work period necessary to accomplish the
1081 normal duties and responsibilities of the position; and

1082 (ii) that is at least 2,080 hours per year.

1083 (11) "Public safety service employee" means an employee of a participating employer
1084 who performs public safety service under this chapter.

1085 (12) (a) "Strenuous activity" means engagement involving a difficult, stressful, or
1086 vigorous fire suppression, rescue, hazardous material response, emergency medical service,
1087 physical law enforcement, prison security, disaster relief, or other emergency response activity.

1088 (b) "Strenuous activity" includes participating in a participating employer sanctioned
1089 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

1090 (13) "System" means the New Public Safety and Firefighter Tier II Contributory
1091 Retirement System created under this chapter.

1092 (14) (a) "Volunteer firefighter" means any individual who is not regularly employed as
1093 a firefighter service employee, but who:

1094 (i) has been trained in firefighter techniques and skills;

1095 (ii) continues to receive regular firefighter training; and

1096 (iii) is on the rolls of a legally organized volunteer fire department that provides
1097 ongoing training and serves a political subdivision of the state.

1098 (b) An individual that volunteers assistance but does not meet the requirements of
1099 Subsection (14)(a) is not a volunteer firefighter for purposes of this chapter.

1100 (15) "Years of service credit" means:

1101 (a) a period, consisting of 12 full months as determined by the board; or

1102 (b) a period determined by the board, whether consecutive or not, during which a
1103 regular full-time employee performed services for a participating employer, including any time
1104 the regular full-time employee was absent on a paid leave of absence granted by a participating
1105 employer or was absent in the service of the United States government on military duty as
1106 provided by this chapter.

1107 Section 14. Section **49-23-502** is amended to read:

1108 **49-23-502. Death of married members -- Service retirement benefits to surviving**
1109 **spouse.**

1110 (1) As used in this section, "member's full allowance" means an Option Three
1111 allowance calculated under Section **49-23-304** without an actuarial reduction.

1112 (2) Upon the request of a deceased member's surviving spouse at the time of the

1113 member's death, the deceased member is considered to have retired under Option Three on the
1114 first day of the month following the month in which the member died if the following
1115 requirements are met:

1116 (a) the member has:

1117 (i) 15 or more years of service credit;

1118 (ii) attained age 62 with 10 or more years of service credit; or

1119 (iii) attained age 65 with four or more years of service credit; and

1120 (b) the member dies leaving a surviving spouse.

1121 (3) The surviving spouse who requests a benefit under this section shall apply in
1122 writing to the office. The allowance shall begin on the first day of the month:

1123 (a) following the month in which the member died, if the application is received by the
1124 office within 90 days of the member's death; or

1125 (b) following the month in which the application is received by the office, if the
1126 application is received by the office more than 90 days after the member's death.

1127 (4) The allowance payable to a surviving spouse under Subsection (2) is:

1128 (a) if the member has 25 or more years of service credit at the time of death, the
1129 surviving spouse shall receive the member's full allowance;

1130 (b) if the member has between 20-24 years of service credit and is not age 60 or older
1131 at the time of death, the surviving spouse shall receive two-thirds of the member's full
1132 allowance;

1133 (c) if the member has between 15-19 years of service credit and is not age 62 or older
1134 at the time of death, the surviving spouse shall receive one-third of the member's full
1135 allowance; or

1136 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
1137 older with 10 or more years of service credit, or age 65 or older with four or more years of
1138 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
1139 with actuarial reductions.

1140 (5) The benefit calculation for a surviving spouse with a valid domestic relations order
1141 benefits on file with the office before the member's death date in accordance with Section
1142 [49-11-612](#) is calculated according to the manner in which the court order specified benefits to
1143 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1144 (6) (a) Except for a return of member contributions, benefits payable under this section
1145 are retirement benefits and shall be paid in addition to any other payments made under Section
1146 [49-23-501](#) [~~and shall constitute a full and final settlement of the claim of the surviving spouse~~
1147 ~~or any other beneficiary filing a claim for benefits under Section [49-23-501](#)].~~

1148 (b) Payments made under this section and Section [49-23-501](#) shall constitute a full and
1149 final settlement of the claim of the surviving spouse or any other beneficiary.

1150 (7) If the death benefits under this section or Section [49-23-503](#) are partitioned among
1151 more than one surviving spouse due to domestic relations order benefits on file with the office
1152 before the member's death date in accordance with Section [49-11-612](#), the total amount
1153 received by the surviving spouses may not exceed the death benefits normally provided to one
1154 surviving spouse under this section.

1155 Section 15. **Effective date.**

1156 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

1157 (2) The actions affecting Sections [49-16-102](#) (Effective 07/01/24) and [49-23-102](#)
1158 (Effective 07/01/24) take effect on July 1, 2024.