§ 135-170. Last day of actual service; death benefit for in-service members.

To determine the last day of actual service for the purposes of the death benefit for in-service members, all of the following apply:

(1) Uninterrupted service. – For a member with uninterrupted service, the last day of actual service is the date on which an absent member's sick and annual leave expire, unless the member is on an approved leave of absence and is deemed to be in service under G.S. 135-4(h). If a member is deemed to be in service under G.S. 135-4(h), then the last day of actual service is the last day for which the member made a contribution to the Retirement System.

(2) Interrupted service. – All of the following apply to a member whose service has been interrupted:

a. For a member whose service is interrupted by reason of service in the Uniformed Services, as that term is defined in section 4303(16) of the Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353, and the member does not return immediately after that service to employment with a covered employer in the Retirement System, the last day of actual service is the date on which the member was first eligible to be separated or released from his or her involuntary military service.

b. For a member who is on an approved leave of absence, but is not deemed to be in service under G.S. 135-4(h), the last day of actual service is either the last day for which the member made a contribution to the Retirement System or the date on which the member's sick and annual leave expired, whichever is later.

c. A member on leave of absence from a position as a teacher or State employee for the purpose of serving as a member or officer of the North Carolina General Assembly shall be deemed to be in service during sessions of the General Assembly and eligible for the death benefit under G.S. 135-165. The last day of actual service shall be the most recent legislative day of the applicable General Assembly session or the last day the member performed work as a teacher or State employee, whichever is later. Notwithstanding G.S. 135-165(c), the amount of the death benefit for a member who is on a leave of absence due to General Assembly service shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, subject to a minimum of twenty-five thousand dollars ($25,000) and a maximum of fifty thousand dollars ($50,000).

d. All of the following apply for a member who is either (i) receiving workers' compensation benefits during the period for which the member would have been otherwise eligible to receive short-term benefits or extended short-term benefits under G.S. 135-105 or (ii) a beneficiary under the Disability Income Plan:

1. If the date the member last performed work as a teacher or State employee occurred within 180 days of the date the member died, then the last day of actual service is the last day the member performed that work.

2. If the date the member last performed worked as a teacher or State employee occurred more than 180 days from the date the

member died, then that member shall not be deemed in active service for the purposes of G.S. 135-165.

(3) Terminated service. – For a member whose employment has been terminated for reasons other than retirement, whether by the employer or the employee, the last day of actual service is the last day the member performed work as a teacher or State employee. (2025-11, ss. 1(a), (n)-(r), 3.)