**Section 1600.430 Excess Benefit Arrangement**

a) The Excess Benefit Arrangement of the State Universities Retirement System of Illinois (Arrangement) is adopted effective January 1, 1995. The Arrangement is established and maintained by SURS solely for the purpose of providing benefits for certain of its participants who participate in SURS and whose benefits are limited by section 415 of the Internal Revenue Code (IRC) (26 U.S.C. 415).

b) The Arrangement is adopted pursuant to the authority granted to SURS by Section 1-116 of the Code.

c) This Arrangement is a portion of a governmental plan (as that term is defined in IRC section 414(d) and section 3(32) of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1002)) and is administered as a qualified governmental excess benefit arrangement pursuant to the provisions of IRC section 415(m).

d) Accordingly, SURS adopts the Arrangement pursuant to the terms and provisions set forth in this subsection (d):

1) Definitions. Wherever used in this Section, the following terms shall have the meanings set forth in this subsection (d)(1):

A) "Retirement Date" means the beginning date of the annuity payment period set forth in Section 15-135 of the Code.

B) "Arrangement" means the Excess Benefit Arrangement of the State Universities Retirement System of Illinois.

C) "Qualified Plan" means the SURS plan at Sections 15-103.1 and 15-103.2 of the Code.

D) "Qualified Plan Retirement Benefit" means the aggregate benefit payable to a participant pursuant to the Qualified Plan.

E) "Qualified Plan Surviving Spouse Benefit" means the aggregate benefit payable to the Surviving Spouse of a participant pursuant to the Qualified Plan.

F) "Supplemental Retirement Benefit" means the benefit payable to a participant pursuant to the Arrangement by reason of his or her termination of employment with any employer for any reason other than death.

G) "Surviving Spouse" means a person as defined at Section 15-127 of the Code.

H) "Supplemental Surviving Spouse Benefit" means the benefit payable to a Surviving Spouse pursuant to the Arrangement.

I) "Limitation Year" means that period for which all calculations and determinations of benefits and contribution limits will be made under IRC section 415 and the Arrangement. The Limitation Year shall be the calendar year.

2) Eligibility. A participant who is eligible to receive a Qualified Plan Retirement Benefit, the amount of which is reduced by reason of the application to the Qualified Plan of the limitations on benefits imposed by IRC section 415, as in effect on the date of commencement of the Qualified Plan Retirement Benefit, or as in effect at any time thereafter, shall be eligible to receive a Supplemental Retirement Benefit. The Surviving Spouse of such participant shall be eligible to receive a Supplemental Surviving Spouse Benefit. Participation in the Arrangement by a participant or Surviving Spouse shall be mandatory and automatic upon eligibility to receive a Supplemental Retirement Benefit or Supplemental Surviving Spouse Benefit, as applicable. Participation shall end for any portion of a Limitation Year in which the Qualified Plan Retirement Benefit or the Qualified Plan Surviving Spouse Benefit is not limited by application of IRC section 415 or if all benefit obligations under the Arrangement to the participant or Surviving Spouse have been satisfied.

3) Supplemental Retirement Benefit

A) Amount. The amount described in subsections (d)(3)(A)(i) and (ii) shall be computed annually, based upon a Limitation Year. The Supplemental Retirement Benefit payable to an eligible participant shall be a monthly amount equal to the difference between subsections (d)(3)(A)(i) and (ii).

i) The monthly amount of the Qualified Plan Retirement Benefit to which the participant would have been entitled under the Qualified Plan if the benefit were computed without giving effect to the limitations on benefits imposed by IRC section 415; LESS

ii) The monthly amount of the Qualified Plan Retirement Benefit actually payable to the participant under the Qualified Plan.

B) Form of Benefit. The Supplemental Retirement Benefit payable to a participant shall be paid in the same form under which the Qualified Plan Retirement Benefit is payable to the participant. The participant's election under the Qualified Retirement Benefit as to form (with the valid consent of the Surviving Spouse when required under the Qualified Plan) shall also be applicable to the payment of a Supplemental Retirement Benefit.

C) Commencement of Benefit. Payment of the Supplemental Retirement Benefit to a participant shall commence on the same date as payment of the Qualified Plan Retirement Benefit to the participant commences or as soon as administratively practicable thereafter. Any election under the Qualified Plan made by the participant with respect to the commencement of payment of a Qualified Plan Retirement Benefit shall also be applicable with respect to the commencement of payment of the Supplemental Retirement Benefit.

4) Supplemental Surviving Spouse Benefit

A) Amount. If a participant dies under circumstances in which a Qualified Plan Surviving Spouse Benefit is payable to his or her Surviving Spouse, and the Qualified Plan Surviving Spouse Benefit is limited by application of IRC section 415, then a Supplemental Surviving Spouse Benefit is payable to the Surviving Spouse as provided in this subsection (d)(4)(A). The Supplemental Surviving Spouse Benefit payable to a Surviving Spouse shall be a monthly amount equal to the difference between subsections (d)(4)(A)(i) and (ii).

i) The monthly amount of the Qualified Plan Surviving Spouse Benefit to which the surviving spouse would have been entitled under the Qualified Plan if that benefit were computed without giving effect to the limitations on benefits imposed by application of IRC section 415; LESS

ii) The monthly amount of the Qualified Plan Surviving Spouse Benefit actually payable to the Surviving Spouse under the Qualified Plan.

B) Form and Commencement of Benefit. A Supplemental Surviving Spouse Benefit shall commence and be payable in the same manner as the Qualified Plan Surviving Spouse Benefit is paid.

5) Administration of the Arrangement

A) Administration by SURS. SURS shall be responsible for the general operation and administration of the Arrangement and for carrying out the provisions of the Arrangement. SURS shall have the authority to interpret the Arrangement and to issue such policies with respect to the Arrangement as it deems appropriate. SURS shall have the duty and responsibility to maintain records and to make calculations and determinations of benefits under the Arrangement. SURS regulations, interpretations, determinations, and calculations shall be final and binding upon all persons and parties concerned.

B) General Powers of Administration. All provisions set forth in the Qualified Plan with respect to the administrative powers and duties of SURS, expenses of administration, and procedures for filing claims shall also be applicable with respect to the Arrangement, including, but not limited to, the provisions of Sections 15-185, 15-186.1, 15-187, 15-190, and 15-191 of the Code. SURS shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions, and reports furnished by any actuary, accountant, controller, counsel, or other person employed or engaged by SURS with respect to the Arrangement.

6) Amendment or Termination

A) Amendment or Termination. SURS reserves the right to amend or terminate the Arrangement when, in the sole opinion of SURS, amendment or termination is advisable. Any amendment or termination shall be made pursuant to a resolution of the Board and shall be effective as of the date set forth in the resolution.

B) Effect of Amendment or Termination. No amendment or termination of the Arrangement shall directly or indirectly deprive any current or former participant or Surviving Spouse of all or any portion of any Supplemental Retirement Benefit or Supplemental Surviving Spouse Benefit payment that has commenced prior to the effective date of the amendment or termination or that would be payable if the participant terminated employment for any reason, including death, on that effective date.

7) General Provisions

A) Funding. A trust fund is hereby established as a valid trust under the law of the State of Illinois, as a grantor trust of which the State of Illinois is the grantor, within the meaning of subpart E, part I, subchapter J, chapter 1, subtitle A of the IRC, and will be construed accordingly. This trust fund is separate and apart from the Qualified Plan trust fund to hold contributions of the State to pay benefits under the Arrangement. No assets of the Qualified Plan trust fund shall be transferred to the Arrangement or otherwise used to pay benefits under the Arrangement, and the trust funds must be accounted for separately. All assets held in the Arrangement's trust fund, including all State contributions, all property and rights acquired or purchased with these amounts and all income attributable to such amounts, will be, and remain, the general, unpledged, unrestricted assets of the Arrangement's trust fund, and will be subject to the claims of the State's general creditors under federal and State law in the event of insolvency, to the extent of the State's undistributed contributions, if any. Nothing herein will be construed to create an irrevocable trust of any kind. Income accruing to the trust fund under the Arrangement constitutes income derived from the exercise of an essential governmental function upon which the trust fund is exempt from tax under IRC section 115, as well as IRC section 415(m)(1). The Arrangement at all times shall be entirely unfunded and no provision shall at any time be made with respect to segregating any assets of SURS, of the State of Illinois, or of any employer for payment of any benefits under the Arrangement. No participant, Surviving Spouse, or any other person shall have any preferred claim on, or any beneficial interest in, any assets of the Arrangement's trust fund, SURS, the State, or any employer by reason of the unsecured right to receive a benefit under the Arrangement. SURS will determine an amount necessary to pay the Supplemental Retirement Benefits and Supplemental Surviving Spouse Benefits for each Limitation Year. The State will make monthly contributions to the Arrangement's trust fund based upon SURS' determination. Under no circumstances will the State's contributions to the Arrangement's trust fund be credited to or commingled with contributions paid into and accumulated in the Qualified Plan. No election is provided at any time to a participant or Surviving Spouse, directly or indirectly, to defer compensation or otherwise make contributions under the Arrangement.

B) General Conditions. Except as otherwise expressly provided in this Section, all terms and conditions of the Qualified Plan applicable to a Qualified Plan Retirement Benefit or a Qualified Plan Surviving Spouse Benefit shall also be applicable to a Supplemental Retirement Benefit or a Supplemental Surviving Spouse Benefit payable under the Arrangement. Any Qualified Plan Retirement Benefit or Qualified Plan Surviving Spouse Benefit, or any other benefit payable under the Qualified Plan, shall be paid solely in accordance with the terms and conditions of the Qualified Plan and nothing in the Arrangement shall operate or be construed in any way to modify, amend or affect the terms and provisions of the Qualified Plan.

C) No Guaranty of Benefits. Nothing contained in the Arrangement shall constitute a guaranty by SURS, the State, any employer, or any other entity or person that the assets of any such entity will be sufficient to pay any benefit under the Arrangement.

D) No Enlargement of Participant Rights. No participant or Surviving Spouse shall have any right to a benefit under the Arrangement except in accordance with the terms of the Arrangement. Establishment of the Arrangement shall not be construed to give any participant the right to be retained in the service of any employer.

E) Applicable Law. The Arrangement shall be construed and administered under the laws of the State of Illinois.

(Source: Amended at 47 Ill. Reg. 14005, effective September 14, 2023)