



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Am. S.B. 296*

132nd General Assembly
(As Reported by S. Finance)

Sens. LaRose and Hottinger, Manning, Hoagland, Thomas, Obhof, Uecker, Oelslager

BILL SUMMARY

- Increases death benefits paid by the Ohio Public Safety Officers Death Benefit Fund to survivors of officers (law enforcement officers and firefighters) killed in the line of duty by doing all of the following:
 - Extending payment of the initial death benefit to the date the officer would have been eligible to retire with the maximum age and service pension for the officer's position, instead of the date the officer would first have been eligible to retire.
 - Increasing the "transitional benefit" paid after the officer's maximum pension eligibility date to 75% of the officer's salary, rather than 50%.
 - Eliminating a requirement that the death benefit amount be reduced by any survivor benefits payable by the officer's retirement system.
- Specifies that survivors already receiving the transitional benefit who are within the extension period will receive the initial death benefit instead of the reduced transitional benefit until the deceased officer's maximum pension eligibility date.
- Permits Death Benefit Fund recipients to elect to participate in any medical, dental, or vision benefit that the Department of Administrative Services (DAS) contracts for or provides for state employees, and permits the parent, guardian, or person responsible for a surviving child to make that election on the child's behalf.

* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Requires the survivor to pay the percentage of the premium or cost of those benefits that would be paid by a state employee who elected that coverage, and requires DAS to pay the percentage that would be paid by a state employer for an employee who elects coverage.
- Requires the DAS Director to prescribe procedures for the administration of benefits elected by Death Benefit Fund recipients, and requires the Ohio Police and Pension Fund Board of Trustees to provide any information to DAS that DAS requires for the administration of those benefits.

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CONTENT AND OPERATION

Death Benefit Fund

Background

The Ohio Public Safety Officers Death Benefit Fund pays benefits to the surviving spouse, children, or, in limited cases, surviving parent, of a public safety officer (law enforcement officer or firefighter) killed in the line of duty. Officers covered by the Death Benefit Fund include members of the Ohio Police and Fire Pension Fund (OP&F), members of the State Highway Patrol Retirement System (SHPRS), certain members of the Public Employees Retirement System (PERS), and certain members of a municipal corporation's retirement system. The full list of officers whose survivors are eligible for benefits is listed under "**Covered officers**," below.

Under current law, an initial death benefit is payable for death in the line of duty and death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty. The benefit is payable to a survivor until the deceased officer's retirement eligibility date – the first date on which the officer would have been eligible to retire, if the officer had survived and continued in employment (typically with 25 years of service at age 48 or 52). Benefits to surviving children cease when they marry or reach age 22, whichever is sooner, although disabled children are eligible for continuing benefits.

After the deceased officer's retirement eligibility date, the initial death benefit ends and eligible survivors receive a reduced benefit typically referred to as a "transitional benefit." Both the initial death benefit and the transitional benefit are calculated based on the deceased officer's salary, plus any salary increases the officer would have received had the officer lived. The benefit calculations for the initial death benefit and the transitional benefit are discussed below in "**Death benefit amount changes**."

The OP&F Board of Trustees administers the Death Benefit Fund and adopts rules for its management and for disbursement of benefits in accordance with statutory requirements.¹

Death benefit amount changes

The bill makes the following changes to the death benefit amounts:

¹ R.C. 742.63.



- Extends payment of the initial death benefit to the date the officer would have been eligible to retire with the maximum age and service pension for the officer's position, instead of the date the officer would first have been eligible to retire.
- Increases the "transitional benefit" paid after the officer's maximum pension eligibility date to 75% of the officer's salary, rather than 50%.
- Eliminates a requirement that the death benefit amount be reduced by any survivor benefits payable by the officer's retirement system.

Extension of death benefit to the maximum pension eligibility date

The bill extends the time during which a death benefit fund recipient is eligible to receive initial death benefits. Under the bill, initial death benefits are paid until the deceased officer's maximum pension eligibility date, which is the date on which the officer would have become eligible for the maximum annual retirement allowance or pension that could be paid from the member's retirement system had the officer continued to accrue service credit from that system. This is instead of ending on the member's retirement eligibility date, as under current law.²

The pension an officer receives from OP&F, SHPRS, or PERS is determined by multiplying a percentage of the officer's final years of salary by the officer's years of service credit. PERS and SHPRS use "final average salary" (FAS) and OP&F uses "average annual salary" (AAS). The number of years used in determining FAS or AAS varies from three to five based on the system and when the officer is eligible to retire.

The maximum pension paid by each system is a percentage of the officer's FAS or AAS. The following table shows the percentage for each system covered by the Death Benefit Fund and the number of years of service required to reach that percentage. It also shows the number of years of service generally needed to be eligible for a full pension from each system. With respect to PERS, the table below reflects officers who are in the PERS law enforcement division (PERS-LE) or the PERS public safety division (PERS-PS).

² R.C. 742.63(A)(12) and (13) and (B).



Service credit for retirement eligibility and maximum pension allowance				
System	Retirement eligibility – years of service*	Maximum pension percentage of FAS or AAS	Maximum pension – years of service	Additional years receiving initial death benefit under the bill
OP&F ³	25 years	72%	33 years	8 years
SHPRS ⁴	25 years	79.25%	34 years	9 years
PERS-LE or PERS-PS ⁵	25 years	90%	38 years	13 years

*To be eligible to retire an officer must also meet an age requirement, which varies from age 48 to 54, depending on the retirement system.

Transitional benefit increase

Similar to current law, after the member's maximum pension eligibility date is reached, the death benefit ceases and is replaced by the transitional benefit. The bill increases the amount of the transitional benefit to 75% of the member's salary (plus salary increases) from 50% of the deceased member's salary (plus salary increases).⁶

Current recipients of transitional benefit

Because the bill extends the time during which a surviving spouse or surviving child receives the initial death benefit, the bill reinstates that benefit for survivors who have already begun receiving a transitional benefit but are within the extension period.

Initial death benefit payments to a surviving spouse or surviving child that terminated before the bill's effective date will resume if both of the following apply:

- The death benefit payments terminated on the deceased member's retirement eligibility date under the law as it existed at the time of the benefit termination;
- The deceased member's maximum pension eligibility date is after the bill's effective date.

³ R.C. 742.37, not in the bill. An exception is that an OP&F member who is age 62 is eligible to retire with a full pension with 15 years of service credit.

⁴ R.C. 5505.16 and 5505.17, not in the bill. An SHPRS member who is age 52 is eligible to retire with a full pension with 20 years of service credit.

⁵ R.C. 145.332, not in the bill. In PERS, an officer with 15 years of service may retire with a full pension at age 64.

⁶ R.C. 742.63(F)(2) and (G).



A surviving spouse or surviving child's initial death benefit payment that resumes under this provision is paid in the same manner as any other initial death benefit and continues until the deceased member's maximum pension eligibility date, at which time the benefit terminates. A surviving spouse or surviving child is not entitled to any additional payment for the time between the deceased member's retirement eligibility date under former law and the bill's effective date. Any transitional benefit a surviving spouse or surviving child receives will cease during the time that the initial death benefit resumes. After the deceased member's maximum pension eligibility date, the transitional benefit will resume.⁷

Elimination of offset of retirement system survivor benefits

Current law provides survivor benefits or pensions for survivors of retirement system members who die prior to retirement. In PERS the survivor benefit is calculated based on the number of qualified survivors or the member's years of service and ranges from 25% to 60% of the member's final average salary.⁸ OP&F and the State Highway Patrol have separate pension amounts for the surviving spouse and surviving children. During the time period an OP&F surviving spouse is receiving an initial death benefit, the surviving spouse receives a monthly pension of \$410. During the time period the spouse is receiving a transitional benefit, the spouse receives a monthly pension of \$694.10, plus cost of living adjustments (currently \$842.60).⁹ A SHPRS surviving spouse receives a \$900 pension.¹⁰ Both of these systems provide a monthly pension for a surviving child in a lesser amount.¹¹ OP&F and SHPRS also have an additional retirement allowance or pension that is paid to the surviving spouse or contingent dependent beneficiary of a member who at the time of death was eligible to retire. For OP&F, the allowance is an amount equal to half the pension the member would have received had the member retired. The SHPRS pension equals the amount the surviving spouse would have received had the member retired effective the day following the date of death, having elected to receive a "joint and survivor" pension (under which the

⁷ R.C. 742.63(L).

⁸ R.C. 145.45, not in the bill.

⁹ R.C. 742.37(D), not in the bill, and "Member's Guide to Survivor Benefits," Ohio Police and Fire Pension Fund, <https://www.op-f.org/Files/MGSurvivorBenefits.pdf>. The amount of the spousal survivor benefit will increase to \$859.10 on July 1, 2018 (Jeff Bernard, Senior Research Associate, Ohio Retirement Study Council).

¹⁰ R.C. 5505.17(A), not in the bill.

¹¹ R.C. 742.37 and 5505.17, not in the bill.



member receives a lesser pension for the member's life, with 50% of the member's lesser pension to be paid to the surviving spouse for the spouse's life).¹²

Under current law, the initial death benefit from the Death Benefit Fund is reduced (or offset) by an amount equal to any survivor benefit or pension a recipient is eligible to receive. The transitional benefit is reduced only by OP&F's additional retirement allowance. The bill eliminates the offset of survivor benefits from the appropriate retirement system from both the initial death benefit and the transitional benefit. Thus, under the bill, survivors will receive the full amount of the death benefit or transitional benefit and the full amount of the retirement system survivor benefit, pension, or allowance.¹³

Hypothetical examples that illustrate the effect of the bill on the benefit calculations for the initial death benefit and the transitional benefit can be found under "**Hypothetical examples**," below. The examples calculate the benefits received under current law and under the bill by a surviving spouse of an OP&F, SHPRS, and PERS member.

Death Benefit Fund recipient participation in state health benefits

The bill permits a recipient of a benefit from the Death Benefit Fund, other than a surviving parent, to elect to participate in any medical, dental, or vision benefit that the Department of Administrative Services (DAS) contracts for or provides for state employees. However, if a recipient is eligible to enroll in the federal Medicare program, the recipient is ineligible to participate in these benefits.

A Death Benefit Fund recipient who elects to participate in a medical, dental, or vision benefit is required to do both of the following:

- File a notice with DAS of the recipient's election to participate that specifies the benefit or combination of benefits in which the recipient elects to participate;
- Pay DAS the percentage of the premium or cost for the applicable benefits that would be paid by a state employee who elects that coverage.¹⁴

For each recipient who participates in these benefits, the bill requires DAS to pay the percentage of the premium or cost for the benefits that would be paid by a state

¹² R.C. 742.3714 and 5505.17, not in the bill.

¹³ R.C. 742.63(A)(11), (F)(2), and (G)(3).

¹⁴ R.C. 124.824(A) and (B).

employer for a state employee who elects that coverage. A parent, guardian, or other person responsible for the care of a Death Benefit Fund recipient who is under 18 or who is a surviving child entitled to extended benefits due to disability may file the required election on the recipient's behalf.¹⁵

The DAS Director is required to prescribe procedures for the administration of medical, dental, and vision benefits for Death Benefit Fund recipients, including the development of required forms for recipients to enroll, disenroll, or re-enroll in benefits. The OP&F Board of Trustees must provide any information to DAS that DAS requires to provide medical, dental, or vision benefits, including information regarding the identities, ages, and family relationships of Death Benefit Fund recipients.¹⁶

Covered officers

Under continuing law, the following public safety officers are members of the Death Benefit Fund:

- A member of the Police and Fire Pension Fund, including a member participating in the deferred retirement option plan (DROP), or a member of a former police or firemen's relief and pension Fund;
- A member of the State Highway Patrol Retirement System, including a DROP participant;
- A member of a municipal corporation's retirement system who was a full-time law enforcement officer of lands under the political subdivision's control at the time of death;
- A PERS member who was one of the following at the time of death:
 - A county sheriff or deputy sheriff;
 - A full-time regular police officer in a municipal corporation or a township;
 - A full-time regular firefighter employed by the state or a political subdivision;
 - A full-time park district ranger or patrol trooper;

¹⁵ R.C. 124.824(B) and (C).

¹⁶ R.C. 124.824(D) and (E).



- A full-time law enforcement officer of the Department of Natural Resources;
- A full-time Department of Public Safety enforcement agent;
- A full-time law enforcement officer of parks, waterway lands, or reservoir lands under a municipal corporation's control;
- A full-time law enforcement officer of a conservancy district;
- A correction officer at an institution under the control of a county, group of counties, municipal corporation, or the Department of Rehabilitation and Correction;
- A state university law enforcement officer;
- An investigator or an investigator commissioned as a special agent of the Bureau of Criminal Identification and Investigation;
- A drug agent;
- A gaming agent;
- An employee of the Department of Taxation who has been delegated investigation powers for the enforcement of specified tax laws.¹⁷

Hypothetical examples

Example – initial death benefit amount for an OP&F surviving spouse

The effect of the bill on the benefits payable to the surviving spouse of an OP&F member killed in the line of duty can be illustrated by a hypothetical example. In this example, Joe was a 43 year old firefighter. At the time of his death, he had 20 years of service credit and an annual salary of \$60,000.00 (\$5,000.00 per month). He is survived by his wife Josie.

Current law

Under current law, Josie receives the following initial death benefit amount:

¹⁷ R.C. 742.63(A)(1).

- \$5,000.00** (Joe's monthly salary at time of death)
- \$410.00** (the monthly OP&F pension for a surviving spouse receiving the initial death benefit)
- \$4,590.00** (initial death benefit amount, plus any salary increases)

Although the initial death benefit is reduced by the OP&F survivor pension, Josie will receive that \$410.00 monthly pension from OP&F; thus, between the initial death benefit amount and the survivor pension, she will receive Joe's \$5,000.00 monthly salary, plus any salary increases Joe would have received:

- \$4,590.00** (initial death benefit amount)
- + \$410.00** (OP&F survivor pension)
- \$5,000.00** (total death benefit and survivor pension, plus any salary increases)

Josie will receive the initial death benefit amount until Joe's retirement eligibility date, the date on which he would have been age 48 with 25 years of service credit, approximately five years after his death. After that date, Josie receives the transitional benefit discussed below and a different survivor pension from OP&F. These are paid until Josie's death.

The bill

Under the bill, the initial death benefit is *not* reduced by the OP&F survivor pension. Assuming the same facts as above, Josie receives the following every month:

- \$5,000.00** (the initial death benefit amount)
- + \$410.00** (the OP&F survivor pension)
- \$5,410.00** (total death benefit and survivor pension, plus any salary increases)

She receives this amount until Joe would have been eligible for the maximum OP&F pension, which requires 33 years of service. Since Joe had 20 years of service at the time of his death, the initial death benefit will be paid for 13 years, rather than five as under current law. When the initial death benefit ends, Josie will receive the transitional benefit and an OP&F survivor pension in a different amount.



Example – transitional benefits for an OP&F surviving spouse

Current law

Under current law, Josie stops receiving the initial death benefit amount when Joe would have reached his retirement eligibility date. She then begins receiving the transitional benefit. The transitional benefit is 50% of Joe's salary at time of death, plus any increases. The transitional benefit is *not* reduced by the OP&F survivor pension, so Josie receives a transitional benefit of \$2,500.00 per month plus salary increases. She also receives an OP&F survivor pension of \$842.60 (OP&F provides a higher survivor pension while a survivor is receiving transitional benefits; this amount is increased by any cost of living adjustments). Thus, between the Death Benefit Fund and the OP&F survivor pension, Josie receives \$3,342.60 per month:

\$2,500.00	(transitional benefit amount)
+ \$842.60	(OP&F survivor pension)
\$3,342.60	(total transitional benefit and survivor pension, plus any salary increases)

This amount will be paid until Josie's death.

The bill

Under the bill, the transitional benefit is 75% of Joe's salary at the time of death, plus any increases. As under current law, the transitional benefit is *not* reduced by the OP&F survivor pension, so Josie receives a transitional benefit of \$3,750.00 per month plus salary increases. She also receives the OP&F survivor pension of \$842.60. Thus, between the Death Benefit Fund and the OP&F survivor pension, Josie receives \$4,592.60 per month (an increase of \$1,250.00 per month above the current law calculation):

\$3,750.00	(transitional benefit amount)
+ \$842.60	(OP&F survivor pension)
\$4,592.60	(total transitional benefit and survivor pension, plus any salary increases)

Josie will receive the transitional benefit until her death.

Example – initial death benefit amount for a SHPRS surviving spouse

The effect of the bill on the benefits payable to the surviving spouse of a SHPRS member killed in the line of duty can be illustrated by a hypothetical example. In this example, Susan was a 43-year-old highway patrol trooper. At the time of her death, she had 20 years of service credit and an annual salary of \$60,000.00 (\$5,000.00 per month). She is survived by her husband Steve.

Current law

Under current law, Steve receives the following initial death benefit amount:

\$5,000.00 (Susan's monthly salary at time of death)
- \$900.00 (the monthly SHPRS pension)
\$4,100.00 (initial death benefit amount, plus any salary increases)

Although the initial death benefit is reduced by the SHPRS survivor pension, Steve will receive that \$900.00 monthly pension from SHPRS; thus, between the initial death benefit amount and the survivor pension, he will receive Susan's \$5,000.00 monthly salary:

\$4,100.00 (initial death benefit amount)
+ \$900.00 (SHPRS survivor pension)
\$5,000.00 (total death benefit and survivor pension, plus any salary increases)

Steve will receive the initial death benefit amount until Susan's retirement eligibility date, the date on which she would have been age 48 with 25 years of service credit, approximately five years after her death. After that date, Steve receives the transitional benefit discussed below. The transitional benefit is paid until Steve's death.

The bill

Under the bill, the initial death benefit is *not* reduced by the SHPRS survivor pension. Assuming the same facts as above, Steve receives the following every month:

\$5,000.00 (the initial death benefit amount)
+ \$900.00 (the SHPRS survivor pension)
\$5,900.00 (total death benefit and survivor pension, plus any salary increases)

He receives this amount until Susan would have been eligible for the maximum SHPRS pension, which requires 34 years of service. Since Susan had 20 years of service at the time of her death, the initial death benefit will be paid for 14 years, rather than five as under current law. When the initial death benefit ends, Steve will receive the transitional benefit and the SHPRS survivor pension.

Example – transitional benefits for an SHPRS surviving spouse

Current law

Under current law, Steve stops receiving the initial death benefit amount when Susan would have reached her retirement eligibility date. He then begins receiving the transitional benefit. The transitional benefit is 50% of Susan's salary at time of death, plus any increases. The transitional benefit is *not* reduced by the SHPRS survivor pension, so Steve receives a transitional benefit of \$2,500.00 per month plus salary increases. He also receives the SHPRS survivor pension of \$900.00. Thus, between the Death Benefit Fund and the SHPRS survivor pension, Steve receives \$3,400.00 per month:

\$2,500.00 (transitional benefit amount)

+ \$900.00 (SHPRS survivor pension)

\$3,400.00 (total transitional benefit and survivor pension, plus any salary increases)

This amount will be paid until Steve's death.

The bill

Under the bill, the transitional benefit is 75% of Susan's salary at the time of death, plus any increases. As under current law, the transitional benefit is *not* reduced by the SHPRS survivor pension, so Steve receives a transitional benefit of \$3,750.00 per month plus salary increases. He also receives the SHPRS survivor pension of \$900.00. Thus, between the Death Benefit Fund and the SHPRS survivor pension, Steve receives \$4,650.00 per month (an increase of \$1,250.00 per month above the current law calculation):

\$3,750.00 (transitional benefit amount)

+ \$900.00 (SHPRS survivor pension)

\$4,650.00 (total transitional benefit and survivor pension, plus any salary increases)



Steve will receive the transitional benefit until his death.

Example – initial death benefit amount for a PERS-LE surviving spouse

To illustrate the effect of the bill on the benefit payable to the surviving spouse of a PERS-LE member who was killed in the line of duty, a hypothetical example involving Dave will be used.¹⁸ In this example, Dave was a 45-year-old deputy sheriff who was in PERS-LE retirement eligibility Group B.¹⁹ At the time of his death, Dave had 20 years of service credit and an annual salary of \$60,000.00 (\$5,000.00 per month). He is survived by his wife Debbie. Debbie receives a PERS survivor benefit based on Dave's years of service that is 29% of his final average salary.²⁰ The amount of the survivor benefit is \$17,400.00 per year ($\$60,000.00 \times 29\% = \$17,400.00$) or \$1,450.00 per month.

Current law

Under current law, Debbie receives the following initial death benefit amount:

\$5,000.00 (Dave's monthly salary at time of death)
- \$1,450.00 (the monthly PERS survivor benefit)
\$3,550.00 (initial death benefit amount, plus any salary increases)

Although the initial death benefit is reduced by the amount of the PERS survivor benefit, Debbie will receive that \$1,450.00 monthly benefit from PERS. Thus, between the initial death benefit amount and the survivor benefit, Debbie will receive Dave's \$5,000.00 monthly salary, plus any salary increase that Dave would have received:

\$3,550.00 (initial death benefit amount)
+ \$1,450.00 (PERS survivor benefit)
\$5,000.00 (total death benefit and survivor benefit, plus any salary increases)

¹⁸ An officer in PERS is in either the law enforcement division or the public safety division. The distinction is that to be considered a PERS law enforcement officer, a member's primary duties must be to preserve the peace, protect life and property, and enforce Ohio law. Officers in the law enforcement division can retire at a younger age than those in the public safety division. (R.C. 145.01 and 145.332, not in the bill.)

¹⁹ Legislation that took effect in 2013 created three PERS retirement eligibility groups. An officer who, based on law in effect before January 7, 2013, is eligible to retire not later than January 7, 2023, is in Group B. (R.C. 145.332, not in the bill, and Sub. S.B. 343 of the 129th General Assembly.)

²⁰ For PERS retirement eligibility Group B, FAS is the average of the three highest years of salary. (R.C. 145.01(K) and 145.017, not in the bill.)

Debbie will receive the initial death benefit amount until Dave's retirement eligibility date, the date on which he would have been age 50 with 25 years of service credit, approximately five years after his death. After that date, Debbie receives the transitional benefit discussed below and the PERS survivor benefit. These are paid until Debbie's death.

The bill

Under the bill, the initial death benefit is *not* reduced by the PERS survivor benefit. Assuming the same facts as above, Debbie receives the following every month:

\$5,000.00 (the initial death benefit amount)

+ \$1,450.00 (the PERS survivor benefit)

\$6,450.00 (total death benefit and survivor benefit, plus any salary increases)

She receives this amount until Dave would have been eligible for the maximum PERS-LE retirement allowance, which requires 38 years of service. Since Dave had 20 years of service at the time of his death, the initial death benefit will be paid for 18 years, rather than five as under current law. When the initial death benefit ends, Debbie will receive the transitional benefit and the PERS survivor benefit.

Example – transitional benefits for a PERS-LE surviving spouse

Current law

Under current law, Debbie stops receiving the initial death benefit amount when Dave would have reached his retirement eligibility date. She then begins receiving the transitional benefit. The transitional benefit is 50% of Dave's salary at the time of death, plus any increases. The transitional benefit is *not* reduced by the PERS survivor benefit, so Debbie receives a transitional benefit of \$2,500.00 per month plus salary increases and the PERS survivor benefit of \$1,450.00 per month described above. This amount will be paid until Debbie's death. Thus, between the transitional benefit from the Death Benefit Fund and the PERS survivor benefit, Debbie receives \$3,950.00 per month:

\$2,500.00 (transitional benefit amount)

+ \$1,450.00 (PERS survivor benefit)

\$3,950.00 (total transitional benefit and survivor benefit, plus any salary increases)

The bill

Under the bill, the transitional benefit is 75% of Dave's salary at the time of death, plus any increases. As under current law, the transitional benefit is *not* reduced by the PERS survivor benefit, so Debbie receives a transitional benefit of \$3,750.00 per month plus salary increases, as well as the PERS survivor benefit of \$1,450.00 per month. She receives this amount until her death. Thus, Debbie receives \$5,200.00 per month between the transitional benefit from the Death Benefit Fund and the PERS survivor benefit (an increase of \$1,250.00 per month above the current law calculation):

\$3,750.00 (transitional benefit amount)

+ \$1,450.00 (PERS survivor benefit)

\$5,200.00 (total transitional benefit and survivor benefit, plus any salary increases)

HISTORY

ACTION	DATE
Introduced	05-07-18
Reported, S. Finance	---

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