

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE DRH30325-LL-66D (01/07)

Short Title: State Pension Plan Solvency Reform Act. (Public)

Sponsors: Representatives Folwell, McGee, Dixon, and Starnes (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE RETIREMENT AGE FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM WHO BECOME MEMBERS ON OR AFTER AUGUST 1, 2011, TO LIMIT THE AMOUNT OF SICK LEAVE THAT CAN BE CONVERTED TO RETIREMENT CREDIT, TO LIMIT COMPENSATION FOR PURPOSES OF CONTRIBUTIONS AND CALCULATION OF BENEFITS FOR MEMBERS WHO BECOME MEMBERS ON OR AFTER AUGUST 1, 2011, TO THE SALARY SET FOR THE GOVERNOR, TO PROVIDE THAT COMPENSATION TO BE USED IN CALCULATING AVERAGE FINAL COMPENSATION FOR MEMBERS WHO BECOME MEMBERS ON OR AFTER AUGUST 1, 2011, CAN INCREASE BY NO MORE THAN TEN PERCENT FROM ONE YEAR TO THE NEXT, TO AMEND THE PROVISIONS SPECIAL SEPARATION ALLOWANCE FOR LAW ENFORCEMENT OFFICERS HIRED ON OR AFTER AUGUST 1, 2011, AND TO MAKE IT A CLASS 1 MISDEMEANOR TO FRAUDULENTLY RECEIVE THE RETIREMENT BENEFIT OF A DECEASED RETIREE AT LEAST TWO MONTHS AFTER THE RETIREE'S DEATH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-3(8) reads as rewritten:

"(8) The provisions of this subsection (8) shall apply to any member whose membership is terminated on or after July 1, 1963 and who becomes entitled to benefits hereunder in accordance with the provisions hereof.

a. Notwithstanding any other provision of this Chapter, any member who became a member prior to August 1, 2011, and who separates from service prior to the attainment of the age of 60 years for any reason other than death or retirement for disability as provided in G.S. 135-5(c), after completing 15 or more years of creditable service, and who leaves his total accumulated contributions in said System shall have the right to retire on a deferred retirement allowance upon attaining the age of 60 years; provided that such member may retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than ~~90~~120 days subsequent to the execution and filing thereof, he desires to be retired; and further provided that in the case of a member who so separates from service on or after July 1, 1967, or whose account is active on July 1, 1967,



1 or has not withdrawn his contributions, the aforesaid requirement
 2 of 15 or more years of creditable service shall be reduced to 12 or
 3 more years of creditable service; and further provided that in the case
 4 of a member who so separates from service on or after July 1, 1971,
 5 or whose account is active on July 1, 1971, the aforesaid
 6 requirement of 12 or more years of creditable service shall be
 7 reduced to five or more years of creditable service. Such deferred
 8 retirement allowance shall be computed in accordance with the
 9 service retirement provisions of this Article pertaining to a member
 10 who is not a law enforcement officer or an eligible former law
 11 enforcement officer. Notwithstanding the foregoing, any member
 12 whose services as a teacher or employee are terminated for any
 13 reason other than retirement, who becomes employed by a nonprofit,
 14 nonsectarian private school in North Carolina below the college level
 15 within one year after such teacher or employee has ceased to be a
 16 teacher or employee, may elect to leave his total accumulated
 17 contributions in the Teachers' and State Employees' Retirement
 18 System during the period he is in the employment of such employer;
 19 provided that he files notice thereof in writing with the Board of
 20 Trustees of the Retirement System within five years after separation
 21 from service as a public school teacher or State employee; such
 22 member shall be deemed to have met the requirements of the above
 23 provisions of this subdivision upon attainment of age 60 while in
 24 such employment provided that he is otherwise vested.

25 b. In lieu of the benefits provided in paragraph a of this subdivision (8),
 26 any member who became a member prior to August 1, 2011, and
 27 who separates from service prior to the attainment of the age of 60
 28 years, for any reason other than death or retirement for disability as
 29 provided in G.S. 135-5(c), after completing 20 or more years of
 30 creditable service, and who leaves his total accumulated
 31 contributions in said System, may elect to retire on an early
 32 retirement allowance upon attaining the age of 50 years or at any
 33 time thereafter; provided that such member may so retire only upon
 34 electronic submission or written application to the Board of Trustees
 35 setting forth at what time, not less than one day nor more than ~~90-120~~
 36 days subsequent to the execution and filing thereof, he desires to be
 37 retired. Such early retirement allowance so elected shall be equal to
 38 the deferred retirement allowance otherwise payable at the attainment
 39 of the age of 60 years reduced by the percentage thereof indicated
 40 below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
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- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who became a member prior to August 1, 2011, and who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than ~~90~~120 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law-enforcement officers.
- b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who became a member prior to August 1, 2011, and who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred early retirement allowance upon attaining the age of 55 years or at any time thereafter; provided, that the member may commence retirement only upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month not less than one day nor more than ~~90~~120 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law-enforcement officers.
- b3. Vested deferred retirement allowance of members retiring on or after July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b. of this subdivision, any member who became a member prior to August 1, 2011, and who separates from service prior to attainment of age 60 years, after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System, may elect to retire on a deferred retirement allowance upon attaining the age of 50 years or any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than ~~90~~120 days subsequent to the execution and filing thereof, he desires to be retired. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or an eligible former law enforcement officer.

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2 **SECTION 2.** G.S. 135-5(a) reads as rewritten:

3 "(a) Service Retirement Benefits. –

4 (1) Any member who became a member prior to August 1, 2011, may retire
5 upon electronic submission or written application to the Board of Trustees
6 setting forth at what time, as of the first day of a calendar month, not less
7 than one day nor more than 120 days subsequent to the execution of and
8 filing thereof, he desires to be retired: Provided, that the said member at the
9 time so specified for his retirement shall have attained the age of 60 years
10 and have at least five years of membership service or shall have completed
11 30 years of creditable service.

12 (1a) Any member who became a member on or after August 1, 2011, and who
13 attains age 60 and has completed 30 years of creditable service or who
14 attains age 70 and has completed 10 years of membership service may retire
15 on an unreduced retirement benefit upon electronic submission or written
16 application to the Board of Trustees setting forth at what time, as of the first
17 day of a calendar month, not less than one day nor more than 120 days
18 subsequent to the execution of and filing thereof, the member desires to be
19 retired. At the time specified for retirement, the member may retire on a
20 reduced benefit upon attaining age 60 with 20 years of service or age 65 with
21 10 years of service.

22 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

23 (3) Any member who was in service October 8, 1981, who had attained 60 years
24 of age, may retire upon electronic submission or written application to the
25 Board of Trustees setting forth at what time, as of the first day of a calendar
26 month, not less than one day nor more than 120 days subsequent to the
27 execution and filing thereof, he desires to be retired.

28 (4) Any member who is a law-enforcement officer, who became a member prior
29 to August 1, 2011, and who attains age 50 and completes 15 or more years
30 of creditable service in this capacity or who attains age 55 and completes
31 five or more years of creditable service in this capacity, may retire upon
32 electronic submission or written application to the Board of Trustees setting
33 forth at what time, as of the first day of a calendar month, not less than one
34 day nor more than 120 days subsequent to the execution and filing thereof,
35 he desires to be retired; Provided, also, any member who has met the
36 conditions herein required but does not retire, and later becomes a teacher or
37 an employee other than as a law-enforcement officer shall continue to have
38 the right to commence retirement.

39 (4a) Any member who became a member on or after August 1, 2011, who is a
40 law enforcement officer and who attains age 55 and has completed 30 years
41 of creditable service or who attains age 60 and completes 10 or more years
42 of creditable service in this capacity may retire on an unreduced retirement
43 benefit upon electronic submission or written application to the Board of
44 Trustees setting forth at what time, as of the first day of a calendar month,
45 not less than one day nor more than 120 days subsequent to the execution
46 and filing thereof, the member desires to be retired; provided, also, any
47 member who has met the conditions herein required but does not retire and
48 later becomes a teacher or an employee other than as a law enforcement
49 officer shall continue to have the right to commence retirement.

50 (5) Any member who is eligible for and is being paid a benefit under the
51 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be

1 deemed a member in service and may not retire under the provisions of this
2 section. Any member who has made electronic submission or written
3 application for long-term or extended short-term benefits under the
4 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
5 who has been rejected by the Plan's Medical Board for a long-term or
6 extended short-term benefit shall have 90 days from the date of notification
7 of the rejection to convert his application to an early or service retirement
8 application, provided that the member meets the eligibility requirements,
9 effective the first day of the month following the month in which short-term
10 disability benefits ended or the first day of the month following the month in
11 which any salary continuation as may be provided in G.S. 135-104 ended,
12 whichever is later."

13 **SECTION 3.** G.S. 135-5(a1) reads as rewritten:

14 "(a1) Early Service Retirement Benefits. – Any member who became a member prior to
15 August 1, 2011, may retire and receive a reduced retirement allowance upon electronic
16 submission or written application to the Board of Trustees setting forth at what time, as of the
17 first day of a calendar month, not less than one day nor more than 120 days subsequent to the
18 execution of and filing thereof, he desires to be retired: Provided, that the said member at the
19 time so specified for his retirement shall have attained the age of 50 years and have at least 20
20 years of creditable service."

21 **SECTION 4.** G.S. 135-5 is amended by adding a new subsection to read:

22 "(a2) Early Service Retirement Benefits. – Any member who became a member on or
23 after August 1, 2011, may retire and receive a reduced retirement allowance upon electronic
24 submission or written application to the Board of Trustees setting forth at what time, as of the
25 first day of a calendar month, not less than one day nor more than 120 days subsequent to the
26 execution of and filing thereof, the member desires to be retired; provided, that the said
27 member at the time so specified for the member's retirement shall have attained the age of 60
28 years and have at least 20 years of creditable service."

29 **SECTION 5.** G.S. 135-5(b19) reads as rewritten:

30 "(b19) Service Retirement Allowance of Members Who Became a Member Prior to
31 August 1, 2011, Retiring on or After July 1, 2002. – Upon retirement from service in
32 accordance with subdivision (a)(1), (a)(4), or subsection (a) or (a1) above, of this section, on or
33 after July 1, 2002, a member shall receive the following service retirement allowance:

- 34 (1) A member who is a law enforcement officer or an eligible former law
35 enforcement officer shall receive a service retirement allowance computed
36 as follows:
- 37 a. If the member's service retirement date occurs on or after his 55th
38 birthday, and completion of five years of creditable service as a law
39 enforcement officer, or after the completion of 30 years of creditable
40 service, the allowance shall be equal to one and eighty-two
41 hundredths percent (1.82%) of his average final compensation,
42 multiplied by the number of years of his creditable service.
 - 43 b. If the member's service retirement date occurs on or after his 50th
44 birthday and before his 55th birthday with 15 or more years of
45 creditable service as a law enforcement officer and prior to the
46 completion of 30 years of creditable service, his retirement allowance
47 shall be equal to the greater of:
 - 48 1. The service retirement allowance payable under
49 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3
50 of 1%) thereof for each month by which his retirement date
51 precedes the first day of the month coincident with or next

- 1 following the month the member would have attained his
2 55th birthday; or
- 3 2. The service retirement allowance as computed under
4 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
5 difference between 30 years and his creditable service at
6 retirement.
- 7 (2) A member who is not a law enforcement officer or an eligible former law
8 enforcement officer shall receive a service retirement allowance computed
9 as follows:
- 10 a. If the member's service retirement date occurs on or after his 65th
11 birthday upon the completion of five years of membership service or
12 after the completion of 30 years of creditable service or on or after
13 his 60th birthday upon the completion of 25 years of creditable
14 service, the allowance shall be equal to one and eighty-two
15 hundredths percent (1.82%) of his average final compensation,
16 multiplied by the number of years of creditable service.
- 17 b. If the member's service retirement date occurs after his 60th birthday
18 and before his 65th birthday and prior to his completion of 25 years
19 or more of creditable service, his retirement allowance shall be
20 computed as in G.S. 135-5(b19)(2)a. but shall be reduced by
21 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by
22 which his retirement date precedes the first day of the month
23 coincident with or next following his 65th birthday.
- 24 c. If the member's early service retirement date occurs on or after his
25 50th birthday and before his 60th birthday and after completion of 20
26 years of creditable service but prior to the completion of 30 years of
27 creditable service, his early service retirement allowance shall be
28 equal to the greater of:
- 29 1. The service retirement allowance as computed under
30 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths
31 of one percent ($\frac{5}{12}$ of 1%) thereof for each month by which
32 his retirement date precedes the first day of the month
33 coincident with or next following the month the member
34 would have attained his 60th birthday, plus one-quarter of one
35 percent ($\frac{1}{4}$ of 1%) thereof for each month by which his 60th
36 birthday precedes the first day of the month coincident with
37 or next following his 65th birthday; or
- 38 2. The service retirement allowance as computed under
39 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the
40 difference between 30 years and his creditable service at
41 retirement; or
- 42 3. If the member's creditable service commenced prior to July 1,
43 1994, the service retirement allowance equal to the actuarial
44 equivalent of the allowance payable at the age of 60 years as
45 computed in G.S. 135-5(b19)(2)b.
- 46 d. Notwithstanding the foregoing provisions, any member whose
47 creditable service commenced prior to July 1, 1963, shall not receive
48 less than the benefit provided by G.S. 135-5(b)."

49 **SECTION 6.** G.S. 135-5 is amended by adding a new subsection to read:

50 "(b20) Service Retirement Allowance of Members Who Became Members On or After
51 August 1, 2011. – Upon retirement from service in accordance with subdivision (a)(1a), (a)(4a),

1 or subsection (a2) of this section, a member shall receive the following service retirement
2 allowance:

3 (1) A member who is a law enforcement officer or an eligible former law
4 enforcement officer shall receive a service retirement allowance computed
5 as follows:

6 a. If the member's service retirement date occurs on or after his 60th
7 birthday, and completion of 10 years of creditable service as a law
8 enforcement officer, or on or after his 55th birthday and after the
9 completion of 30 years of creditable service, the allowance shall be
10 equal to one and eighty-two hundredths percent (1.82%) of his
11 average final compensation, multiplied by the number of years of his
12 creditable service.

13 b. If the member's service retirement date occurs on or after his 50th
14 birthday and before his 55th birthday with 20 or more years of
15 creditable service as a law enforcement officer and prior to the
16 completion of 30 years of creditable service, his retirement allowance
17 shall be equal the service retirement allowance payable under
18 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3 of 1%)
19 thereof for each month by which his retirement date precedes the first
20 day of the month coincident with or next following the month the
21 member would have attained his 60th birthday.

22 (2) A member who is not a law enforcement officer or an eligible former law
23 enforcement officer shall receive a service retirement allowance computed
24 as follows:

25 a. If the member's service retirement date occurs on or after the
26 member's 70th birthday upon the completion of 10 years of
27 membership service or after the member's 60th birthday upon the
28 completion of 30 years of creditable service, the allowance shall be
29 equal to one and eighty-two hundredths percent (1.82%) of the
30 member's average final compensation, multiplied by the number of
31 years of creditable service.

32 b. If the member's service retirement date occurs after the member's
33 65th birthday and before the member's 70th birthday and prior to the
34 completion of 10 years or more of creditable service, the member's
35 retirement allowance shall be computed as in G.S. 135-5(b20)(2)a.
36 but shall be reduced by three percent (3%) per year or prorated by the
37 month for each year by which the member's retirement date precedes
38 the first day of the month coincident with or next following the
39 member's 70th birthday.

40 c. If the member's early service retirement date occurs on or after the
41 member's 60th birthday and before the member's 70th birthday and
42 after completion of 20 years of creditable service, the member's early
43 service retirement allowance shall be computed as in
44 G.S. 135-5(b20)(2)a. but shall be the actuarial equivalent of the
45 allowance payable at age 70."

46 **SECTION 7.** G.S. 135-5(m) reads as rewritten:

47 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, who became
48 a member prior to August 1, 2011, the principal beneficiary designated to receive a return of
49 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
50 retirement allowance provided by Option 2 of subsection (g) above computed by assuming that

1 the member had retired on the first day of the month following the date of his death, provided
2 that the following conditions apply:

- 3 (1) a. The member had attained such age and/or creditable service to be
4 eligible to commence retirement with an early or service retirement
5 allowance,
6 b. The member had obtained 20 years of creditable service in which
7 case the retirement allowance shall be computed in accordance with
8 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the
9 requirement of obtaining age 50,
10 b1. The member was a law enforcement officer who had obtained 15
11 years of service as a law enforcement officer and was killed in the
12 line of duty, in which case the retirement allowance shall be
13 computed in accordance with G.S. 135-5(b19)(1)b., notwithstanding
14 the requirement of obtaining age 50, or
15 c. The member had not commenced to receive a retirement allowance
16 as provided under this Chapter.
17 (2) The member had designated as the principal beneficiary to receive a return
18 of his accumulated contributions one and only one person who was living at
19 the time of his death.
20 (3) The member had not instructed the Board of Trustees in writing that he did
21 not wish the provisions of this subsection to apply.

22 For the purpose of this benefit, a member is considered to be in service at
23 the date of his death if his death occurs within 180 days from the last day of
24 his actual service. The last day of actual service shall be determined as
25 provided in subsection (1) of this section. Upon the death of a member in
26 service, the surviving spouse may make all purchases for creditable service
27 as provided for under this Chapter for which the member had made
28 application in writing prior to the date of death, provided that the date of
29 death occurred prior to or within 60 days after notification of the cost to
30 make the purchase. The term "in service" as used in this subsection includes
31 a member in receipt of a benefit under the Disability Income Plan as
32 provided in Article 6 of this Chapter.

33 Notwithstanding the foregoing, a member who is in receipt of Workers'
34 Compensation during the period for which the member would have
35 otherwise been eligible to receive short-term benefits, as provided in
36 G.S. 135-105, and who dies on or after 181 days from the last day of the
37 member's actual service but on or before the date the benefits as provided in
38 G.S. 135-105 would have ended, shall be considered in service at the time of
39 the member's death for the purpose of this benefit.

40 For the purpose of calculating this benefit any terminal payouts made
41 after the date of death that meet the definition of compensation shall be
42 credited to the month prior to the month of death. These terminal payouts do
43 not include salary or wages paid for work performed during the month of
44 death."

45 **SECTION 8.** G.S. 135-5 is amended by adding a new subsection to read:

46 "(m3) Survivor's Alternate Benefit. – Upon the death of a member in service who became
47 a member on or after August 1, 2011, the principal beneficiary designated to receive a return of
48 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
49 retirement allowance provided by Option 2 of subsection (g) of this section computed by
50 assuming that the member had retired on the first day of the month following the date of the
51 member's death, provided that the following conditions apply:

- 1 (1) a. The member had attained such age and/or creditable service to be
2 eligible to commence retirement with an early or service retirement
3 allowance.
4 b. The member had attained 20 years of creditable service, in which
5 case the retirement allowance shall be computed in accordance with
6 G.S. 135-5(b20)(2)c., and is 60 years of age.
7 c. The member was a law enforcement officer who had attained 15
8 years of service as a law enforcement officer and was killed in the
9 line of duty, in which case the retirement allowance shall be
10 computed in accordance with G.S. 135-5(b20)(1)b., notwithstanding
11 the requirement of attaining age 55 with 20 years of service.
12 d. The member had not commenced to receive a retirement allowance
13 as provided under this Chapter.
14 (2) At the time of the member's death, one and only one person is eligible to
15 receive a return of the member's contributions.
16 (3) The member had not instructed the Board of Trustees in writing that the
17 member did not wish the provisions of this subsection to apply.

18 For the purpose of this benefit, a member is considered to be in service at
19 the date of the member's death if the member's death occurs within 180 days
20 from the last day of his actual service. The last day of actual service shall be
21 determined as provided in subdivision (1) of this subsection. Upon the death
22 of a member in service, the surviving spouse may make all purchases for
23 creditable service as provided for under this Chapter for which the member
24 had made application in writing prior to the date of death, provided that the
25 date of death occurred prior to or within 60 days after notification of the cost
26 to make the purchase. The term "in service" as used in this subsection
27 includes a member in receipt of a benefit under the Disability Income Plan
28 as provided in Article 6 of this Chapter.

29 Notwithstanding the foregoing, a member who is in receipt of Workers'
30 Compensation during the period for which the member would have
31 otherwise been eligible to receive short-term benefits, as provided in
32 G.S. 135-105, and who dies on or after 181 days from the last day of the
33 member's actual service but on or before the date the benefits as provided in
34 G.S. 135-105 would have ended, shall be considered in service at the time of
35 the member's death for the purpose of this benefit.

36 For the purpose of calculating this benefit, any terminal payouts made
37 after the date of death that meet the definition of compensation shall be
38 credited to the month prior to the month of death. These terminal payouts do
39 not include salary or wages paid for work performed during the month of
40 death."

41 **SECTION 9.** G.S. 135-58(a6) reads as rewritten:

42 "(a6) Any member who became a member prior to August 1, 2011, and who retires under
43 the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2008, after the member
44 has either attained the member's 65th birthday or has completed 24 years or more of creditable
45 service, shall receive an annual retirement allowance, payable monthly, which shall commence
46 on the effective date of the member's retirement and shall be continued on the first day of each
47 month thereafter during the member's lifetime, the amount of which shall be computed as the
48 sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in
49 no event shall the annual allowance payable to any member be greater than an amount which,
50 when added to the allowance, if any, to which the member is entitled under the Teachers' and
51 State Employees' Retirement System, the Legislative Retirement System, or the Local

1 Governmental Employees' Retirement System (prior in any case to any reduction for early
2 retirement or for an optional mode of payment), would total three-fourths of the member's final
3 compensation:

- 4 (1) Four and two hundredths percent (4.02%) of the member's final
5 compensation, multiplied by the number of years of creditable service
6 rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- 7 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
8 compensation, multiplied by the number of years of creditable service
9 rendered as a judge of the superior court or as Administrative Officer of the
10 Courts;
- 11 (3) Three and two hundredths percent (3.02%) of the member's final
12 compensation, multiplied by the number of years of creditable service
13 rendered as a judge of the district court, district attorney, clerk of superior
14 court, public defender, or the Director of Indigent Defense Services;
- 15 (4) A service retirement allowance computed in accordance with the service
16 retirement provisions of Article 3 of Chapter 128 of the General Statutes
17 using an average final compensation as defined in G.S. 135-53(2a) and
18 creditable service equal to the number of years of the member's creditable
19 service that was transferred from the Local Governmental Employees'
20 Retirement System to this System as provided in G.S. 135-56; and
- 21 (5) A service retirement allowance computed in accordance with the service
22 retirement provisions of Article 1 of this Chapter using an average final
23 compensation as defined in G.S. 135-53(2a) and creditable service, including
24 any sick leave standing to the credit of the member, equal to the number of
25 years of the member's creditable service that was transferred from the
26 Teachers' and State Employees' Retirement System or the Legislative
27 Retirement System to this System as provided in G.S. 135-56."

28 **SECTION 10.** G.S. 135-58 is amended by adding a new subsection to read:

29 "(a7) Retirement Allowance of Members Who Became Members On or After August 1,
30 2011. – Upon retirement from service, a member shall receive an unreduced retirement benefit
31 after the member has either attained the member's 70th birthday with 10 or more years of
32 membership service or has completed 25 years or more of creditable service and has attained
33 the age of 60, or the member shall receive a reduced benefit after attaining the age of 65 with
34 10 or more years of membership service reduced by three percent (3%) per year or prorated by
35 the month for each year by which the member's retirement date precedes the first day of the
36 month coincident with or next following the member's 70th birthday. The member shall receive
37 the annual retirement allowance, payable monthly, which shall commence on the effective date
38 of the member's retirement and shall be continued on the first day of each month thereafter
39 during the member's lifetime, the amount of which shall be computed as the sum of the
40 amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event
41 shall the annual allowance payable to any member be greater than an amount which, when
42 added to the allowance, if any, to which the member is entitled under the Teachers' and State
43 Employees' Retirement System, the Legislative Retirement System, or the Local Governmental
44 Employees' Retirement System (prior in any case to any reduction for early retirement or for an
45 optional mode of payment), would total three-fourths of the member's final compensation:

- 46 (1) Four and two hundredths percent (4.02%) of the member's average final
47 compensation, multiplied by the number of years of creditable service
48 rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- 49 (2) Three and fifty-two hundredths percent (3.52%) of the member's average
50 final compensation, multiplied by the number of years of creditable service

1 rendered as a judge of the superior court or as Administrative Officer of the
2 Courts;

3 (3) Three and two hundredths percent (3.02%) of the member's average final
4 compensation, multiplied by the number of years of creditable service
5 rendered as a judge of the district court, district attorney, clerk of superior
6 court, public defender, or the Director of Indigent Defense Services;

7 (4) A service retirement allowance computed in accordance with the service
8 retirement provisions of Article 3 of Chapter 128 of the General Statutes
9 using an average final compensation as defined in G.S. 135-53(2a) and
10 creditable service equal to the number of years of the member's creditable
11 service that was transferred from the Local Governmental Employees'
12 Retirement System to this System as provided in G.S. 135-56; and

13 (5) A service retirement allowance computed in accordance with the service
14 retirement provisions of Article 1 of this Chapter using an average final
15 compensation as defined in G.S. 135-53(2a) and creditable service, including
16 any sick leave standing to the credit of the member, equal to the number of
17 years of the member's creditable service that was transferred from the
18 Teachers' and State Employees' Retirement System or the Legislative
19 Retirement System to this System as provided in G.S. 135-56."

20 **SECTION 11.** G.S. 135-57 reads as rewritten:

21 "**§ 135-57. Service retirement.**

22 (a) Any member on or after January 1, 1974, who became a member prior to August 1,
23 2011, and who has attained his fiftieth birthday and five years of membership service may
24 retire upon electronic submission or written application to the board of trustees setting forth at
25 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
26 subsequent to the execution and filing thereof, he desires to be retired.

27 (b) Any member who is a justice or judge of the General Court of Justice shall be
28 automatically retired as of the first day of the calendar month coinciding with or next following
29 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,
30 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
31 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
32 office under the provisions of G.S. 7A-4.20.

33 (c) Any member who terminates service on or after January 1, 1974, having
34 accumulated five or more years of creditable service and having become a member prior to
35 August 1, 2011, may retire under the provisions of subsection (a) above, provided that he shall
36 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
37 and the requirement of subsection (a) that the member be in service shall not apply.

38 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
39 may retire upon electronic submission or written application to the board of trustees setting
40 forth at what time, as of the first day of a calendar month, not less than one day nor more than
41 120 days subsequent to the execution and filing thereof, he desires to be retired."

42 **SECTION 12.(a)** G.S.135-4(e) reads as rewritten:

43 "(e) Creditable service at retirement on which the retirement allowance of a member
44 shall be based shall consist of the membership service rendered by him since he last became a
45 member, ~~and also if he has a prior service certificate which is in full force and effect, the~~
46 ~~amount of service certified on his prior service certificate;~~ and if he has sick leave standing to
47 his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or
48 portion thereof, but not less than one hour; August 1, 2011, one month of credit for each 20
49 days or portion of a day not less than one hour, but not more than 12 days of sick leave for each
50 year of membership service or fraction thereof; sick leave shall not be counted in computing

1 creditable service for the purpose of determining eligibility for disability retirement or for a
2 vested deferred allowance.

3 On and after July 1, 1971, a member whose account was closed on account of absence from
4 service under the provisions of G.S. 135-3(3) and who subsequently returns to service for a
5 period of five years, may thereafter repay in a lump sum the amount withdrawn plus regular
6 interest thereon from the date of withdrawal through the year of repayment and thereby
7 increase his creditable service by the amount of creditable service lost when his account was
8 closed.

9 On and after July 1, 1973, a member whose account in the North Carolina Local
10 Governmental Employees' Retirement System was closed on account of absence from service
11 under the provisions of G.S. 128-24(1a) and who subsequently became or becomes a member
12 of this System with credit for five years of service, may thereafter repay in a lump sum the
13 amount withdrawn from the North Carolina Local Governmental Employees' Retirement
14 System plus regular interest thereon from the date of withdrawal through the year of repayment
15 and thereby increase his creditable service in this System by the amount of creditable service
16 lost when his account was closed.

17 On or after July 1, 1979, a member who has obtained 60 months of aggregate service, or
18 five years of membership service, as an employee of the North Carolina General Assembly,
19 except legislators, participants in the Legislative Intern Program and pages, may make a lump
20 sum payment together with interest, and an administrative fee for such service, to the Teachers'
21 and State Employees' Retirement System of an amount equal to what he would have
22 contributed had he been a member on his first day of employment.

23 On and after January 1, 1985, the creditable service of a member who was a member of the
24 Law-Enforcement Officers' Retirement System at the time of the transfer of law-enforcement
25 officers employed by the State from that System to this Retirement System and whose
26 accumulated contributions are transferred from that System to this Retirement System, shall
27 include service that was creditable in the Law-Enforcement Officers' Retirement System; and
28 membership service with that System shall be membership service with this Retirement
29 System; provided, notwithstanding any provision of this Article to the contrary, any inchoate or
30 accrued rights of such a member to purchase creditable service for military service, withdrawn
31 service and prior service under the rules and regulations of the Law-Enforcement Officers'
32 Retirement System shall not be diminished and may be purchased as creditable service with
33 this Retirement System under the same conditions which would have otherwise applied."

34 **SECTION 12.(b)** G.S. 128-26(e) reads as rewritten:

35 "(e) Creditable service at retirement on which the retirement allowance of a member
36 shall be based shall consist of the membership service rendered by him since he last became a
37 member, and also if he has a prior service certificate which is in full force and effect, the
38 amount of the service certified on his prior service certificate; and if he has sick leave standing
39 to his credit upon retirement on or after ~~July 1, 1971, one month of credit for each 20 days or~~
40 ~~portion thereof, but not less than one hour;~~ August 1, 2011, one month of credit for each 20 days
41 or portion of a day not less than one hour, but not more than 12 days of sick leave for each year
42 of membership service or fraction thereof; sick leave shall not be counted in computing
43 creditable service for the purpose of determining eligibility for disability retirement or for a
44 vested deferred allowance.

45 On and after July 1, 1971, a member whose account was closed on account of absence from
46 service under the provisions of G.S. 128-24(1a) and who subsequently returns to service for a
47 period of five years, may thereafter repay the amount withdrawn plus regular interest thereon
48 from the date of withdrawal through the year of repayment and thereby increase his creditable
49 service by the amount of creditable service lost when this account was closed.

50 On and after July 1, 1973, a member whose account in the Teachers' and State Employees'
51 Retirement System was closed on account of absence from service under the provisions of

1 G.S. 135-3(3) and who subsequently became or becomes a member of this System with credit
2 for five years of service, may thereafter repay in a lump sum the amount withdrawn from the
3 Teachers' and State Employees' Retirement System plus regular interest thereon from the date
4 of withdrawal through the year of repayment and thereby increase his creditable service in this
5 System by the amount of creditable service lost when his account was closed.

6 Notwithstanding any other provision of this Chapter, any member who entered service or
7 was restored to service prior to July 1, 1982, and was excluded from membership service solely
8 on account of having attained the age of 62 years, in accordance with former G.S. 128-24(3a),
9 may purchase membership service credits for such excluded service by making a lump-sum
10 payment equal to the contributions that would have been deducted pursuant to G.S. 128-30(b)
11 had he been a member of the Retirement System, increased by interest calculated at a rate of
12 seven percent (7%) per annum. Creditable service for unused sick leave shall be allowed only
13 for sick leave accrued monthly during employment under a duly adopted sick leave policy and
14 for which the member may be able to take credits and be paid for sick leave without restriction.

15 On and after January 1, 1986, the creditable service of a member who was a member of the
16 Law Enforcement Officers' Retirement System at the time of the transfer of law enforcement
17 officers employed by participating employers from that System to this Retirement System and
18 whose accumulated contributions are transferred from that System to this Retirement System,
19 includes service that was creditable in the Law Enforcement Officers' Retirement System; and
20 membership service with that System is membership service with this Retirement System;
21 provided, notwithstanding any provisions of this Article to the contrary, any inchoate or
22 accrued rights of such a member to purchase creditable service for military service, withdrawn
23 service and prior service under the rules and regulations of the Law Enforcement Officers'
24 Retirement System may not be diminished and may be purchased as creditable service with this
25 Retirement System under the same conditions that would have otherwise applied."

26 **SECTION 13.(a)** G.S. 135-1(7a) is amended by adding a new sub-subdivision to
27 read:

28 "d. Notwithstanding the other provisions of this subdivision,
29 compensation for any member who became a member on or after
30 August 1, 2011, for any calendar year after 2011 in which employee
31 or employer contributions are made and for which annual
32 compensation is used for calculating any benefit under this Article
33 shall not exceed the salary of the Governor as set in G.S. 147-11(a)
34 for the beginning of the applicable calendar year."

35 **SECTION 13.(b)** G.S. 135-53(5) reads as rewritten:

36 "(5) "Compensation" shall mean all salaries and wages derived from public funds
37 which are earned by a member of the Retirement System for his service as a
38 justice or judge, or district attorney, or clerk of superior court, or public
39 defender, or the Director of Indigent Defense Services. Effective July 1,
40 2009, "compensation" also means payment of military differential wages.
41 "Compensation" shall not include local supplementation as authorized under
42 G.S. 7A-300.1 for Judicial Department employees.

43 Notwithstanding the foregoing provisions of this subdivision,
44 compensation for any member who became a member on or after August 1,
45 2011, for any calendar year after 2011 in which employee or employer
46 contributions are made and for which annual compensation is used for
47 calculating any benefit under this Article shall not exceed the salary of the
48 Governor as set in G.S. 147-11(a) for the beginning of the applicable
49 calendar year."

50 **SECTION 14.(a)** G.S. 135-1(5) reads as rewritten:

1 "(5) "Average final compensation" shall mean the average annual compensation
2 of a member during the four consecutive calendar years of membership
3 service producing the highest such average; but shall not include any
4 compensation, as determined by the Board of Trustees, for the
5 reimbursement of expenses or payments for housing or any other allowances
6 whether or not classified as salary and ~~wages~~; wages; however, for members
7 who became members on or after August 1, 2011, no portion of a salary
8 increase in any of the years used to calculate average final compensation that
9 is in excess of ten percent (10%) shall be included in the calculation. In the
10 event a member is or has been in receipt of a benefit under the provisions of
11 G.S. 135-105 or G.S. 135-106, the compensation used in the calculation of
12 "average final compensation" shall be the higher of compensation of the
13 member under the provisions of this Article or compensation used in
14 calculating the payment of benefits under Article 6 of this Chapter as
15 adjusted for percentage increases in the post disability benefit."

16 **SECTION 14.(b)** G.S. 135-53(2a) reads as rewritten:

17 "(2a) "Average final compensation" shall mean the average annual compensation
18 of a member during the 48 consecutive calendar months of membership
19 service producing the highest such ~~average~~; average; however, for members
20 who became members on or after August 1, 2011, no portion of a salary
21 increase in any of the years used to calculate average final compensation that
22 is in excess of ten percent (10%) shall be included in the calculation."

23 **SECTION 14.(c)** G.S. 128-21(5) reads as rewritten:

24 "(5) "Average final compensation" shall mean the average annual compensation,
25 not including any terminal payments for unused sick leave, of a member
26 during the four consecutive calendar years of creditable service producing
27 the highest such average; but shall not include any compensation, as
28 determined by the Board of Trustees, for the reimbursement of expenses or
29 payments for housing or any other allowances whether or not classified as
30 salary and ~~wages~~; wages; however, for members who became members on or
31 after August 1, 2011, no portion of a salary increase in any of the years used
32 to calculate average final compensation that is in excess of ten percent (10%)
33 shall be included in the calculation."

34 **SECTION 15.** G.S. 143-166.41 reads as rewritten:

35 "**§ 143-166.41. Special separation allowance.**

36 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
37 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,
38 agency, or institution prior to August 1, 2011, and who qualifies under this section shall
39 receive, beginning in the month in which he retires on a basic service retirement under the
40 provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to
41 eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of
42 compensation most recently applicable to him for each year of creditable service. The
43 allowance shall be paid in equal installments on the payroll frequency used by the employer. To
44 qualify for the allowance the officer shall:

- 45 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
46 attained 55 years of age and completed five or more years of creditable
47 service; and
48 (2) Not have attained 62 years of age; and
49 (3) Have completed at least five years of continuous service as a law
50 enforcement officer as herein defined immediately preceding a service
51 retirement. Any break in the continuous service required by this subsection

1 because of disability retirement or disability salary continuation benefits
2 shall not adversely affect an officer's qualification to receive the allowance,
3 provided the officer returns to service within 45 days after the disability
4 benefits cease and is otherwise qualified to receive the allowance.

5 (a1) Notwithstanding any other provision of law, every sworn law-enforcement officer
6 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,
7 agency, or institution on or after and who qualifies under this section shall receive, beginning
8 in the month in which he retires on a basic service retirement under the provisions of
9 G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to eighty-five
10 hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most
11 recently applicable to him for each year of creditable service. The allowance shall be paid in
12 equal installments on the payroll frequency used by the employer. To qualify for the allowance
13 the officer shall:

14 (1) Have (i) completed 30 or more years of creditable service and have attained
15 55 years of age and (ii) completed ten or more years of creditable service
16 and have attained 60 years of age; and

17 (2) Not have attained 62 years of age; and

18 (3) Have completed at least ten years of continuous service as a law
19 enforcement officer as herein defined immediately preceding a service
20 retirement. Any break in the continuous service required by this subsection
21 because of disability retirement or disability salary continuation benefits
22 shall not adversely affect an officer's qualification to receive the allowance,
23 provided the officer returns to service within 45 days after the disability
24 benefits cease and is otherwise qualified to receive the allowance.

25 (b) As used in this section, "creditable service" means the service for which credit is
26 allowed under the retirement system of which the officer is a member, provided that at least
27 fifty percent (50%) of the service is as a law enforcement officer as herein defined.

28 (c) Payment to a retired officer under the provisions of this section shall cease at the
29 first of:

30 (1) The death of the officer;

31 (2) The last day of the month in which the officer attains 62 years of age; or

32 (3) The first day of reemployment by any State department, agency, or
33 institution, except that this subdivision does not apply to an officer returning
34 to State employment in a position exempt from the State Personnel Act in an
35 agency other than the agency from which that officer retired.

36 (d) This section does not affect the benefits to which an individual may be entitled from
37 State, federal, or private retirement systems. The benefits payable under this section shall not
38 be subject to any increases in salary or retirement allowances that may be authorized by the
39 General Assembly for employees of the State or retired employees of the State.

40 (e) The head of each State department, agency, or institution shall determine the
41 eligibility of employees for the benefits provided herein.

42 (f) The Director of the Budget may authorize from time to time the transfer of funds
43 within the budgets of each State department, agency, or institution necessary to carry out the
44 purposes of this Article. These funds shall be taken from those appropriated to the department,
45 agency, or institution for salaries and related fringe benefits.

46 (g) The head of each State department, agency, or institution shall make the payments
47 set forth in subsection (a) to those persons certified under subsection (e) from funds available
48 under subsection (f)."

49 **SECTION 16.(a)** Article 1 of Chapter 135 of the General Statutes is amended by
50 adding a new section to read:

51 **"§ 135-18.11. Improper receipt of decedent's retirement benefit.**

1 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
2 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
3 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's
4 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's
5 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

6 **SECTION 16.(b)** Article 3 of Chapter 128 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 128-38.5. Improper receipt of decedent's retirement benefit.**

9 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
10 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
11 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's
12 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's
13 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

14 **SECTION 16.(c)** Article 4 of Chapter 135 of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 135-75.2. Improper receipt of decedent's retirement benefit.**

17 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
18 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
19 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's
20 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's
21 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

22 **SECTION 16.(d)** Article 1A of Chapter 120 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 120-4.34. Improper receipt of decedent's retirement benefit.**

25 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
26 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
27 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's
28 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's
29 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

30 **SECTION 17.** This act becomes effective August 1, 2011.