

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1429
Pensions & Retirement and Aging Committee Substitute Adopted 7/2/02

Short Title: Retirement System Conforming Changes.

(Public)

Sponsors:

Referred to:

June 13, 2002

A BILL TO BE ENTITLED

1 AN ACT TO MAKE CHANGES IN THE TEACHERS' AND STATE EMPLOYEES'
2 RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES'
3 RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND
4 THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM TO CONFORM
5 WITH THE PROVISIONS OF THE ECONOMIC GROWTH AND TAX RELIEF
6 RECONCILIATION ACT OF 2001.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 120-4.16 reads as rewritten:

10 "**§ 120-4.16. Repayments and purchases.**

11 (a) All repayments and purchases of service credit, allowed under this Article,
12 shall be made within two years after the member first becomes eligible to make such
13 repayments and purchases. All such repayments and purchases not made within two
14 years after the member becomes eligible shall equal the full actuarial cost of the
15 additional service credit as defined in G.S. 135-4(m).

16 (b) Purchase of Service Credits Through Rollover Contributions From Certain
17 Other Plans. – Notwithstanding any other provision of this Article, and without regard
18 to any limitations on contributions otherwise set forth in this Article, a member, who is
19 eligible to restore or purchase membership or creditable service pursuant to the
20 provisions of this Article, may purchase such service credits through rollover
21 contributions to the Annuity Savings Fund from (i) an annuity contract described in
22 Section 403(b) of the Internal Revenue Code, (ii) an eligible plan under Section 457(b)
23 of the Internal Revenue Code which is maintained by a state, political subdivision of a
24 state, or any agency or instrumentality of a state or political subdivision of a state, (iii)
25 an individual retirement account or annuity described in Section 408(a) or 408(b) of the
26 Internal Revenue Code that is eligible to be rolled over and would otherwise be
27 includible in gross income, or (iv) a qualified plan described in Section 401(a) or 403(a)
28 of the Internal Revenue Code. Notwithstanding the foregoing, the Retirement System
29 shall not accept any amount as a rollover contribution unless such amount is eligible to

1 be rolled over to a qualified trust in accordance with applicable law and the member
2 provides evidence satisfactory to the Retirement System that such amount qualifies for
3 rollover treatment. Unless received by the Retirement System in the form of a direct
4 rollover, the rollover contribution must be paid to the Retirement System on or before
5 the 60th day after the date it was received by the member.

6 Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any
7 other provision of this Article, and without regard to any limitations on contributions
8 otherwise set forth in this Article, a member, who is eligible to restore or purchase
9 membership or creditable service pursuant to the provisions of this Article, may
10 purchase such service credits through a direct transfer to the Annuity Savings Fund of
11 funds from (i) an annuity contract described in Section 403(b) of the Internal Revenue
12 Code or (ii) an eligible plan under Section 457(b) of the Code which is maintained by a
13 state, political subdivision of a state, or any agency or instrumentality of a state or
14 political subdivision of a state.

15 (c) Purchase of Service Credits Through Plan-to-Plan Transfers. –
16 Notwithstanding any other provision of this Article, and without regard to any
17 limitations on contributions otherwise set forth in this Article, a member, who is eligible
18 to restore or purchase membership or creditable service pursuant to the provisions of
19 this Article, may purchase such service credits through a direct transfer to the Annuity
20 Savings Fund of funds from (i) the Supplemental Retirement Income Plans A, B, or C
21 of North Carolina or (ii) any other defined contribution plan qualified under Section
22 401(a) of the Internal Revenue Code which is maintained by the State of North
23 Carolina, a political subdivision of a state, or any agency or instrumentality of a state or
24 political subdivision of a state."

25 **SECTION 2.** G.S. 120-4.31 reads as rewritten:

26 **"§ 120-4.31. Internal Revenue Code compliance.**

27 (a) Notwithstanding any other provisions of law to the contrary, compensation
28 for any calendar year after 1988 in which employee or employer contributions are made
29 and for which annual compensation is used for computing any benefit under this Article
30 shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount
31 determined by the Commissioner of Internal Revenue as the limitation for calendar
32 years after 1989; provided the imposition of the limitation shall not reduce a member's
33 benefit below the amount determined as of December 31, 1988.

34 Effective January 1, 1996, the annual compensation of a member taken into account
35 for determining all benefits provided under this Article shall not exceed one hundred
36 fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the
37 Internal Revenue Code and any regulations issued under the Code. However, with
38 respect to a person who became a member of the Retirement System prior to January 1,
39 1996, the imposition of this limitation on compensation shall not reduce the amount of
40 compensation which may be taken into account for determining the benefits of that
41 member under this Article below the amount of compensation which would have been
42 recognized under the provisions of this Article in effect on July 1, 1993.

43 Effective January 1, 2002, the annual compensation of a person, who became a
44 member of the Retirement System on or after January 1, 1996, taken into account for

1 determining all benefits accruing under this Article for any plan year after December 31,
2 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount
3 otherwise set by the Internal Revenue Code or determined by the Commissioner of
4 Internal Revenue as the limitation for calendar years after 2002.

5 (b) Notwithstanding any other provisions of law to the contrary, the annual
6 benefit payable on behalf of a member shall, if necessary, be reduced to the extent
7 required by Section 415(b) ~~and (e)~~ and with respect to calendar years commencing prior
8 to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the
9 Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a
10 member is a participant under any qualified defined contributions plan that is required
11 to be taken into account for the purposes of the limitation contained in Section 415 of
12 the Internal Revenue Code, the annual benefit payable under this Article shall be
13 reduced to the extent required by Section 415(e) prior to making any reduction under
14 the defined contribution plan provided by the employer. However, with respect to a
15 member who has benefits accrued under this Article but whose benefit had not
16 commenced as of December 31, 1999, the combined plan limitation contained in
17 Section 415(e) of the Internal Revenue Code shall not be applied to such member for
18 calendar years commencing on or after January 1, 2000.

19 (c) On and after January 1, 1989, the retirement allowance of a member who has
20 terminated employment shall begin no later than the later of April 1 of the calendar year
21 following the calendar year that the member attains 70 1/2 years of age or April 1 of the
22 calendar year following the calendar year in which the member terminates employment.

23 (d) This subsection applies to distributions made on or after January 1, 1993.
24 Notwithstanding any other provision of the Plan to the contrary that would otherwise
25 limit a distributee's election under this Article, a distributee may elect, at the time and in
26 the manner prescribed by the Plan administrator, to have any portion of an eligible
27 rollover distribution paid directly to an eligible retirement plan specified by the
28 distributee in a direct rollover. Provided, an eligible rollover distribution is any
29 distribution of all or any portion of the balance to the credit of the distributee, except
30 that an eligible rollover distribution does not include: any distribution that is one of a
31 series of substantially equal periodic payments (not less frequently than annually) made
32 for the life (or life expectancy) of the distributee or the joint lives (or joint life
33 expectancies) of the distributee and the distributee's designated beneficiary, or for a
34 specified period of 10 years or more; any distribution to the extent such distribution is
35 required under section 401(a)(9) of the Code; and the portion of any distribution that is
36 not includible in gross income (determined without regard to the exclusion for net
37 realized appreciation with respect to employer securities). Effective as of January 1,
38 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not
39 fail to be an eligible rollover distribution merely because the portion consists of after-
40 tax employee contributions that are not includible in gross income. However, such
41 portion may be transferred only to an individual retirement account or annuity described
42 in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan
43 described in Section 401(a) or 403(a) of the Code that agrees to separately account for
44 amounts so transferred, including separately accounting for the portion of such

1 distribution which is includible in gross income and the portion of such distribution
2 which is not so includible. Provided, an eligible retirement plan is an individual
3 retirement account described in section 408(a) of the Code, an individual retirement
4 annuity described in section 408(b) of the Code, an annuity plan described in section
5 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
6 accepts the distributee's eligible rollover distribution. ~~However, in case of an eligible~~
7 ~~rollover distribution to the surviving spouse, an eligible retirement plan is an individual~~
8 ~~retirement account or an individual retirement annuity.~~ Effective on and after January 1,
9 2002, an eligible retirement plan shall also mean an annuity contract described in
10 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
11 is maintained by a state, political subdivision of a state, or any agency or instrumentality
12 of a state or political subdivision of a state and which agrees to separately account for
13 amounts transferred into such plan from this Plan. The definition of eligible retirement
14 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
15 former spouse who is the alternate payee under a qualified domestic relations order, as
16 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
17 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
18 includes an employee or former employee. In addition, the employee's or former
19 employee's surviving spouse and the employee's or former employee's spouse or former
20 spouse who is the alternate payee under a qualified domestic relations order, as defined
21 in section 414(p) of the Code, or a court ordered equitable distribution of marital
22 property, as provided under G.S. 50-20, whichever may be applicable, are distributees
23 with regard to the interest of the spouse or former spouse. Provided further, a direct
24 rollover is a payment by the Plan to the eligible retirement plan specified by the
25 distributee."

26 **SECTION 3.** G.S.128-26 is amended by adding two new subsections to
27 read:

28 "(t) Purchase of Service Credits Through Rollover Contributions From Certain
29 Other Plans. – Notwithstanding any other provision of this Article, and without regard
30 to any limitations on contributions otherwise set forth in this Article, a member, who is
31 eligible to restore or purchase membership or creditable service pursuant to the
32 provisions of G.S. 128-26, may, subject to such rules and regulations established by the
33 Board of Trustees, purchase such service credits through rollover contributions to the
34 Annuity Savings Fund from (i) an annuity contract described in Section 403(b) of the
35 Internal Revenue Code, (ii) an eligible plan under Section 457(b) of the Internal
36 Revenue Code which is maintained by a state, political subdivision of a state, or any
37 agency or instrumentality of a state or political subdivision of a state, (iii) an individual
38 retirement account or annuity described in Section 408(a) or 408(b) of the Internal
39 Revenue Code that is eligible to be rolled over and would otherwise be includible in
40 gross income, or (iv) a qualified plan described in Section 401(a) or 403(a) of the
41 Internal Revenue Code. Notwithstanding the foregoing, the Retirement System shall not
42 accept any amount as a rollover contribution unless such amount is eligible to be rolled
43 over to a qualified trust in accordance with applicable law and the member provides
44 evidence satisfactory to the Retirement System that such amount qualifies for rollover

1 treatment. Unless received by the Retirement System in the form of a direct rollover, the
2 rollover contribution must be paid to the Retirement System on or before the 60th day
3 after the date it was received by the member.

4 Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any
5 other provision of this Article, and without regard to any limitations on contributions
6 otherwise set forth in this Article, a member, who is eligible to restore or purchase
7 membership or creditable service pursuant to the provisions of G.S. 128-26, may,
8 subject to such rules and regulations established by the Board of Trustees, purchase
9 such service credits through a direct transfer to the Annuity Savings Fund of funds from
10 (i) an annuity contract described in Section 403(b) of the Internal Revenue Code or (ii)
11 an eligible plan under Section 457(b) of the Code which is maintained by a state,
12 political subdivision of a state, or any agency or instrumentality of a state or political
13 subdivision of a state.

14 (u) Purchase of Service Credits Through Plan-to-Plan Transfers. –
15 Notwithstanding any other provision of this Article, and without regard to any
16 limitations on contributions otherwise set forth in this Article, a member, who is eligible
17 to restore or purchase membership or creditable service pursuant to the provisions of
18 G.S. 128-26, may, subject to such rules and regulations established by the Board of
19 Trustees, purchase such service credits through a direct transfer to the Annuity Savings
20 Fund of funds from (i) the Supplemental Retirement Income Plans A, B, or C of North
21 Carolina or (ii) any other defined contribution plan qualified under Section 401(a) of the
22 Internal Revenue Code which is maintained by the State of North Carolina, a political
23 subdivision of a state, or any agency or instrumentality of a state or political subdivision
24 of a state."

25 **SECTION 4.** G.S. 128-38.2 reads as rewritten:

26 **"§ 128-38.2. Internal Revenue Code compliance.**

27 (a) Notwithstanding any other provisions of law to the contrary, compensation
28 for any calendar year after 1988 in which employee or employer contributions are made
29 and for which annual compensation is used for computing any benefit under this Article
30 shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount
31 determined by the Commissioner of Internal Revenue as the limitation for calendar
32 years after 1989; provided the imposition of the limitation shall not reduce a member's
33 benefit below the amount determined as of December 31, 1988.

34 Effective January 1, 1996, the annual compensation of a member taken into account
35 for determining all benefits provided under this Article shall not exceed one hundred
36 fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the
37 Internal Revenue Code and any regulations issued under the Code. However, with
38 respect to a person who became a member of the Retirement System prior to January 1,
39 1996, the imposition of this limitation on compensation shall not reduce the amount of
40 compensation which may be taken into account for determining the benefits of that
41 member under this Article below the amount of compensation which would have been
42 recognized under the provisions of this Article in effect on July 1, 1993.

43 Effective January 1, 2002, the annual compensation of a person, who became a
44 member of the Retirement System on or after January 1, 1996, taken into account for

1 determining all benefits accruing under this Article for any plan year after December 31,
2 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount
3 otherwise set by the Internal Revenue Code or determined by the Commissioner of
4 Internal Revenue as the limitation for calendar years after 2002.

5 (b) Notwithstanding any other provisions of law to the contrary, the annual
6 benefit payable on behalf of a member shall, if necessary, be reduced to the extent
7 required by Section 415(b) ~~and (e)~~ and with respect to calendar years commencing prior
8 to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the
9 Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a
10 member is a participant under any qualified defined contributions plan that is required
11 to be taken into account for the purposes of the limitation contained in Section 415 of
12 the Internal Revenue Code, the annual benefit payable under this Article shall be
13 reduced to the extent required by Section 415(e) prior to making any reduction under
14 the defined contribution plan provided by the employer. However, with respect to a
15 member who has benefits accrued under this Article but whose benefit had not
16 commenced as of December 31, 1999, the combined plan limitation contained in
17 Section 415(e) of the Internal Revenue Code shall not be applied to such member for
18 calendar years commencing on or after January 1, 2000.

19 (c) On and after January 1, 1989, the retirement allowance of a member who has
20 terminated employment shall begin no later than the later of April 1 of the calendar year
21 following the calendar year that the member attains 70 1/2 years of age or April 1 of the
22 calendar year following the calendar year in which the member terminates employment.

23 (d) This subsection applies to distributions made on or after January 1, 1993.
24 Notwithstanding any other provision of the Plan to the contrary that would otherwise
25 limit a distributee's election under this Article, a distributee may elect, at the time and in
26 the manner prescribed by the Plan administrator, to have any portion of an eligible
27 rollover distribution paid directly to an eligible retirement plan specified by the
28 distributee in a direct rollover. Provided, an eligible rollover distribution is any
29 distribution of all or any portion of the balance to the credit of the distributee, except
30 that an eligible rollover distribution does not include: any distribution that is one of a
31 series of substantially equal periodic payments (not less frequently than annually) made
32 for the life (or life expectancy) of the distributee or the joint lives (or joint life
33 expectancies) of the distributee and the distributee's designated beneficiary, or for a
34 specified period of 10 years or more; any distribution to the extent such distribution is
35 required under section 401(a)(9) of the Code; and the portion of any distribution that is
36 not includible in gross income (determined without regard to the exclusion for net
37 realized appreciation with respect to employer securities). Effective as of January 1,
38 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not
39 fail to be an eligible rollover distribution merely because the portion consists of after-
40 tax employee contributions which are not includible in gross income. However, such
41 portion may be transferred only to an individual retirement account or annuity described
42 in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan
43 described in Section 401(a) or 403(a) of the Code that agrees to separately account for
44 amounts so transferred, including separately accounting for the portion of such

1 distribution which is includible in gross income and the portion of such distribution
2 which is not so includible. Provided, an eligible retirement plan is an individual
3 retirement account described in section 408(a) of the Code, an individual retirement
4 annuity described in section 408(b) of the Code, an annuity plan described in section
5 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
6 accepts the distributee's eligible rollover distribution. ~~However, in case of an eligible~~
7 ~~rollover distribution to the surviving spouse, an eligible retirement plan is an individual~~
8 ~~retirement account or an individual retirement annuity.~~ Effective on and after January 1,
9 2002, an eligible retirement plan shall also mean an annuity contract described in
10 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
11 is maintained by a state, political subdivision of a state, or any agency or instrumentality
12 of a state or political subdivision of a state and which agrees to separately account for
13 amounts transferred into such plan from this Plan. The definition of eligible retirement
14 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
15 former spouse who is the alternate payee under a qualified domestic relations order, as
16 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
17 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
18 includes an employee or former employee. In addition, the employee's or former
19 employee's surviving spouse and the employee's or former employee's spouse or former
20 spouse who is the alternate payee under a qualified domestic relations order, as defined
21 in section 414(p) of the Code, or a court ordered equitable distribution of marital
22 property, as provided under G.S. 50-20, whichever may be applicable, are distributees
23 with regard to the interest of the spouse or former spouse. Provided further, a direct
24 rollover is a payment by the Plan to the eligible retirement plan specified by the
25 distributee."

26 **SECTION 5.** G.S. 135-4 is amended by adding two new subsections to read:

27 "(dd) Purchase of Service Credits Through Rollover Contributions From Certain
28 Other Plans. – Notwithstanding any other provision of this Article, and without regard
29 to any limitations on contributions otherwise set forth in this Article, a member, who is
30 eligible to restore or purchase membership or creditable service pursuant to the
31 provisions of G.S. 135-4, may, subject to such rules and regulations established by the
32 Board of Trustees, purchase such service credits through rollover contributions to the
33 Annuity Savings Fund from (i) an annuity contract described in Section 403(b) of the
34 Internal Revenue Code, (ii) an eligible plan under Section 457(b) of the Internal
35 Revenue Code which is maintained by a state, political subdivision of a state, or any
36 agency or instrumentality of a state or political subdivision of a state, (iii) an individual
37 retirement account or annuity described in Section 408(a) or 408(b) of the Internal
38 Revenue Code that is eligible to be rolled over and would otherwise be includible in
39 gross income, or (iv) a qualified plan described in Section 401(a) or 403(a) of the
40 Internal Revenue Code. Notwithstanding the foregoing, the Retirement System shall not
41 accept any amount as a rollover contribution unless such amount is eligible to be rolled
42 over to a qualified trust in accordance with applicable law and the member provides
43 evidence satisfactory to the Retirement System that such amount qualifies for rollover
44 treatment. Unless received by the Retirement System in the form of a direct rollover, the

1 rollover contribution must be paid to the Retirement System on or before the 60th day
2 after the date it was received by the member.

3 Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any
4 other provision of this Article, and without regard to any limitations on contributions
5 otherwise set forth in this Article, a member, who is eligible to restore or purchase
6 membership or creditable service pursuant to the provisions of G.S. 135-4, may, subject
7 to such rules and regulations established by the Board of Trustees, purchase such
8 service credits through a direct transfer to the Annuity Savings Fund of funds from (i)
9 an annuity contract described in Section 403(b) of the Internal Revenue Code or (ii) an
10 eligible plan under Section 457(b) of the Code which is maintained by a state, political
11 subdivision of a state, or any agency or instrumentality of a state or political subdivision
12 of a state.

13 (ee) Purchase of Service Credits Through Plan-to-Plan Transfers. –
14 Notwithstanding any other provision of this Article, and without regard to any
15 limitations on contributions otherwise set forth in this Article, a member, who is eligible
16 to restore or purchase membership or creditable service pursuant to the provisions of
17 G.S. 135-4, may, subject to such rules and regulations established by the Board of
18 Trustees, purchase such service credits through a direct transfer to the Annuity Savings
19 Fund of funds from (i) the Supplemental Retirement Income Plans A, B, or C of North
20 Carolina or (ii) any other defined contribution plan qualified under Section 401(a) of the
21 Internal Revenue Code which is maintained by the State of North Carolina, a political
22 subdivision of a state, or any agency or instrumentality of a state or political subdivision
23 of a state."

24 **SECTION 6.** G.S. 135-18.7 reads as rewritten:

25 **"§ 135-18.7. Internal Revenue Code compliance.**

26 (a) Notwithstanding any other provisions of law to the contrary, compensation
27 for any calendar year after 1988 in which employee or employer contributions are made
28 and for which annual compensation is used for computing any benefit under this Article
29 shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount
30 determined by the Commissioner of Internal Revenue as the limitation for calendar
31 years after 1989; provided the imposition of the limitation shall not reduce a member's
32 benefit below the amount determined as of December 31, 1988.

33 Effective January 1, 1996, the annual compensation of a member taken into account
34 for determining all benefits provided under this Article shall not exceed one hundred
35 fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the
36 Internal Revenue Code and any regulations issued under the Code. However, with
37 respect to a person who became a member of the Retirement System prior to January 1,
38 1996, the imposition of this limitation on compensation shall not reduce the amount of
39 compensation which may be taken into account for determining the benefits of that
40 member under this Article below the amount of compensation which would have been
41 recognized under the provisions of this Article in effect on July 1, 1993.

42 Effective January 1, 2002, the annual compensation of a person, who became a
43 member of the Retirement System on or after January 1, 1996, taken into account for
44 determining all benefits accruing under this Article for any plan year after December 31,

1 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount
2 otherwise set by the Internal Revenue Code or determined by the Commissioner of
3 Internal Revenue as the limitation for calendar years after 2002.

4 (b) Notwithstanding any other provisions of law to the contrary, the annual
5 benefit payable on behalf of a member shall, if necessary, be reduced to the extent
6 required by Section 415(b) ~~and (e)~~ and with respect to calendar years commencing prior
7 to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the
8 Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a
9 member is a participant under any qualified defined contributions plan that is required
10 to be taken into account for the purposes of the limitation contained in Section 415 of
11 the Internal Revenue Code, the annual benefit payable under this Article shall be
12 reduced to the extent required by Section 415(e) prior to making any reduction under
13 the defined contribution plan provided by the employer. However, with respect to a
14 member who has benefits accrued under this Article but whose benefit had not
15 commenced as of December 31, 1999, the combined plan limitation contained in
16 Section 415(e) of the Internal Revenue Code shall not be applied to such member for
17 calendar years commencing on or after January 1, 2000.

18 (c) On and after January 1, 1989, the retirement allowance of a member who has
19 terminated employment shall begin no later than the later of April 1 of the calendar year
20 following the calendar year that the member attains 70 1/2 years of age or April 1 of the
21 calendar year following the calendar year in which the member terminates employment.

22 (d) This subsection applies to distributions made on or after January 1, 1993.
23 Notwithstanding any other provision of the Plan to the contrary that would otherwise
24 limit a distributee's election under this Article, a distributee may elect, at the time and in
25 the manner prescribed by the Plan administrator, to have any portion of an eligible
26 rollover distribution paid directly to an eligible retirement plan specified by the
27 distributee in a direct rollover. Provided, an eligible rollover distribution is any
28 distribution of all or any portion of the balance to the credit of the distributee, except
29 that an eligible rollover distribution does not include: any distribution that is one of a
30 series of substantially equal periodic payments (not less frequently than annually) made
31 for the life (or life expectancy) of the distributee or the joint lives (or joint life
32 expectancies) of the distributee and the distributee's designated beneficiary, or for a
33 specified period of 10 years or more; any distribution to the extent such distribution is
34 required under section 401(a)(9) of the Code; and the portion of any distribution that is
35 not includible in gross income (determined without regard to the exclusion for net
36 realized appreciation with respect to employer securities). Effective as of January 1,
37 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not
38 fail to be an eligible rollover distribution merely because the portion consists of after-
39 tax employee contributions which are not includible in gross income. However, such
40 portion may be transferred only to an individual retirement account or annuity described
41 in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan
42 described in Section 401(a) or 403(a) of the Code that agrees to separately account for
43 amounts so transferred, including separately accounting for the portion of such
44 distribution which is includible in gross income and the portion of such distribution

1 which is not so includible. Provided, an eligible retirement plan is an individual
2 retirement account described in section 408(a) of the Code, an individual retirement
3 annuity described in section 408(b) of the Code, an annuity plan described in section
4 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
5 accepts the distributee's eligible rollover distribution. However, in case of an eligible
6 rollover distribution to the surviving spouse, an eligible retirement plan is an individual
7 retirement account or an individual retirement annuity. Effective on and after January 1,
8 2002, an eligible retirement plan shall also mean an annuity contract described in
9 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
10 is maintained by a state, political subdivision of a state, or any agency or instrumentality
11 of a state or political subdivision of a state and which agrees to separately account for
12 amounts transferred into such plan from this Plan. The definition of eligible retirement
13 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
14 former spouse who is the alternate payee under a qualified domestic relations order, as
15 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
16 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
17 includes an employee or former employee. In addition, the employee's or former
18 employee's surviving spouse and the employee's or former employee's spouse or former
19 spouse who is the alternate payee under a qualified domestic relations order, as defined
20 in section 414(p) of the Code, or a court ordered equitable distribution of marital
21 property, as provided under G.S. 50-20, whichever may be applicable, are distributees
22 with regard to the interest of the spouse or former spouse. Provided further, a direct
23 rollover is a payment by the Plan to the eligible retirement plan specified by the
24 distributee."

25 **SECTION 7.** Article 4 of Chapter 135 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 135-56.3. Repayments and Purchases.**

28 (a) Purchase of Service Credits Through Rollover Contributions From Certain
29 Other Plans. – Notwithstanding any other provision of this Article, and without regard
30 to any limitations on contributions otherwise set forth in this Article, a member, who is
31 eligible to restore or purchase membership or creditable service pursuant to the
32 provisions of this Article, may, subject to such rules and regulations established by the
33 Board of Trustees, purchase such service credits through rollover contributions to the
34 Annuity Savings Fund from (i) an annuity contract described in Section 403(b) of the
35 Internal Revenue Code, (ii) an eligible plan under Section 457(b) of the Internal
36 Revenue Code which is maintained by a state, political subdivision of a state, or any
37 agency or instrumentality of a state or political subdivision of a state, (iii) an individual
38 retirement account or annuity described in Section 408(a) or 408(b) of the Internal
39 Revenue Code that is eligible to be rolled over and would otherwise be includible in
40 gross income, or (iv) a qualified plan described in Section 401(a) or 403(a) of the
41 Internal Revenue Code. Notwithstanding the foregoing, the Retirement System shall not
42 accept any amount as a rollover contribution unless such amount is eligible to be rolled
43 over to a qualified trust in accordance with applicable law and the member provides
44 evidence satisfactory to the Retirement System that such amount qualifies for rollover

1 treatment. Unless received by the Retirement System in the form of a direct rollover, the
2 rollover contribution must be paid to the Retirement System on or before the 60th day
3 after the date it was received by the member.

4 Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any
5 other provision of this Article, and without regard to any limitations on contributions
6 otherwise set forth in this Article, a member, who is eligible to restore or purchase
7 membership or creditable service pursuant to the provisions of this Article, may, subject
8 to such rules and regulations established by the Board of Trustees, purchase such
9 service credits through a direct transfer to the Annuity Savings Fund of funds from (i)
10 an annuity contract described in Section 403(b) of the Internal Revenue Code or (ii) an
11 eligible plan under Section 457(b) of the Code which is maintained by a state, political
12 subdivision of a state, or any agency or instrumentality of a state or political subdivision
13 of a state.

14 (b) Purchase of Service Credits Through Plan-to-Plan Transfers. –
15 Notwithstanding any other provision of this Article, and without regard to any
16 limitations on contributions otherwise set forth in this Article, a member, who is eligible
17 to restore or purchase membership or creditable service pursuant to the provisions of
18 this Article, may, subject to such rules and regulations established by the Board of
19 Trustees, purchase such service credits through a direct transfer to the Annuity Savings
20 Fund of funds from (i) the Supplemental Retirement Income Plans A, B, or C of North
21 Carolina or (ii) any other defined contribution plan qualified under Section 401(a) of the
22 Internal Revenue Code which is maintained by the State of North Carolina, a political
23 subdivision of a state, or any agency or instrumentality of a state or political subdivision
24 of a state."

25 **SECTION 8.** G.S. 135-74 reads as rewritten:

26 **"§ 135-74. Internal Revenue Code compliance.**

27 (a) Notwithstanding any other provisions of law to the contrary, compensation
28 for any calendar year after 1988 in which employee or employer contributions are made
29 and for which annual compensation is used for computing any benefit under this Article
30 shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount
31 determined by the Commissioner of Internal Revenue as the limitation for calendar
32 years after 1989; provided the imposition of the limitation shall not reduce a member's
33 benefit below the amount determined as of December 31, 1988.

34 Effective January 1, 1996, the annual compensation of a member taken into account
35 for determining all benefits provided under this Article shall not exceed one hundred
36 fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the
37 Internal Revenue Code and any regulations issued under the Code. However, with
38 respect to a person who became a member of the Retirement System prior to January 1,
39 1996, the imposition of this limitation on compensation shall not reduce the amount of
40 compensation which may be taken into account for determining the benefits of that
41 member under this Article below the amount of compensation which would have been
42 recognized under the provisions of this Article in effect on July 1, 1993.

43 Effective January 1, 2002, the annual compensation of a person, who became a
44 member of the Retirement System on or after January 1, 1996, taken into account for

1 determining all benefits accruing under this Article for any plan year after December 31,
2 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount
3 otherwise set by the Internal Revenue Code or determined by the Commissioner of
4 Internal Revenue as the limitation for calendar years after 2002.

5 (b) Notwithstanding any other provisions of law to the contrary, the annual
6 benefit payable on behalf of a member shall, if necessary, be reduced to the extent
7 required by Section 415(b) ~~and (e)~~ and with respect to calendar years commencing prior
8 to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the
9 Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a
10 member is a participant under any qualified defined contributions plan that is required
11 to be taken into account for the purposes of the limitation contained in Section 415 of
12 the Internal Revenue Code, the annual benefit payable under this Article shall be
13 reduced to the extent required by Section 415(e) prior to making any reduction under
14 the defined contribution plan provided by the employer. However, with respect to a
15 member who has benefits accrued under this Article but whose benefit had not
16 commenced as of December 31, 1999, the combined plan limitation contained in
17 Section 415(e) of the Internal Revenue Code shall not be applied to such member for
18 calendar years commencing on or after January 1, 2000.

19 (c) On and after January 1, 1989, the retirement allowance of a member who has
20 terminated employment shall begin no later than the later of April 1 of the calendar year
21 following the calendar year that the member attains 70 1/2 years of age or April 1 of the
22 calendar year following the calendar year in which the member terminates employment.

23 (d) This subsection applies to distributions made on or after January 1, 1993.
24 Notwithstanding any other provision of the Plan to the contrary that would otherwise
25 limit a distributee's election under this Article, a distributee may elect, at the time and in
26 the manner prescribed by the Plan administrator, to have any portion of an eligible
27 rollover distribution paid directly to an eligible retirement plan specified by the
28 distributee in a direct rollover. Provided, an eligible rollover distribution is any
29 distribution of all or any portion of the balance to the credit of the distributee, except
30 that an eligible rollover distribution does not include: any distribution that is one of a
31 series of substantially equal periodic payments (not less frequently than annually) made
32 for the life (or life expectancy) of the distributee or the joint lives (or joint life
33 expectancies) of the distributee and the distributee's designated beneficiary, or for a
34 specified period of 10 years or more; any distribution to the extent such distribution is
35 required under section 401(a)(9) of the Code; and the portion of any distribution that is
36 not includible in gross income (determined without regard to the exclusion for net
37 realized appreciation with respect to employer securities). Effective as of January 1,
38 2002, and notwithstanding the preceding sentence, a portion of a distribution shall not
39 fail to be an eligible rollover distribution merely because the portion consists of after-
40 tax employee contributions which are not includible in gross income. However, such
41 portion may be transferred only to an individual retirement account or annuity described
42 in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan
43 described in Section 401(a) or 403(a) of the Code that agrees to separately account for
44 amounts so transferred, including separately accounting for the portion of such

1 distribution which is includible in gross income and the portion of such distribution
2 which is not so includible. Provided, an eligible retirement plan is an individual
3 retirement account described in section 408(a) of the Code, an individual retirement
4 annuity described in section 408(b) of the Code, an annuity plan described in section
5 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that
6 accepts the distributee's eligible rollover distribution. ~~However, in case of an eligible~~
7 ~~rollover distribution to the surviving spouse, an eligible retirement plan is an individual~~
8 ~~retirement account or an individual retirement annuity.~~ Effective on and after January 1,
9 2002, an eligible retirement plan shall also mean an annuity contract described in
10 Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which
11 is maintained by a state, political subdivision of a state, or any agency or instrumentality
12 of a state or political subdivision of a state and which agrees to separately account for
13 amounts transferred into such plan from this Plan. The definition of eligible retirement
14 plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or
15 former spouse who is the alternate payee under a qualified domestic relations order, as
16 defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable
17 distribution of marital property, as provided under G.S. 50-30. Provided, a distributee
18 includes an employee or former employee. ~~In addition, the employee's or former~~
19 ~~employee's surviving spouse and the employee's or former employee's spouse or former~~
20 ~~spouse who is the alternate payee under a qualified domestic relations order, as defined~~
21 ~~in section 414(p) of the Code, or a court ordered equitable distribution of marital~~
22 ~~property, as provided under G.S. 50-20, whichever may be applicable, are distributees~~
23 ~~with regard to the interest of the spouse or former spouse.~~ Provided further, a direct
24 rollover is a payment by the Plan to the eligible retirement plan specified by the
25 distributee."

26 **SECTION 9.** Sections 1, 3, 5, and 7 of this act become effective January 1,
27 2003, or the date otherwise specified in the act, except that (i) the changes in G.S.
28 120-4.31(b), 128-38.2(b), 135-18.7(b) and 135-74(b) become effective January 1, 2000,
29 and (ii) G.S. 120-4.16(c), 128-26(u), 135-4(ee), and 135-56.3(b), as enacted in those
30 sections, become effective the later of January 1, 2003, or the date upon which the
31 Department of State Treasurer receives a ruling from the Internal Revenue Service
32 approving the direct transfers provided for in those subsections. The remainder of this
33 act is effective when it becomes law.