Article 4.

Consolidated Judicial Retirement Act.

§ 135-50. Short title and purpose.

(a) This Article shall be known and may be cited as the "Consolidated Judicial Retirement Act."

(b) The purpose of this Article is to improve the administration of justice by attracting and retaining the most highly qualified talent available within the State to the positions of justice and judge, district attorney and solicitor, public defender, the Director of Indigent Defense Services, and clerk of superior court, within the General Court of Justice. (1973, c. 640, s. 1; 1983 (Reg. Sess., 1984), c. 1031, ss. 2, 3; 2005-276, s. 29.30A(a); 2005-345, s. 42; 2007-323, s. 28.21B(a); 2008-107, s. 26.24(a).)

§ 135-51. Scope.

(a) This Article provides consolidated retirement benefits for all justices and judges, district attorneys, and solicitors who are serving on January 1, 1974, and who become such thereafter; and for all clerks of superior court who are so serving on January 1, 1975, and who become such after that date; and for all public defenders who are serving on July 1, 2007, and who become public defenders after that date; and for the Director of Indigent Defense Services who is serving on July 1, 2008, and those who become Director of Indigent Defense Services after that date.

(b) For justices and judges of the appellate and superior court divisions of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

For district attorneys and judges of the district court of the General Court of Justice who so served prior to January 1, 1974, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

For clerks of superior court of the General Court of Justice who so served prior to January 1, 1975, the provisions of this Article supplement and, under certain circumstances, replace the provisions of Article 1 of this Chapter.

(c) The retirement benefits of any person who becomes a justice or judge, district attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and after January 1, 1975, or public defender on or after July 1, 2007, or the Director of Indigent Defense Services on or after July 1, 2008, shall be determined solely in accordance with the provisions of this Article. (1973, c. 640, s. 1; 1983 (Reg. Sess., 1984), c. 1031, s. 4; 2005-276, s. 29.30A(b); 2005-345, s. 42; 2007-323, s. 28.21B(b); 2008-107, s. 26.24(b).)

§ 135-52. Application of Article 1; administration.

(a) References in Article 1 of this Chapter to the provisions of "this Chapter" shall not necessarily apply to this Article. However, except as otherwise provided in this Article, the provisions of Article 1 are applicable and shall apply to and govern the administration of the Retirement System established hereby. Not in limitation of the foregoing, the provisions of G.S. 135-5(h), 135-5(n), 135-9, 135-10, 135-12 and 135-17 are specifically applicable to the Retirement System established hereby.

(b) The provisions of this Article shall be administered by the Board of Trustees of the Teachers' and State Employees' Retirement System.

(c) Fully contributory death benefits under this Article are established as a group life insurance plan that is an employee welfare benefit plan that is separate and apart from the Retirement System and administered by the Board of Trustees. Fully contributory death benefits for retirees under this Article are part of the Benefit Trust. All receipts, transfers, appropriations, contributions, investment earnings, and other income associated with the fully contributory death benefits for retirees under this Article shall be deposited in the Benefit Trust. All benefits and expenses against the fully contributory death benefits for retirees under this Article shall be disbursed from the Benefit Trust. (1973, c. 640, s. 1; 2025-11, s. 7(b).)

§ 135-53. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions" with respect to any member shall mean the sum of all the amounts deducted from the compensation of the member pursuant to G.S. 135-68 since the member last became a member and credited to the member's account in the annuity savings fund, plus any amount standing to the member's credit pursuant to G.S. 135-67(c) as a result of a prior period of membership, plus any amounts credited to his account pursuant to G.S. 135-28.1(b) or purchased in accordance with this Article, together with regular interest on all such amounts computed as provided in G.S. 135-7(b).

(2) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the bases of such mortality tables as shall be adopted by the Board of Trustees, and regular interest.

(2a) "Average final compensation" shall mean the average annual compensation of a member during the 48 consecutive calendar months of membership service producing the highest such average.

(3) "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided in this Article.

(3a) "Benefit Trust" means the North Carolina Teachers' and State Employees' Benefit Trust under G.S. 135-154.

(4) "Board of Trustees" shall mean the Board of Trustees established by G.S. 135-6.

(4a) "Clerk of superior court" shall mean the clerk of superior court provided for in G.S. 7A-100(a).

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

(5a) "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, all items, not seasonally adjusted, standard reference base, as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

(6) "Creditable service" shall mean for any member the total of prior service plus membership service for which credit is allowable under this Article. In no event shall creditable service be deemed membership service for the purpose of determining eligibility for benefits accruing under this Article.

(6a) "Director of Indigent Defense Services" shall mean the Director of Indigent Defense Services as provided for in G.S. 7A-498.6.

(6b) "District attorney" shall mean the district attorney or solicitor provided for in G.S. 7A-60.

(7) "Filing" when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.

(8) "Final compensation" shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.

(9) "Judge" shall mean any justice or judge of the General Court of Justice and the administrative officer of the courts.

(10) "Medical board" shall mean the board of physicians provided for in G.S. 135-6.

(11) "Member" shall mean any person included in the membership of the Retirement System as provided in this Article.

(12) "Membership service" shall mean service as a judge, district attorney, clerk of superior court, public defender, or the Director of Indigent Defense Services rendered while a member of the Retirement System.

(13) "Previous system" shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such Article or Articles were formerly applicable to the member, and in the case of judges of the district court division, district attorney, public defender, the Director of Indigent Defense Services, and clerk of superior court of the General Court of Justice, the Teachers' and State Employees' Retirement System.

(14) "Prior service" shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-56.

(14a) "Public defender" means a public defender provided for in G.S. 7A-498.7, the appellate defender provided for in G.S. 7A-498.8, the capital defender, and the juvenile defender.

(15) "Regular interest" shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).

(16) "Retirement" under this Chapter shall mean the commencement of monthly retirement benefits, along with the termination of employment and the complete separation from active service with no intent or agreement, expressed or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must perform no work in a position covered by this Article or by an Optional Retirement Program established under G.S. 135-5.1 or G.S. 135-5.4 at any time during the same month immediately following the effective first day of retirement.

(17) "Retirement allowance" shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.
(18) "Retirement System" shall mean the "Consolidated Judicial Retirement System" of North Carolina, as established in this Article.
(19) "Year" as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees. (1973, c. 640, s. 1; 1983 (Reg. Sess., 1984), c. 1031, ss. 5-10; 1999-237, s. 28.24(f); 2005-276, s. 29.30A(c); 2005-345, s. 42; 2007-323, s. 28.21B(c); 2008-107, s. 26.24(c); 2009-66, s. 6(g); 2010-31, s. 29.7(e); 2013-288, s. 4(c); 2014-97, ss. 4(c), 6; 2018-85, s. 4; 2024-10, ss. 14(a), 18(c); 2025-11, s. 7(a).)

§ 135-54. Name and date of establishment.

A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for justices and judges, district attorneys, public defenders, the Director of Indigent Defense Services, and clerks of superior court of the General Court of Justice of North Carolina, and their survivors. This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the "Consolidated Judicial Retirement System of North Carolina," and by such name all of its business shall be transacted.

Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from participating employers and participating employees to this Retirement System shall be made to funds held in trust through trust instruments that have the purposes of distributing trust principal and income to retired members and their beneficiaries and of paying other definitely determinable benefits under this Chapter, after meeting the necessary expenses of administering this Retirement System. Neither the trust corpus nor income from this trust can be used for purposes other than the exclusive benefit of members or their beneficiaries, except that employer contributions made to the trust under a good faith mistake of fact may be returned to an employer, where the refund can occur within less than one year after the mistaken contribution was made, consistent with the rule adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan document, consisting of relevant statutory provisions in this Chapter, associated regulations in the North Carolina Administrative Code, substantive and procedural information on the official forms used by the Retirement System, and policies and minutes of the Board of Trustees. (1973, c. 640, s. 1; 1983 (Reg. Sess., 1984), c. 1031, s. 11; 2005-276, s. 29.30A(d); 2005-345, s. 42; 2007-323, s. 28.21B(d); 2008-107, s. 26.24(d); 2012-130, s. 7(d).)

§ 135-55. Membership.

(a) The membership of the Retirement System shall consist of:
(1) All judges and district attorneys in office on January 1, 1974;
(2) All persons who become judges and district attorneys or reenter service as judges and district attorneys after January 1, 1974;
(3) All clerks of superior court in office on January 1, 1975;

(4) All persons who become clerks of superior court or reenter service as clerks of superior court after January 1, 1975;
(5) All public defenders in office on July 1, 2007;
(6) All persons who become public defenders or reenter service as public defenders after July 1, 2007;
(7) The Director of Indigent Defense Services on July 1, 2008; and
(8) All persons who become the Director of Indigent Defense Services or reenter service as the Director of Indigent Defense Services after July 1, 2008.

(b) The membership of any person in the Retirement System shall cease upon:
(1) The withdrawal of his accumulated contributions after he is no longer a judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of superior court, or
(2) His retirement under the provisions of the Retirement System, or
(3) His death. (1973, c. 640, s. 1; 1983 (Reg. Sess., 1984), c. 1031, ss. 12, 13; 2005-276, s. 29.30A(e); 2005-345, s. 42; 2007-323, s. 28.21B(e); 2008-107, s. 26.24(e).)

§ 135-56. Creditable service.

(a) Subject to such rules and regulations as the Board of Trustees shall adopt with regard to the verification of a judge's prior service, the prior service of a judge shall consist of his service rendered prior to January 1, 1974, as a justice of the Supreme Court, judge of the Court of Appeals, judge of the superior court, judge of the district court division of the General Court of Justice, as administrative officer of the courts, or as a solicitor or district attorney.

(b) Repealed by Session Laws 2024-10, s. 12(g).

(b1) Second through seventh sentences recodified as part of G.S. 135-56.5(a) by Session Laws 2024-10, s. 12(a), (b); remaining provisions repealed by Session Laws 2024-10, s. 12(g).

(c) On and after January 1, 1984, the creditable service of a member who was a member of the former Uniform Solicitorial or Uniform Clerks of Superior Court Retirement Systems at the time of merger of those Systems into this Consolidated Judicial Retirement System and whose accumulated contributions are transferred from those Systems to this System, includes service that was creditable in the Uniform Solicitorial and Uniform Clerks of Superior Court Retirement Systems; and membership service with those Retirement Systems is membership service with this Retirement System.

(d) Repealed by Session Laws 2024-10, s. 12(g).

(d1) Recodified as G.S. 135-56.5(a)(11) by Session Laws 2024-10, s. 12(d).

(e) Repealed by Session Laws 2024-10, s. 12(g).

(e1) Recodified as part of G.S. 135-56.5(a)(1) by Session Laws 2024-10, s. 12(b).

(f) The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System.

(g) If a member who has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that member shall forfeit

all benefits under this System. If a member who has vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that member is not entitled to any creditable service that accrued after July 1, 2007, regardless of whether that creditable service was earned by virtue of membership in the System, accrued by conversion of sick leave at the point of the member's retirement, accrued by transfer of service from another retirement system, purchased by the member in accordance with this Chapter, or accrued by any other means. No member shall forfeit any benefit or creditable service earned from a position not as a justice, judge, district attorney, or clerk of superior court. For purposes of this subsection, creditable service attributable to the conversion of sick leave accrues in this System on the date of retirement, service transferred to this System from another system accrues in this System on the effective date of the transfer, and purchased service accrues in this System on the date of the purchase.

(h) On and after July 1, 2007, the creditable service of a member who was a public defender and a member of the Teachers' and State Employees' Retirement System at the time of transfer of membership from the previous system to this System shall include service as a public defender that was creditable in the previous system immediately prior to July 1, 2007. The accumulated contributions, creditable service, and reserves, if any, of a member as a public defender shall be transferred from the previous system to this System in the same manner as prescribed under G.S. 135-28.1 as it pertained to judges of the district court division of the General Court of Justice.

(i) On and after July 1, 2008, the creditable service of a member who is the Director of Indigent Defense Services and a member of the Teachers' and State Employees' Retirement System at the time of transfer of membership from the previous system to this System shall include service as the Director of Indigent Defense Services beginning July 1, 2004, that was creditable in the previous system immediately prior to July 1, 2008. The accumulated contributions, creditable service, and reserves, if any, of a member as the Director of Indigent Defense Services beginning July 1, 2004, shall be transferred from the previous system to this System in the same manner as prescribed under G.S. 135-28.1 as it pertained to judges of the district court division of the General Court of Justice.

(j) If a member who is in service and has not vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 135-75.1A for acts committed after December 1, 2012, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is in service and has vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 135-75.1A for acts committed after December 1, 2012, then that member is not entitled to any creditable service that accrued after December 1, 2012, regardless of whether that creditable service was earned by virtue of membership in the System, accrued by conversion of sick leave at the point of the member's retirement, accrued by transfer of service from another retirement system, purchased by the member in accordance with this Chapter, or accrued by any other means. For purposes of this subsection, creditable service attributable to the conversion of sick leave accrues in this System on the date of retirement, service transferred to this System from another system accrues in this System on the effective date of the transfer, and purchased service accrues in this System on the date of the purchase.

(k) Creditable service may be purchased in accordance with G.S. 135-56.5, or as otherwise provided for in this Article. (1973, c. 640, s. 1; 1977, c. 936; 1983 (Reg. Sess., 1984), c. 1031, ss. 14, 15; 1985, c. 649, s. 1; 1989, c. 255, s. 21(a); 1999-237, s. 28.24(c); 2003-284, s. 30.18(f);

2007-179, s. 4(b); 2007-323, s. 28.21B(h); 2008-107, s. 26.24(h); 2012-193, s. 6; 2020-29, s. 1(d), (e); 2020-48, s. 4.4(e), (f); 2021-57, ss. 3.1, 3.2(a), (b); 2024-10, ss. 12(a), (b), (d), (g), 14(b).)

§ 135-56.01. Reciprocity of creditable service with other State-administered retirement systems.

(a) Only for the purpose of determining eligibility for benefits accruing under this Article, creditable service standing to the credit of a member of the Legislative Retirement System, Teachers' and State Employees' Retirement System, or the Local Governmental Employees' Retirement System shall be added to the creditable service standing to the credit of a member of this System; provided, that in the event a person is a retired member of any of the foregoing retirement systems, such creditable service standing to the credit of the retired member prior to retirement shall be likewise counted. In no instance shall service credits maintained in the aforementioned retirement systems be added to the creditable service in this System for application of this System's benefit accrual rate in computing a service retirement benefit unless specifically authorized by this Article.

(b) A person who was a former member of this System and who has forfeited his creditable service in this System by receiving a return of contributions and who has creditable service in the Legislative Retirement System, Teachers' and State Employees' Retirement System, or the Local Government Employees' Retirement System may count such creditable service for the purpose of restoring the creditable service forfeited in this System under the terms and conditions as set forth in this Article and reestablish membership in this System.

(c) Creditable service under this section shall not be counted twice for the same period of time whether earned as a member, purchased, or granted as prior service credits. (1989 (Reg. Sess., 1990), c. 1066, s. 35(d); 1997-456, s. 27.)

§ 135-56.1: Repealed by Session Laws 1983 (Regular Session, 1984), c. 1031, s. 16.

§ 135-56.2. (Recodified.)

Recodified as G.S. 135-56.5(a)(2) and G.S. 135-70.1(c) by Session Laws 2024-10, s. 12(c) and (h), effective June 20, 2024.

§ 135-56.3. (Recodified.)

Recodified as G.S. 135-56.5(c) and (d) by Session Laws 2024-10, s. 12(e) and (f), effective June 20, 2024.

§ 135-56.5. Creditable service purchases.

(a) General Purchases of Service Credit. – Any member in service with five or more years of membership service may purchase creditable service authorized under this subsection by paying a lump sum amount to the Annuity Savings Fund. The amount payable shall be equal to the full liability increase of the Retirement System due to the additional service credits purchased plus an administrative fee that is set by the Board of Trustees. The full liability increase shall be calculated on the basis of the same assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement System, except for the following assumptions specific to this calculation: (i) the allowance shall be assumed to commence at the earliest age at which the member could retire on an unreduced retirement allowance and (ii) there shall be assumed annual

postretirement allowance increases set by the Board of Trustees upon the advice of the consulting actuary.

Subject to the requirements of this subsection, an employer may pay all or part of the cost of a service purchase of a member in service. To the extent that the purchase is paid by the employer, the amount paid by the employer shall be credited to the Pension Accumulation Fund. To the extent that the purchase is paid by the member, the amount paid by the member shall be credited to the member's accumulated contributions and interest in the Annuity Savings Fund.

The total amount of creditable service purchased under each subdivision of this section shall not exceed five years. No purchase of service credit under any subdivision of this section shall be made if a benefit is allowable under another public retirement system as a result of the service. If there is a conflict between a provision of G.S. 135-56 and a provision of this subsection, then this subsection shall control.

The following purchases of creditable service are authorized under this subsection:

(1) Withdrawn service. – Service withdrawn in accordance with the provisions of any of the following, limited to a total maximum purchase of five years:
   a. G.S. 120-4.25.
   b. G.S. 128-27(f).
   c. G.S. 135-5(f).
   d. G.S. 135-62.
   e. Any rules adopted under Article 12 of Chapter 143 of the General Statutes, as it existed prior to 1986.

(2) Federal, state, or local government service. – Service previously rendered to the federal government or to any state, territory, or other governmental subdivision of the United States other than this State. Service under this subdivision is limited to full-time service that would be allowable under the laws governing this Retirement System.

(3) Part-time service. – Service previously rendered on a part-time basis to an employer, as defined under either G.S. 135-1 or G.S. 128-21, for which the member would have met the definition of employee or teacher under either G.S. 135-1 or G.S. 128-21 except for the part-time nature of the service. For the purposes of this subdivision, the following service is not eligible to be purchased:
   a. Part-time service rendered as a bus driver to a public school while a full-time high school student.
   b. Temporary or part-time service rendered while a full-time student in pursuit of a degree or diploma in a degree-granting program, unless that service was rendered on a permanent part-time basis and required at least 20 hours of service per week.

   The amount of the single lump sum to be paid for the purchase of service credit under this subdivision shall be calculated by applying the ratio of actual gross compensation earned as a part-time employee to the gross compensation that would have been earned as a full-time employee to the period of service rendered in months.

   In no case shall more than one year of service be creditable for all service in one year. Service rendered for the regular school year in any district shall be equivalent to one year of service.

(4) Temporary service. – Service previously rendered on a temporary basis to an employer, as defined under either G.S. 135-1 or G.S. 128-21, and that meets both of the following conditions:
   a. The member would have met the definition of employee or teacher under either G.S. 135-1 or G.S. 128-21 except for the temporary nature of the service.
   b. The member has acquired from the employer all certifications of temporary employment that are required by the Board of Trustees.

(5) Probationary local government service. – Service previously rendered to any local employer, as defined under G.S. 128-21, when performed in a probationary or employer-imposed waiting period status that occurred between the date of employment and the date of membership service with the Local Governmental Employees' Retirement System.

(6) Involuntary furlough. – Periods of interrupted service due to involuntary administrative furlough caused by the lack of funds to support the position.

(7) Leave due to extended illness. – Periods of interrupted service while on leave without pay status due to the member's illness or injury, excluding leave due to parental leave or pregnancy or childbirth-related leave, provided that any single period of interrupted service included a period of time during which the member failed to earn at least two months membership service.

(8) Parental leave and pregnancy or childbirth-related leave. – Periods of interrupted service due to parental leave, pregnancy, or childbirth.

(9) Charter school service. – Periods of service previously rendered as an employee of a charter school operated by a private nonprofit corporation or a charter school operated by a municipality whose board of directors did not elect to participate in the Teachers' and State Employees' Retirement System under G.S. 135-5.3.

(10) The University of North Carolina Optional Retirement Program service. – Periods of employment with The University of North Carolina during which the member participated in the Optional Retirement Program, as provided for under G.S. 135-5.1, provided that the member is not receiving, and is not entitled to receive, any retirement benefits resulting from this employment.

(11) Employment not otherwise creditable. – Service not creditable in any other retirement system or plan that was previously rendered as a judge, district attorney, or clerk of superior court, when not otherwise provided for in this section, or as a judge of any lawfully constituted court of this State inferior to the superior court, not to include service as a magistrate, justice of the peace, or mayor's court judge.

(b) Omitted Membership Service. – A member who (i) had service qualifying for membership under G.S. 135-55 as a judge, a clerk of superior court, a Director of Indigent Defense Services, a district attorney, or a public defender and (ii) was omitted from contributing membership through error shall be allowed the omitted membership service if the requirements of this subsection are met and the total payment required for that service under this subsection is made. Submission of clear and convincing evidence of the error is required prior to approval of, and payment for, the omitted membership service. Payment for service under this subsection shall be made in the following manner:

(1) Within 90 days of the omission, by the payment of employee and employer contributions that would have been paid.

(2) After 90 days and prior to three years of the omission, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the Pension Accumulation Fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

(3) After three years of the omission, by paying a lump sum amount to the Annuity Savings Fund. The amount payable shall be equal to the full liability increase of the Retirement System due to the service credits purchased plus an administrative fee that is set by the Board of Trustees. The full liability increase shall be calculated on the basis of the same assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement System, except for the following assumptions specific to this calculation: (i) the allowance shall be assumed to commence at the earliest age at which the member could retire on an unreduced retirement allowance and (ii) there shall be assumed annual postretirement allowance increases set by the Board of Trustees upon the advice of the consulting actuary.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the required payment for the omitted membership service. To the extent the amount is paid by the employer, the amount paid by the employer shall be credited to the Pension Accumulation Fund. To the extent the amount is paid by the member, the amount paid by the member shall be credited to the member's accumulated contributions and interest in the Annuity Savings Fund. An employer shall not discriminate against any employed member or group of employed members in paying all or any part of the payment required under this subsection for the omitted membership service.

(c) Purchase of Service Credits Through Rollover Contributions From Certain Other Plans. – Notwithstanding any other provision of this Article to the contrary, subject to the requirements of this subsection and any rules adopted, or policies established, by the Board of Trustees and without regard to any limitations on contributions otherwise set forth in this Article, payments or repayments made for membership or creditable service allowed under this section or any other provision of this Article may be made by a member through rollover contributions to the Annuity Savings Fund from any of the following sources:

(1) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(2) An eligible plan under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(3) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

(4) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

No rollover contribution shall be made under this subsection, and the Retirement System shall not accept any amount as a rollover contribution, unless the amount required for the payment or repayment is eligible to be rolled over to a qualified trust in accordance with applicable law and the member provides evidence satisfactory to the Retirement System that the amount qualifies for

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

(d) Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any other provision of this Article to the contrary, subject to the requirements of this subsection and any rules adopted, or policies established, by the Board of Trustees and without regard to any limitations on contributions otherwise set forth in this Article, payments or repayments made for membership or creditable service allowed under this section or any other provision of this Article may be made by a member through a direct transfer to the Annuity Savings Fund of funds from any of the following sources:

(1) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(2) An eligible plan under Section 457(b) of the Internal Revenue Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state.

(3) Supplemental Retirement Income Plans A, B, or C of North Carolina.

(4) Any other defined contribution plan qualified under Section 401(a) of the Internal Revenue Code that is maintained by the State of North Carolina, a political subdivision of the State or any other state, or any agency or instrumentality of the State or any other state or political subdivision of the State or any other state. (2024-10, ss. 11, 12(a)-(f), 13.)

§ 135-57. Service retirement.

(a) Any member on or after January 1, 1974, who has attained his fiftieth birthday and five years of membership service may retire 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 120 days subsequent to the execution and filing thereof, he desires to be retired.

(a1) Repealed by Session Laws 2014-88, s. 3(h), effective July 30, 2014.

(b) Any member who is a justice or judge of the General Court of Justice shall be automatically retired as of the last day of the calendar month in which the justice or judge reaches the maximum age for judicial service under G.S. 7A-5(b), 7A-40.1, or 7A-140.1, whichever is applicable.

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

(c1) Repealed by Session Laws 2014-88, s. 3(h), effective July 30, 2014.

(d) Any member who was in service October 8, 1981, who had attained 50 years of age, may retire 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 120 days subsequent to the execution and filing thereof, he desires to be retired. (1973, c. 640, s. 1; 1981, c. 378, s. 6; 1983, c. 761, s. 230; 1987, c. 513, s. 1; 1991 (Reg. Sess., 1992), c. 873, s. 2; 2007-431, s. 4; 2009-66, ss. 3(e), 12(i), (j); 2011-232, s. 8; 2014-88, s. 3(h); 2023-134, s. 16.14(*l*).)

§ 135-58. Service retirement benefits.

(a) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 before July 1, 1990, after he either has attained his sixty-fifth birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (1), (2) and (3) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three fourths of his final compensation:

(1) Four percent (4%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and one-half percent (3 1/2%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the superior court or as administrative officer of the courts;

(3) Three percent (3%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the district court, district attorney, or clerk of superior court.

(a1) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 on or after July 1, 1990, but before July 1, 1999, after he either has attained his 65th birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (1), (2), and (3) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of his final compensation:

(1) Four and two-hundredths percent (4.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the superior court or as administrative officer of the courts;

(3) Three and two-hundredths percent (3.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the district court, district attorney, or clerk of superior court.

(a2) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 1999, but before July 1, 2001, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in

subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

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

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56.

(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2001, but before January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

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

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

(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, but before July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, or clerk of superior court;

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

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to

the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56.

(a5) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2007, but before July 1, 2008, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

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

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

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

(a6) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2008, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly. The payments shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime. The amount of the monthly retirement allowance payments shall be computed as the sum of the applicable amounts contained in the subdivisions of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees'

Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System, prior in any case to any reduction for early retirement or for an optional mode of payment, would total three-fourths of the member's final compensation. The following amounts shall be used for the purposes of calculations under this subsection:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court, a judge of the Court of Appeals, or the Director of the Administrative Office of the Courts.

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court.

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

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

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

(b) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 before he either has attained his sixty-fifth birthday or has completed 24 years of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be determined in the same manner and be subject to the same maximum limitation as provided for in subsection (a) above except that the allowance so computed shall be reduced by one quarter of one percent (1/4 of 1%) thereof for each month by which the member's retirement date precedes the first day of the month coincident with or next following the earlier of

(1) The member's sixty-fifth birthday or

(2) The date the member would have completed 24 years of creditable service if he had been in membership service from his retirement date until such date.

For the sole purpose of determining whether a member has completed the required 24 years of creditable service referred to in this subsection (b) or the date on which he would have completed such period of creditable service if he had remained in membership service, in the case of a member of the Teachers' and State Employees' Retirement System who became a member of this Retirement System under circumstances described in G.S. 135-28.1, and who at the time of his retirement hereunder is in service and has retained his membership in the Teachers' and State

Employees' Retirement System as provided for in G.S. 135-28.1, his creditable service shall be taken as the sum of his creditable service hereunder plus the amount of creditable service remaining to his credit in such other system as provided for in G.S. 135-28.1.

(c) The foregoing subsections of this section to the contrary notwithstanding, in no event will the retirement allowance payable at any time to a retired member who was a member of a previous system immediately prior to January 1, 1974, prior to any reduction of such allowance in accordance with G.S. 135-61, be less than the retirement allowance to which he would have been entitled under the terms of such previous system if this Article had not been enacted.

(d) Commencing with the payment for the month of January 1974, the retirement allowance of each retired member of a previous system who was in receipt of a retirement allowance thereunder as of January 1, 1974, shall be paid from the assets of the Retirement System in the same amount as would have been applicable for January 1974, if this Article had not been enacted.

(e) Notwithstanding any other provision to the contrary, in no event will the retirement allowance payable at any time to a retired member who was a member of a previous system immediately prior to January 1, 1974, prior to any reduction of such allowance in accordance with G.S. 135-61, be greater than the retirement allowance to which he would have been entitled under the terms of such previous system if this Article had not been enacted or than the retirement allowance to which he would have been entitled under this Article if he had not been entitled to benefits under the terms of such previous system, whichever is larger.

(f) Notwithstanding any provision of this section or G.S. 135-57 to the contrary, a member in receipt of severance pay from an employer is not eligible to receive a retirement allowance under this Article while in receipt of that severance pay. If, as severance, the member is entitled to receive a lump sum payment based on a certain period of time, such as a number of weeks or months, then the member is not eligible to receive a retirement allowance under this Article for any month, beginning immediately after the member's separation from service to that employer, that includes the time period used to determine the lump sum payment. (1973, c. 640, s. 1; 1977, c. 1120, s. 2; 1983 (Reg. Sess., 1984), c. 1031, ss. 17, 18; c. 1109, ss. 13.14, 13.15; 1985, c. 649, s. 7; 1989 (Reg. Sess., 1990), c. 1077, ss. 6, 7; 1999-237, s. 28.24(d), (e); 2001-424, s. 32.29(a), (b); 2003-284, s. 30.18(g), (h); 2005-276, s. 29.30A(f), (g); 2005-345, s. 42; 2007-323, s. 28.21B(f), (g); 2008-107, s. 26.24(f), (g); 2015-241, s. 30.3(g); 2024-10, s. 14(c); 2024-8, s. 2(c).)

§ 135-59. Disability retirement.

(a) Upon application by or on behalf of the member, any member in service who has completed five or more years of creditable service and who has not attained his sixty-fifth birthday may be retired by the Board of Trustees, on the first day of any calendar month, not less than one day nor more than 120 days next following the date of filing such application, on a disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; and, provided further, that if a member is removed by the Supreme Court for mental or physical incapacity under the provisions of G.S. 7A-376, no action is required by the medical board under this section and, provided further, the medical board shall determine if the member is able to engage in gainful employment and, if so, the member shall still be retired and the

disability retirement allowance as a result thereof shall be reduced as in G.S. 135-60(d). Provided further, that the medical board shall not certify any member as disabled who:

(1) Applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or

(2) Is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the Retirement System to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls.

Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement with an early or service retirement benefit has the right, within three years of this retirement, to convert to an allowance with disability retirement benefits without modification of any election of optional allowance previously made; provided, the beneficiary presents clear and convincing evidence that the beneficiary would have met all applicable requirements for disability retirement benefits while still in service as a member. The allowance on account of disability retirement benefits to the beneficiary shall be retroactive to the effective date of early or service retirement.

(b) Notwithstanding the foregoing, the surviving spouse of a deceased member who has met all other requirements for disability retirement benefits, except whose death occurred before the first day of the calendar month in which the member's disability retirement allowance was due and payable, and who was the designated beneficiary for a return of accumulated contributions and the final compensation death benefit as provided in G.S. 135-63, shall be paid in lieu of the return of accumulated contributions and the final compensation death benefit a monthly allowance equal to a reduced retirement allowance provided by a fifty percent (50%) joint and survivorship option, plus the allowance payable to a former member's surviving spouse, in the manner prescribed under G.S. 135-64 as though the former member had commenced retirement the first day of the month following his death. (1973, c. 640, s. 1; 1981, c. 689, s. 3; c. 940, s. 2; 1985, c. 479, ss. 192(b), 194; 1987, c. 513, s. 1; 2009-66, s. 3(f).)

§ 135-60. Disability retirement benefits.

(a) Upon retirement for disability in accordance with G.S. 135-59, a member shall receive a disability retirement allowance computed and payable as provided for service retirement in subsection (a6) of G.S. 135-58, except that the member's creditable service shall be taken as the creditable service the member would have had if the member had continued in service to the earliest date the member could have retired on an unreduced service retirement allowance as a member in the same division of the General Court of Justice in which the member was serving on the member's disability retirement date.

(b) Once each year during the first five years following retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained his sixtieth birthday to undergo a medical examination, such examination to be made at the place of residence of the beneficiary or other place mutually agreed upon, by a physician or physicians designated by the Board of Trustees. Should any disability beneficiary who has not yet attained his sixtieth birthday refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, it shall be assumed that he is no longer disabled.

(c) Should the medical board certify to the Board of Trustees that a disability beneficiary prior to his sixty-fifth birthday has recovered to the extent that he would not satisfy the requirements for disability retirement if he were an active member of the Retirement System, or if his disability shall be assumed to have terminated in accordance with subsection (b) above, his disability retirement allowance shall thereupon cease, he shall be restored as a member of the Retirement System, and the period during which he was in receipt of a disability retirement allowance shall not be included in his creditable service.

(d) The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 of each year by the percentage change between the December Consumer Price Index in the year prior to retirement and the December Consumer Price Index in the year most recently ended, calculated to the nearest tenth of one percent (⅒ of 1%), provided that this percentage change is positive. Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable. (1973, c. 640, s. 1; 1981, c. 975, s. 4; c. 980, s. 5; 1983 (Reg. Sess., 1984), c. 1031, s. 19; 1999-237, s. 28.24(g); 2014-97, s. 4(h); 2022-16, s. 3.1.)

§ 135-61. Election of optional allowance.

Any member who retires under the provisions of this Article shall have the right to elect to have his allowance payable under any one of the optional forms provided for in G.S. 135-5(g), subject to the conditions therein contained, in lieu of the allowance that would otherwise be payable. (1973, c. 640, s. 1.)

§ 135-62. Return of accumulated contributions.

(a) Should a member cease membership service otherwise than by death or retirement under the provisions of this Article, he shall, upon submission of an application, be paid, not earlier than 60 days from the date of termination of service, his contributions and the accumulated regular interest thereon, provided that he has not in the meantime returned to service as a judge. Upon payment of such accumulated contributions his membership in the Retirement System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered, except as otherwise provided in G.S. 135-56.5(a). Any such payment of a member's accumulated contributions shall be in full and complete discharge of any rights in or to any benefits otherwise payable under this Article.

(b) Repealed by Session Laws 1993, c. 531, s. 7. (1973, c. 640, s. 1; 1981, c. 672, s. 4; 1983, c. 467; 1983 (Reg. Sess., 1984), c. 1031, s. 20; 1993, c. 531, s. 7; 2014-88, s. 2(d); 2024-10, s. 18(d).)

§ 135-63. Benefits on death before retirement.

(a) In-Service Benefit. – If a member dies while in service, then, upon receipt of proof of the death that is satisfactory to the Board of Trustees, a lump sum death benefit shall be paid to the beneficiary or beneficiaries that the member designated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees. If no beneficiaries are designated or living at the time of the member's death, then the death benefit shall be paid to the member's legal representative. The amount of the death benefit payable under this subsection is equal to the sum of (i) the member's accumulated contributions, plus (ii) the member's final compensation, unless a member's surviving spouse is eligible for and elects to receive a survivor's alternate benefit under subsection (a1) of this section.

(a1) Survivor's Alternate Benefit. – The surviving spouse of a member who was age 50 or older with at least five years of membership service at the time of death may elect a survivor's alternate benefit. If the surviving spouse elects a survivor's alternate benefit, then the lump-sum death benefit provided for under subsection (a) of this section shall consist only of a payment equal to the member's final compensation and there shall be paid to the surviving spouse an annual retirement allowance, payable monthly. The monthly payments shall commence on the first day of the calendar month coinciding with or next following the death of the member. All of the following apply to the survivor's alternate benefit:

(1) The survivor's alternate benefit shall continue on the first day of each month thereafter until the remarriage or death of the spouse.

(2) The amount of the survivor's alternate benefit retirement allowance shall be equal to one half of the amount of the retirement allowance to which the member would have been entitled had the member retired under the provisions of G.S. 135-57(a) on the first day of the calendar month coinciding with or next following the member's date of death, reduced by two percent (2%) thereof for each full year, if any, by which the age of the member at his or her date of death exceeds that of the member's spouse.

(3) If the retirement allowance to the spouse terminates on the remarriage or death of the spouse before the total of the retirement allowance payments made equals the amount of the member's accumulated contributions at date of death, then the excess of those accumulated contributions over the total of the retirement allowances paid to the spouse shall be paid in a lump sum to the beneficiary or beneficiaries the member designated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees. If no beneficiary is designated or living at the time the lump sum payment becomes due under this subdivision, then the lump sum payment shall be made to the former member's legal representatives.

(b) Repealed by Session Laws 2025-11, s. 7(c), effective June 13, 2025.

(c) Not in Service Benefit. – Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a member not in service, there shall be paid in a lump sum to the beneficiary that the member designated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees. If no beneficiary is

designated or living at the time of the member's death, the lump sum death benefit shall be paid to the member's legal representatives. The lump sum death benefit payable under this subsection is equal to the member's accumulated contributions.

(d) Repealed by Session Laws 2025-11, s. 7(c), effective June 13, 2025.

(e) For purposes of this subsection, a participant whose employment is interrupted by reason of service in the Uniformed Services, as that term is defined in section 4303(16) of the Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353, shall be deemed to be "in service" until the last day of such service in the Uniformed Services. If the participant does not return immediately after that service to employment with a covered employer in this System, then the participant shall be deemed "in service" until the date on which the participant was first eligible to be separated or released from his or her involuntary military service. (1973, c. 640, s. 1; c. 1385; 1983, c. 761, ss. 231, 234; 2009-66, ss. 6(c), 11(a), (b); 2017-129, s. 3(c); 2025-11, s. 7(c), (d).)

§ 135-64. Benefits on death after retirement.

(a) If a former member dies after a service retirement under G.S. 135-57 or after the former member's sixty-fifth birthday after a disability retirement under G.S. 135-59, then there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly. The monthly payments shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of the retirement allowance under this subsection shall be equal to one half of the allowance that was payable to the former member for the month immediately prior to the member's month of death, or that would have been payable had an optional mode of payment not been elected under the provisions of G.S. 135-61, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of the spouse.

(b) If a former member dies prior to the former member's sixty-fifth birthday after a disability retirement under G.S. 135-59, then there shall be paid to the former member's surviving spouse, if any, an annual retirement allowance, payable monthly. The monthly payments shall commence on the first day of the calendar month next following the date of death of the former member and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of the retirement allowance under this subsection shall be equal to one half of the allowance to which the former member would have been entitled under the provisions of G.S. 135-58 if the member had remained in service from the disability retirement date to the date of death with no change in the former member's final compensation or status and had then retired, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former member at date of death exceeds that of the spouse.

(c) If a former member dies while in receipt of a retirement allowance under G.S. 135-58, 135-60, or 135-61, and if that former member is not survived by a spouse to whom a retirement allowance is payable under the provisions of subsection (a) or subsection (b) of this section nor survived by a beneficiary to whom a monthly survivorship benefit is payable under one of the optional modes of payment under G.S. 135-61, then there shall be paid a lump sum death benefit to the beneficiary that the member designated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees. If no beneficiary is designated or living at the time of the member's death, then the lump sum death benefit shall be paid to the member's legal representative. The lump sum death benefit

payable under this subsection shall be equal to the excess, if any, of the accumulated contributions of the member at the member's date of retirement over the total of the retirement allowances paid to the member prior to death.

(d) If a retirement allowance becomes payable to the spouse of a former member under the provisions of subsection (a) or subsection (b) of this section or to the designated survivor of a former member under one of the optional modes of payment under G.S. 135-61, and that retirement allowance terminated on the remarriage or death of the spouse or the designated survivor before the total of the retirement allowances paid to the former member and the spouse or the designated survivor combined equals the amount of the member's accumulated contributions at the member's date of retirement, then the excess of those accumulated contributions over the total of the retirement allowances paid to the former member and the spouse or the designated survivor combined shall be paid in a lump sum to the beneficiary that the member designated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees. If no beneficiary is designated or is living at the time payment under this subsection falls due, then the lump sum shall be paid to the former member's legal representatives.

(e) If a retired former judge dies while in receipt of a retirement allowance under G.S. 135-58(d), then there shall be paid to the former judge's surviving spouse, if any, an annual retirement allowance payable monthly. The monthly payments shall commence on the first day of the calendar month next following the date of death of the former judge and shall be continued on the first day of each month thereafter until the remarriage or death of the spouse. The amount of the retirement allowance under this subsection shall be equal to one half of the allowance that was payable to the former judge for the month immediately prior to the month of death, reduced by two percent (2%) thereof for each full year, if any, by which the age of the former judge at date of death exceeds that of the spouse.

(f)-(j) Repealed by Session Laws 2025-11, s. 7(e), effective June 13, 2025.

(k) All retired members may elect to participate in the fully contributory death benefit for retirees. All of the following apply to the fully contributory death benefit for retirees:

(1) Elections to participate in the fully contributory death benefit for retirees shall be made prior to the member's death and no later than 60 calendar days from the effective date of the member's retirement. Elections shall be received by the Board of Trustees prior to the death of the retired member.

(2) Retired members electing to receive a fully contributory death benefit under this subsection shall continuously pay monthly premiums on a fully contributory basis, as determined by the Board of Trustees. Premium payments shall be made through retirement allowance deductions or other methods adopted by the Board of Trustees.

(3) If a retired member who has elected to receive a fully contributory death benefit under this subsection dies, then, upon receipt of proof of death that is satisfactory to the Board of Trustees, a lump sum death benefit amount shall be paid to the beneficiary or beneficiaries designated by the member. If no beneficiary is designated or living, then the death benefit shall be paid to the deceased retired member's legal representative.

(4) The amount of the lump sum fully contributory death benefit payable under this subsection is one of the following:

a. If the death occurred on or after the first day of the twenty-fifth month of coverage under this subsection, then the amount payable is ten thousand dollars ($10,000).

b. If the death occurred before the first day of the twenty-fifth month of coverage under this subsection, then the amount payable is the sum of the retired member's premium payments made in accordance with this subsection plus interest in an amount to be determined by the Board of Trustees. (1973, c. 640, s. 1; 1987, c. 824, s. 4; 1995, c. 509, s. 76; 1998-212, s. 28.27(b), (c); 2004-147, ss. 5, 6; 2005-91, ss. 5, 6; 2007-496, s. 4; 2009-66, ss. 11(c), (d); 2014-112, s. 3(b), (c); 2017-129, s. 2(u); 2023-105, s. 1.4; 2025-11, s. 7(e), (f).)

§ 135-65. Post-retirement increases in allowances.

(a) Commencing with the post-retirement adjustment, effective July 1, 1974, all retirement allowances payable under the provisions of this Article shall be adjusted annually in accordance with the provisions of G.S. 135-5(o).

(b) Increases in Benefits Paid to Members Retired prior to July 1, 1978. – Notwithstanding subsection (a) of this section, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1978, which shall become payable on July 1, 1979, as otherwise provided in subsection (a) of this section, shall be the current maximum four percent (4%) plus an additional one percent (1%) to a total of five percent (5%) for the year 1979 only. The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary.

(c) Increases in Benefits Paid to Members Retired prior to July 1, 1979. – Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1979, which shall become payable on July 1, 1980, shall be the current maximum four percent (4%) plus an additional six percent (6%) to a total of ten percent (10%) for the year 1980-81 only. The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary.

(d) Increases in Benefits Paid to Members Retired Prior to July 1, 1982. – From and after July 1, 1983, the retirement allowance to or on account of beneficiaries on the retirement rolls as of July 1, 1982, shall be increased by four percent (4%) of the allowance payable on July 1, 1982, provided the increase in retirement allowances shall be payable in accordance with all requirements, stipulations and conditions set forth in subsection (a) of this section.

(e) Increase in Benefits Paid to Members Retired on or before July 1, 1983. – From and after July 1, 1984, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1983, shall be increased by eight percent (8%) of the allowance payable on July 1, 1983.

(f) From and after July 1, 1985, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1984, shall be increased by four percent (4%) of the allowance payable on July 1, 1984. Furthermore, from and after July 1, 1985, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1984, but before June 30, 1985, shall be increased by a prorated amount of four percent (4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1984, and June 30, 1985.

(g) From and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1985, shall be increased by three and

eight-tenths percent (3.8%) of the allowance payable on July 1, 1985. Furthermore, from and after July 1, 1986, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1985, but before June 30, 1986, shall be increased by a prorated amount of three and eight-tenths percent (3.8%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1985 and June 30, 1986.

(h) From and after July 1, 1987, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1986, shall be increased by four percent (4.0%) of the allowance payable on July 1, 1986. Furthermore, from and after July 1, 1987, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1986, but before June 30, 1987, shall be increased by a prorated amount of four percent (4.0%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1986, and June 30, 1987.

(i) From and after July 1, 1988, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1987, shall be increased by three and six-tenths percent (3.6%) of the allowance payable on July 1, 1987. Furthermore, from and after July 1, 1988, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1987, but before June 30, 1988, shall be increased by a prorated amount of three and six-tenths percent (3.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1987, and June 30, 1988.

(j) From and after July 1, 1989, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1988, shall be increased by three and one-half percent (3.5%) of the allowance payable on July 1, 1988. Furthermore, from and after July 1, 1989, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1988, but before June 30, 1989, shall be increased by a prorated amount of three and one-half percent (3.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1988, and June 30, 1989.

(k) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990. – From and after July 1, 1990, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1990, shall be increased by six-tenths percent (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1990, so as not to be compounded on any other increase granted by act of the 1989 Session of the General Assembly (1990 Regular Session).

(*l*) From and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989. Furthermore, from and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1989, but before June 30, 1990, shall be increased by a prorated amount of six and one-tenth percent (6.1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1989, and June 30, 1990.

(m) From and after July 1, 1992, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1991, shall be increased by one and six-tenths percent (1.6%) of the allowance payable on July 1, 1991. Furthermore, from and after July 1, 1992, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1991, but before June 30, 1992, shall be increased by a prorated amount of one and six-tenths

percent (1.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1991 and June 30, 1992.

(n) From and after July 1, 1993, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1992, shall be increased by one and six-tenths percent (1.6%) of the allowance payable on July 1, 1992. Furthermore, from and after July 1, 1993, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1992, but before June 30, 1993, shall be increased by a prorated amount of one and six-tenths percent (1.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1992, and June 30, 1993.

(o) From and after July 1, 1994, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1993, shall be increased by three and one-half percent (3.5%) of the allowance payable on July 1, 1993. Furthermore, from and after July 1, 1994, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1993, but before June 30, 1994, shall be increased by a prorated amount of three and one-half percent (3.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1993, and June 30, 1994.

(p) From and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1994, shall be increased by two percent (2%) of the allowance payable on July 1, 1994. Furthermore, from and after July 1, 1995, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1994, but before June 30, 1995, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1994, and June 30, 1995.

(q) From and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1995, shall be increased by four and four-tenths percent (4.4%) of the allowance payable on July 1, 1995. Furthermore, from and after September 1, 1996, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1995, but before June 30, 1996, shall be increased by a prorated amount of four and four-tenths percent (4.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1995, and June 30, 1996.

(r) From and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1996, shall be increased by four percent (4%) of the allowance payable on June 1, 1997. Furthermore, from and after July 1, 1997, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1996, but before June 30, 1997, shall be increased by a prorated amount of four percent (4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1996, and June 30, 1997.

(s) From and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1997, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998. Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1997, and June 30, 1998.

(t) From and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1998, shall be increased by two and three-tenths percent (2.3%) of the allowance payable on June 1, 1999. Furthermore, from and after July 1, 1999, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1998, but before June 30, 1999, shall be increased by a prorated amount of two and three-tenths percent (2.3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1998, and June 30, 1999.

(u) From and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1999, shall be increased by two and six-tenths percent (2.6%) of the allowance payable on June 1, 2000. Furthermore, from and after July 1, 2000, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1999, but before June 30, 2000, shall be increased by a prorated amount of two and six-tenths percent (2.6%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1999, and June 30, 2000.

(v) From and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2000, shall be increased by two percent (2%) of the allowance payable on June 1, 2001. Furthermore, from and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2000, but before June 30, 2001, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2000, and June 30, 2001.

(w) From and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2001, shall be increased by one and four-tenths percent (1.4%) of the allowance payable on June 1, 2002. Furthermore, from and after July 1, 2002, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2001, but before June 30, 2002, shall be increased by a prorated amount of one and four-tenths percent (1.4%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2001, and June 30, 2002.

(x) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2002, and June 30, 2003.

(y) From and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2003, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2004, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2004, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2003, but before June 30, 2004, shall be increased by a prorated amount of one and seven-tenths percent (1.7%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2003, and June 30, 2004.

(z) From and after July 1, 2005, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2004, shall be increased by two percent (2%) of

the allowance payable on June 1, 2005. Furthermore, from and after July 1, 2005, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2004, but before June 30, 2005, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2004, and June 30, 2005.

(aa) From and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2005, shall be increased by three percent (3%) of the allowance payable on June 1, 2006. Furthermore, from and after July 1, 2006, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2005, but before June 30, 2006, shall be increased by a prorated amount of three percent (3%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2005, and June 30, 2006.

(bb) From and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2006, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2007. Furthermore, from and after July 1, 2007, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2006, but before June 30, 2007, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2006, and June 30, 2007.

(cc) From and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2007, shall be increased by two and two-tenths percent (2.2%) of the allowance payable on June 1, 2008. Furthermore, from and after July 1, 2008, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2007, but before June 30, 2008, shall be increased by a prorated amount of two and two-tenths percent (2.2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2007, and June 30, 2008.

(dd) From and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2011, and June 30, 2012.

(ee) From and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2013, shall be increased by one percent (1%) of the allowance payable on June 1, 2014. Furthermore, from and after July 1, 2014, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2013, but before June 30, 2014, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2013, and June 30, 2014.

(ff) On or before October 31, 2016, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of September 1, 2016, and whose retirement commenced on or before September 1, 2016. The payment shall be one and six-tenths percent (1.6%) of the beneficiary's annual retirement allowance payable as of September 1, 2016, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the

payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments.

(gg) From and after July 1, 2017, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2016, shall be increased by one percent (1%) of the allowance payable on June 1, 2017. Furthermore, from and after July 1, 2017, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2016, but before June 30, 2017, shall be increased by a prorated amount of one percent (1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2016, and June 30, 2017.

(hh) On or before October 31, 2018, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of September 1, 2018, and whose retirement commenced on or before September 1, 2018. The payment shall be one percent (1%) of the beneficiary's annual retirement allowance payable as of September 1, 2018, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments.

(ii) On or before December 31, 2021, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of September 1, 2021, and whose retirement commenced on or before September 1, 2021. The payment shall be two percent (2%) of the beneficiary's annual retirement allowance payable as of September 1, 2021, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments.

(jj) After September 1, 2022, but on or before October 31, 2022, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of September 1, 2022, and whose retirement commenced on or before September 1, 2022. The payment shall be four percent (4%) of the beneficiary's annual retirement allowance payable as of September 1, 2022, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments.

(kk) On or before November 30, 2023, a one-time cost-of-living supplement payment shall be made to or on account of beneficiaries who are living as of October 1, 2023, and whose retirement commenced on or before October 1, 2023. The payment shall be four percent (4%) of the beneficiary's annual retirement allowance payable as of October 1, 2023, and shall not be prorated for date of retirement commencement. If the beneficiary dies before the payment is made, then the payment shall be payable to the member's legal representative. No beneficiary shall be deemed to have acquired a vested right to any future supplemental payments. (1973, c. 640, s. 1; 1979, c. 838, s. 104; 1979, 2nd Sess., c. 1137, s. 69; 1983, c. 761, s. 221; 1983 (Reg. Sess., 1984), c. 1034, s. 224; 1985, c. 479, s. 189(b); 1985 (Reg. Sess., 1986), c. 1014, s. 49(b); 1987, c. 738, s. 27(b); 1987 (Reg. Sess., 1988), c. 1086, s. 22(b); 1989, c. 752, s. 41(b); 1989 (Reg. Sess., 1990), c. 1077, ss. 8, 9; 1991 (Reg. Sess., 1992), c. 900, s. 53(c); 1993, c. 321, s. 74(f); 1993 (Reg. Sess., 1994), c. 769, s. 7.30(n); 1995, c. 507, s. 7.22(b); 1996, 2nd Ex. Sess., c. 18, s. 28.21(b); 1997-443, s. 33.22(e); 1998-153, s. 21(b); 1999-237, s. 28.23(b); 2000-67, s. 26.20(e); 2001-424, s. 32.22(b); 2002-126, s. 28.8(c); 2003-284, s. 30.17(b); 2004-124, s. 31.17(b); 2005-276, s. 29.25(b); 2006-66, s. 22.18(c); 2007-323, s. 28.20(b); 2008-107, s. 26.23(b); 2012-142, s. 25.13(b); 2014-100, s.

35.14(b); 2016-94, s. 36.21(b); 2017-57, s. 35.19A(b); 2018-5, s. 35.28(b); 2021-180, s. 39.23(b); 2022-74, s. 39.20(b); 2023-134, s. 39.27(b).)

§ 135-66. Administration; management of funds; method of financing.

(a) The State Treasurer shall be the custodian of the assets of this Retirement System and shall invest them in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

(b) The assets of this Retirement System shall include employers' contributions held with the Pension Accumulation Fund established under G.S. 135-8 and employees' contributions held in the Annuity Savings Fund similarly established under G.S. 135-8.

(c) The Board of Trustees shall have performed an annual actuarial valuation of the System and shall have the financial responsibility for maintaining the System on a generally accepted actuarial basis.

(d) An actuarially determined employer contribution shall be calculated annually by the actuary using assumptions and a cost method approved by the Actuarial Standards Board of the American Academy of Actuaries and selected by the Board of Trustees.

(e) Notwithstanding Chapter 150B of the General Statutes, the Board of Trustees may adopt a contribution policy that would recommend a contribution not less than the actuarially determined employer contribution.

(f) The recommended employer contribution rate by the Board of Trustees each year shall not be less than the actuarially determined employer contribution. (1973, c. 640, s. 1; 1979, c. 467, s. 18; 2020-48, s. 1.6.)

§ 135-67. Assets of Retirement System.

(a) All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one of two funds, namely, the annuity savings fund and the pension accumulation fund.

(b) The annuity savings fund shall be the fund to which all members' contributions, and regular interest allowances thereon as provided for in G.S. 135-7(b), shall be credited. From this fund shall be paid the accumulated contributions of a member in accordance with G.S. 135-62, or 135-63.

(c) Upon the retirement of a member, his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund. In the event that a retired former member should subsequently again become a member of the Retirement System as provided for in G.S. 135-60(c) or 135-71, any excess of his accumulated contributions at his date of retirement over the sum of the retirement allowance payments received by him since his date of retirement shall be transferred from the pension accumulation fund to the annuity savings fund and shall be credited to his individual account in the annuity savings fund.

(d) The pension accumulation fund shall be the fund in which shall be accumulated contributions by the State and amounts transferred from the annuity savings fund in accordance with subsection (c) above, and to which all income from the invested assets of the Retirement System shall be credited. From this fund shall be paid retirement allowances and any other benefits provided for under this Article except payments of accumulated contributions as provided in subsection (b) above.

(e) The regular interest allowance on the members' accumulated contributions provided for in G.S. 135-7(b) shall be transferred each year from the pension accumulation fund to the annuity savings fund. (1973, c. 640, s. 1.)

§ 135-68. Contributions by the members.

(a) Each member shall contribute by payroll deduction for each pay period for which he receives compensation six percent (6%) of his compensation for such period.

(b) Anything within this Article to the contrary notwithstanding, the State, pursuant to the provisions of section 414(h)(2) of the Internal Revenue Code of 1954 as amended, shall pick up and pay the contributions which would be payable by the members under subsection (a) of this section with respect to the services of such members rendered after the effective date of this subsection.

The members' contributions picked up by the State shall be designated for all purposes of the Retirement System as member contributions, except for the determination of tax upon a distribution from the System. These contributions shall be credited to the annuity savings fund and accumulated within the fund in a member's account which shall be separately established for the purpose of accounting for picked-up contributions.

Member contributions picked up by the State shall be payable from the same source of funds used for the payment of compensation to a member. A deduction shall be made from a member's compensation equal to the amount of his contributions picked up by the State. This deduction, however, shall not reduce a member's compensation as defined in subdivision (5) of G.S. 135-53. Picked up contributions shall be transmitted to the Retirement System monthly for the preceding month by means of a warrant drawn by the State payable to the Retirement System and shall be accompanied by a schedule of the picked-up contributions on such forms as may be prescribed. (1973, c. 640, s. 1; 1983, c. 469, s. 1.)

§ 135-69. Contributions by the State.

(a) The State shall contribute annually an amount equal to the sum of the "normal contribution" and the "accrued liability contribution."

(b) The normal contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total compensation of the members for such period. The normal contribution rate shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the Retirement System, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, in excess of the part thereof provided by the members' contributions, to (ii) the total annual compensation of the members of the Retirement System.

(c) The accrued liability contribution for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members for such period. The accrued liability contribution rate shall be determined as the percentage represented by the ratio of (i) the level annual contribution necessary to amortize the unfunded accrued liability over a period of 40 years, computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, to (ii) the total annual compensation of the members of the Retirement System.

(d) The unfunded accrued liability as of any date shall be determined, in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board of Trustees, as the excess of (i) the then present value of the benefits to be provided under the Retirement System in the future over (ii) the sum of the assets of the Retirement System then currently on hand in the annuity savings fund and the pension accumulation fund, plus the then

present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the State.

(e) The normal contribution rate and the accrued liability contribution rate shall be determined after each annual valuation of the Retirement System and shall remain in effect until a new valuation is made.

(f) The annual contributions by the State for any year shall be at least sufficient, when combined with the amount held in the pension accumulation fund at the start of the year, to provide the retirement allowances and other benefits payable out of the fund during the year then current. (1973, c. 640, s. 1.)

§ 135-70. Transfer of members to another system.

(a) Any member whose membership service is terminated other than by retirement or death and, who, while still a member of this Retirement System becomes a member of either the Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System, may elect to retain his membership in this Retirement System by not withdrawing his accumulated contributions hereunder. Any such member shall retain all the rights, credits and benefits obtaining to him under this Retirement System at the time of such termination of service while he is a member of such other system and does not withdraw his contributions hereunder.

(a1) The accumulated contributions and creditable service of any member whose service as a member of this Retirement System has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from this Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from this Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in this Retirement System as a result of previous contributions by the employer on behalf of the transferring member.

(b) Any member who becomes eligible for benefits under more than one system may file application therefor with each retirement system to the end that each retirement system shall pay appropriate benefits without transfer of funds between the systems.

(c) The Board of Trustees shall effect such rules as it may deem necessary to administer the provisions of the preceding subsections of this section and to prevent any duplication of service credits or benefits that might otherwise occur. (1973, c. 640, s. 1; 1983 (Reg. Sess., 1984), c. 1031, s. 21; 2003-284, s. 30.18(d).)

§ 135-70.1. Transfer of members from the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System.

(a) The accumulated contributions, creditable service, and reserves, if any, of a former teacher or employee, as defined in G.S. 135-1(25), 135-1(10), and 128-21(10), respectively, or a former member of the General Assembly who is a member of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System, the Teachers' and State Employees'

Retirement System, or the Legislative Retirement System to the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a teacher or employee or member of the General Assembly is terminated other than by retirement or death and who becomes a member of the Consolidated Judicial Retirement System may, upon application of the member, be transferred from the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Local Governmental Retirement System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System, to the Consolidated Judicial Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System shall be transferred and credited to the annuity savings fund in the Consolidated Judicial Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur.

(c) As an alternative to transferring any accumulated contributions from the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System to the Consolidated Judicial Retirement System, a member may irrevocably elect to transfer these contributions to the Supplemental Retirement Income Plan of North Carolina as determined by the Plan's Board of Trustees and the Department of State Treasurer in accordance with the provisions of G.S. 135-94(a)(4). (1999-237, s. 28.24(h); 2003-284, s. 30.18(e); 2005-276, s. 29.30A(h); 2005-345, s. 42; 2024-10, s. 12(h).)

§ 135-71. Return to membership of retired former member.

(a) In the event that a retired former member should at any time return to membership service, his retirement allowance shall thereupon cease and he shall be restored as a member of the Retirement System.

(b) Upon his subsequent retirement, he shall be paid a retirement allowance determined as follows:

(1) For a member who earns at least three years' membership service after restoration to service, the retirement allowance shall be computed on the basis of his compensation and service before and after the period of prior retirement without restrictions; provided, that if the prior allowance was based on a social security leveling payment option, the allowance shall be adjusted actuarially for the difference between the amount received under the optional payment and what would have been paid if the retirement allowance had been paid without optional modification.

(2) For a member who does not earn three years' membership service after restoration to service, the retirement allowance shall be equal to the sum of the retirement allowance to which he would have been entitled had he not been restored to service, without modification of the election of an optional allowance previously made, and the retirement allowance that results from service earned since being restored to service; provided, that if the prior retirement allowance was based on a social security leveling payment option,

the prior allowance shall be adjusted actuarially for the difference between the amount that would have been paid for each month had the payment not been suspended and what would have been paid if the retirement allowance had been paid without optional modification.

(3) Subdivision (2) of this section shall apply only to restored members whose initial retirement lasted for more than four calendar months. For restored members whose initial retirement lasted for four or fewer calendar months, subdivision (1) shall apply.

(c) Notwithstanding any other provision in this Chapter, the retirement allowance of a justice or judge shall not be affected by the compensation received as an emergency justice or judge or as a senior business court judge.

(d) Notwithstanding the provisions of G.S. 135-70.1 to the contrary, a retired former member and/or beneficiary of the Teachers' and State Employees' Retirement System as defined in G.S. 135-1(6), whose retirement allowance from this System and/or from the Teachers' and State Employees' Retirement System ceases upon a return to membership service under this System, shall be permitted to transfer the accumulated contributions, creditable service, and reserves, if any, from the Teachers' and State Employees' Retirement System to this System on the same basis as provided for members of other retirement systems under G.S. 135-70.1, if the member attains five or more years of total membership service in this System, and completes at least three years of membership service subsequent to the member's return to membership service. (1973, c. 640, s. 1; 1983 (Reg. Sess., 1984), c. 1031, s. 22; c. 1106, s. 3; 1987, c. 738, s. 39(b); 2005-276, s. 29.30A(i); 2016-91, s. 5.)

§ 135-72: Repealed by Session Laws 1999-237, s. 28.25.

§ 135-73. Termination or partial termination; discontinuance of contributions.

In the event of the termination or partial termination of the Retirement System or in the event of complete discontinuance of contributions under the Retirement System, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, or the amounts credited to the members' accounts, shall be nonforfeitable and fully vested. (1987, c. 177, s. 1(a), (b).)

§ 135-74. Internal Revenue Code compliance.

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

All the provisions in this subsection have been enacted to make clear that the Plan shall not base contributions or Plan benefits on annual compensation in excess of the limits prescribed by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to certain federal grandfathering rules.

Effective January 1, 1996, the annual compensation of a member taken into account for determining all benefits provided under this Article shall not exceed one hundred fifty thousand

dollars ($150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code and any regulations issued under the Code. However, with respect to a person who became a member of the Retirement System prior to January 1, 1996, the imposition of this limitation on compensation shall not reduce the amount of compensation which may be taken into account for determining the benefits of that member under this Article below the amount of compensation which would have been recognized under the provisions of this Article in effect on July 1, 1993.

Effective January 1, 2002, the annual compensation of a person, who became a member of the Retirement System on or after January 1, 1996, taken into account for determining all benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed two hundred thousand dollars ($200,000) or the amount otherwise set by the Internal Revenue Code or determined by the Commissioner of Internal Revenue as the limitation for calendar years after 2002.

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

(c) On and after September 8, 2009, and for all Plan years to which the minimum distribution rules of the Internal Revenue Code are applicable, with respect to any member who has terminated employment, the Plan shall comply with federal income tax minimum distribution rules by applying a reasonable and good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.

(c1) A member who has contributions in this System and is not eligible for a retirement benefit as set forth in G.S. 135-57 shall be paid his or her contributions in a lump sum as provided in G.S. 135-62 by April 1 of the calendar year following the later of the calendar year in which the member (i) attains the applicable age under section 401(a)(9)(C)(v) of the Internal Revenue Code or (ii) has ceased to be a judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of superior court as provided in G.S. 135-53, except by death. If the member fails, following reasonable notification, to complete a refund application by the required date, then the requirement that a refund application be completed shall be waived and the refund shall be paid without a refund application as a single lump-sum payment with applicable required North Carolina and federal income taxes withheld.

A member who has contributions in this System and is eligible for a retirement benefit as set forth in G.S. 135-57 shall begin to receive a monthly benefit no later than April 1 of the calendar year following the later of the calendar year in which the member (i) attains the applicable age under section 401(a)(9)(C)(v) of the Internal Revenue Code or (ii) has ceased to be a judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of superior court as provided in G.S. 135-53, except by death. If the member fails, following reasonable notification, to complete the retirement process under this Chapter by the required beginning date, then the

requirement that a retirement application and an election of payment plan form be completed shall be waived and the retirement allowance shall be paid as a single life annuity. The single life annuity shall be calculated and processed in accordance with G.S. 135-58.

For purposes of this subsection, a member shall not be considered to have ceased to be a judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of superior court as provided in G.S. 135-53 if the member is actively contributing to the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, or Consolidated Judicial Retirement System. A retirement benefit or lump-sum refund shall not be paid under this subsection if the member is actively contributing to the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, or Legislative Retirement System.

(d) This subsection applies to distributions and rollovers from the Plan. The Plan does not have mandatory distributions within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to distributions from the Plan and notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee (including, after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law) may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into that plan from this Plan. As used in this subsection, a "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee. Provided, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution shall not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Effective as of January 1, 2002, and notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the preceding sentence, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. That portion may be transferred, pursuant to applicable federal law, to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a qualified defined contribution plan described in Section 401(a), 403(a), or 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which

is includible in gross income and the portion of such distribution which is not so includible. The definition of eligible retirement plan shall also apply in the case of a distribution to surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, or a court-ordered equitable distribution of marital property, as provided under G.S. 50-20.1. Effective on and after January 1, 2007, notwithstanding any other provision of this subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the manner prescribed by the administrator of the Board of Trustees of this Retirement System, to directly roll over any portion of the beneficiary's distribution from the Retirement System; however, such rollover shall conform with the provisions of section 402(c)(11) of the Code. (1989, c. 276, s. 4; 1993, c. 531, s. 8; 1995, c. 361, s. 2; 2002-71, s. 8; 2009-66, s. 1(b); 2012-130, s. 4(d); 2015-164, s. 10(c); 2020-48, s. 1.2(c); 2024-9, s. 3(c).)

§ 135-75. Deduction for payments allowed.

(a) Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.

(b) Any beneficiary eligible for coverage under the State Health Plan may also authorize, in writing, the monthly deduction from the beneficiary's retirement benefits of a designated lump sum to be paid to the State Health Plan for any dependent whom the beneficiary wishes to cover under the State Health Plan. In the event that the beneficiary's own State Health Plan coverage is contributory, in whole or in part, the beneficiary may also authorize a designated lump sum to be paid to the State Health Plan on behalf of the beneficiary. In addition, a beneficiary may similarly authorize the deduction for supplemental voluntary insurance benefits, provided that the deduction is authorized by the Department of State Treasurer and is payable to a company with which the Department of State Treasurer has or had an exclusive contractual relationship. Any such authorization shall remain in effect until revoked by the beneficiary. (2002-126, s. 6.4(e); 2012-178, s. 4(d).)

§ 135-75.1. Forfeiture of retirement benefits for certain felonies committed while serving as elected government official.

(a) Except as provided in G.S. 135-56(g), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under the federal laws listed in subsection (b) of this section or the laws of this State listed in subsection (c) of this section if all of the following apply:

(1) The federal or State offense is committed while serving as a justice, judge, district attorney, or clerk of superior court.

(2) The conduct on which the federal or State offense is based is directly related to the member's service as a justice, judge, district attorney, or clerk of superior court.

(b) The federal offenses covered by this section are as follows:

(1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

(2) Reserved for future codification purposes.

(c) The offenses under the laws of this State covered by this section are as follows:

(1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).

(2) Perjury or false information as follows:

a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.

b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.

c. Perjury under Article 22A of Chapter 163 of the General Statutes.

(d) All monies forfeited under this section shall be remitted to the Civil Penalty and Forfeiture Fund. (2007-179, s. 4(a); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 135-75.1A. Forfeiture of retirement benefits for certain felonies related to employment or holding office.

(a) Except as provided in G.S. 135-56(j), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

(1) The offense is committed while the member is in service.

(2) The conduct resulting in the member's conviction is directly related to the member's office or employment.

(b) Repealed by Session Laws 2020-48, s. 4.3(c), effective June 26, 2020.

(c) If a member or former member whose benefits under the Retirement System were forfeited under this section, except for the return of member contributions plus interest, subsequently receives an unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the Board of Trustees. If the Board of Trustees determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions plus interest. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total lump-sum payment with interest compounded annually at a rate of six and one-half percent (6.5%) for each calendar year from the year of forfeiture to the year of repayment. An individual receiving a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited. (2012-193, s. 5; 2020-48, s. 4.3(c); 2025-19, s. 2.1(c).)

§ 135-75.1B. Prohibition on purchase of forfeited service.

Any member whose retirement benefits have been forfeited under G.S. 135-75.1 or G.S. 135-75.1A is prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any creditable membership service associated with those forfeited benefits and that service may not be used for the purposes of eligibility for benefits in any retirement system that provides reciprocal benefits. (2018-52, s. 6(c); 2020-48, s. 4.5(c).)

§ 135-75.2. Improper receipt of decedent's retirement allowance.

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's retirement allowance and the person (i) knows that he or she is not entitled to the decedent's retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the retiree's or beneficiary's death. (2011-232, s. 10(c); 2013-288, s. 9(d).)

§ 135-76: Reserved for future codification purposes.