§ 135-4.5. 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. 135-4 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(1) Withdrawn service. – Service withdrawn in accordance with the provisions of any of the following, limited to a total maximum purchase of five years: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 as a part-time teacher or employee of an employer, as defined under either G.S. 135-1 or G.S. 128-21. 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 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 in 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.

(b) Armed Service Credit. – Notwithstanding any other provision of this Article to the contrary, any member or any retired member may purchase creditable service in the Armed Forces of the United States by paying a total lump sum payment determined as follows:

(1) On or before December 31, 2038, members who completed 10 years of membership service, and retired members who completed 10 years of membership service prior to retirement, whose membership began on or prior to July 1, 1981, may purchase this service within three years after first becoming eligible by paying an amount equal to the monthly compensation the member earned when the member first entered membership service times the employee contribution rate at that time times the months of service to be purchased, multiplied by a factor equivalent to the investment return assumptions determined by the Board of Trustees, compounded annually, from the initial year of membership to the year of payment so as to equal

one-half of the cost of allowing this service, plus an administrative fee to be set by the Board of Trustees.

(2) Members who complete five years of membership service, retired members who complete five years of membership service prior to retirement, and members and retired members whose membership began on or before July 1, 1981, and who were eligible to purchase service credits under subdivision (1) of this subsection but who did not or do not make this purchase within three years after first becoming eligible, may purchase this service by paying a lump sum amount to the Annuity Savings Fund. The amount payable shall be equal to the full liability increase to 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.

Creditable service allowed under this subsection shall be only for the initial period of "active duty", as defined in 38 U.S. Code Section 101(21), in the Armed Forces of the United States up to the date the member was first eligible to be separated and released and for subsequent periods of "active duty", as defined in 38 U.S. Code Section 101(21), as required by the Armed Forces of the United States up to the date of first eligibility for separation or release, but shall not include periods of active duty in the Armed Forces of the United States creditable in any other retirement system except the National Guard or any reserve component of the Armed Forces of the United States, and shall not include periods of "active duty for training", as defined in 38 U.S. Code Section 101(22), or periods of "inactive duty training", as defined in 38 U.S. Code Section 101(23), rendered in any reserve component of the Armed Forces of the United States. Creditable service shall be allowed only for active duty in the Armed Forces of the United States of a member that resulted in a general or honorable discharge from duty. The member shall submit satisfactory evidence of the service claimed. For purposes of this subsection, membership service shall include any membership or prior service credits transferred to this Retirement System pursuant to G.S. 135-18.1.

(c) Periods When in Receipt of Benefits Under the North Carolina Workers' Compensation Act. – Notwithstanding any other provision of this Article to the contrary, any member may purchase creditable service for periods of employer approved leaves of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. All of the following apply to purchases under this subsection:

(1) Service shall be purchased by paying a cost calculated in the following manner:

a. Leaves of Absence Terminated Prior to July 1, 1983. - A member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminated upon return to service prior to July 1, 1983, may purchase creditable service for that period by paying a lump sum amount to the Annuity Savings Fund. The amount payable shall be equal to the full liability increase to 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.

b. Leaves of Absence Terminating On and After July 1, 1983, but before January 1, 1988. - A member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon return to service on and after July 1, 1983, but before January 1, 1988, may purchase creditable service for that period by paying a lump sum amount to the Annuity Savings Fund. If the creditable service is purchased within six months from return to service, then the amount payable shall be equal to the total employee and employer percentage rates of contribution in effect at the time of purchase and based on the annual rate of compensation of the member immediately prior to the leave of absence. If the credit is not purchased and the amount payable is not paid within six months from return to service, then the amount payable shall be the amount due as if the purchase had taken place prior to six months from the end of the leave of absence plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period.

c. Leaves of Absence Terminating On and After January 1, 1988. - A member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates on and after January 1, 1988, may purchase creditable service for that period by paying a lump sum amount to the Annuity Savings Fund within six months from end of the leave of absence. The amount payable shall be equal to the employee percentage rate of contribution in effect at the time of purchase applied to the annual rate of compensation of the member immediately prior to the leave of absence. For members electing to make this payment, the member's employer which granted the leave of absence, or the member's employer upon a return to service, or both, shall make a matching lump sum payment to the Pension Accumulation Fund within six months from the end of the leave of absence equal to the employer percentage rate of contribution in effect at the time of purchase applied to the annual rate of compensation of the member immediately prior to the leave of absence. These purchases of creditable service are applicable only when members have membership service credits within 30 days prior to the leave of absence and within 12 months following the leave of absence and such membership service is creditable service at the time of purchase. If any portion of the amount payable is not paid within six months from the member's return to service, then the member, the member's employer or former employer, or both if applicable, whose amount due is not paid within six months from return to service, then the applicable amount due shall be increased one percent (1%) per month penalty for each month or fraction thereof that the payment is made after the six-month period.

(2) A member who is in receipt of Workers' Compensation during the period for which he or she would have otherwise been eligible to receive short-term benefits as provided in G.S. 135-105 and who subsequently becomes a beneficiary in receipt of a benefit as provided in G.S. 135-106 may purchase creditable service for any period of employer approved leave of absence when in receipt of benefits under the North Carolina Workers' Compensation Act. The cost to purchase this creditable service shall be as determined under subdivision (1) of this subsection. If the amount due is not paid within six months from the beginning of the long-term disability period as determined under G.S. 135-106, then the amount payable for the purchase of the service credits shall be the initial amount due plus one percent (1%) per month penalty for each month or fraction thereof that the payment is made after the six-month period.

(3) Whenever the creditable service purchased pursuant to this subsection is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 135-1(5) had the member not been on leave of absence without pay, then the compensation that the member would have received during the purchased period shall be included in calculating the member's average final compensation. In these cases, the compensation that the member would have received during the purchased period shall be based on the annual rate of compensation of the member immediately prior to the leave of absence.

Nothing in this subsection prevents an employer from voluntarily paying all or a part of the employee portion of the total payment due for the service credit purchased. The employer shall not discriminate against any eligible law enforcement officer employed by the employer in paying all or a part of that portion of the total payment due. To the extent the employee portion of the total payment due is paid by the employer, the employee portion paid by the employer shall be credited to the Pension Accumulation Fund. To the extent the employee portion of the total payment due is paid by the member, the employee portion paid by the member shall be credited to the member's accumulated contributions and interest in the Annuity Savings Fund. A member shall pay any part of the employee portion of the total payment due that is not paid by the employer.

(d) Omitted Membership Service. – A member who (i) had service as an employee, as defined under G.S. 135-1 or G.S. 128-21, or as a teacher, as defined under G.S. 135-1, 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.

(e) Retroactively Reinstated or Restored Membership Service. – A member who is reinstated to service as an employee or as a teacher, as either is defined under G.S. 135-1, retroactively to the date of prior involuntary termination with (i) back pay, as defined by the State Human Resources Commission, and (ii) associated benefits shall be allowed membership service for that period of reinstated 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 reinstatement, payment of back pay, and restoration of associated benefits is required prior to the approval of and payment for the retroactive membership service. The amount payable for the service under this subsection shall be calculated in the following manner:

(1) If the reinstatement to service is by court order, final decision of an Administrative Law Judge, or with the approval of the Office of State Human Resources Director, and occurs within 90 days of the involuntary termination, then the amount payable is the amount of employee and employer contributions that would have been paid.

(2) If the reinstatement to service is by court order, final decision of an Administrative Law Judge, or with the approval of the Office of State Human Resources Director, and occurs after 90 days of the involuntary termination, then the amount payable is the amount 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) If the reinstatement to service is by settlement agreement voluntarily entered into by the affected parties, then the amount payable is an amount equal to the full liability increase to the Retirement System due to the additional service credits 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. The amount payable under

this subdivision is required to be paid as a lump sum amount to the Annuity Savings Fund.

Subject to the requirements of this subsection, an employer may pay all or part of the amount payable due under this subsection for a member in service. To the extent that 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 retroactive membership service.

If a member received a return of accumulated contributions subsequent to an involuntary termination as provided in G.S. 135-5(f), then the member may redeposit, within 90 days after reinstatement retroactive to the date of prior involuntary termination, in the Annuity Savings Fund by single payment, an amount equal to the total amount the member previously withdrew plus regular interest and restore the creditable service forfeited upon receiving the return of accumulated contributions.

(f) 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.

(g) 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. 1, 2(a)-(p), 3.)