

**§ 135-4. Creditable service.**

(a) Repealed by Session Laws 2020-29, s. 1(a), effective June 19, 2020.

(b) In no case shall more than one year of service be creditable for all services in one year. Service rendered for the regular school year in any district shall be equivalent to one year's service. Service rendered by a school employee in a job-sharing position shall be credited at the rate of one-half year for each regular school year of employment.

(c) Repealed by Session Laws 2018-85, s. 7, effective June 25, 2018.

(d) Any member may, up to his date of retirement and within one year thereafter, request the Board of Trustees to modify or correct service credit that was earned prior to retirement.

(e) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by the member since he or she last became a member, and also if the member has a prior service certificate which is in full force and effect, the amount of service certified on the prior service certificate; and if the member has sick leave standing to the member's credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or portion thereof, but not less than one hour; sick leave shall not be counted in computing creditable service for the purpose of determining eligibility for disability retirement or for a vested deferred allowance. Creditable service for unused sick leave shall be allowed only for sick leave accrued monthly during employment under a duly adopted sick leave policy and for which the member may be able to take credits and be paid for sick leave without restriction. However, in no instance shall unused sick leave be credited to a member's account at retirement if the member's last day of actual service is more than five years prior to the effective date of the member's retirement. Further, any agency with a sick leave policy that is more generous than that of all State agencies subject to the rules of the Office of State Human Resources shall proportionately adjust each of its retiring employees' sick leave balance to the balance that employee would have had under the rules of the Office of State Human Resources. Days of sick leave standing to a member's credit at retirement shall be determined by dividing the member's total hours of sick leave at retirement by the hours per month such leave was awarded under the employer's duly adopted sick leave policy as the policy applied to the member when the leave was accrued.

(e1) The creditable service of a member who was a member of the Law-Enforcement Officers' Retirement System at the time of the transfer of law-enforcement officers employed by the State from that System to this Retirement System and whose accumulated contributions are transferred from that System to this Retirement System, shall include service that was creditable in the Law-Enforcement Officers' Retirement System; and membership service with that System shall be membership service with this Retirement System; provided, notwithstanding any provision of this Article to the contrary, any inchoate or accrued rights of such a member to purchase creditable service for military service, withdrawn service and prior service under the rules and regulations of the Law-Enforcement Officers' Retirement System shall not be diminished and may be purchased as creditable service with this Retirement System under the same conditions which would have otherwise applied.

(f) Armed Service Credit. –

(1) Teachers and other State employees who entered the Armed Forces of the United States on or after September 16, 1940, and prior to February 17, 1941, and who returned to the service of the State within a period of two years after they were first eligible to be separated or released from the Armed Forces of the United States under other than dishonorable conditions shall be entitled to full credit for all prior service. Pursuant to 38 U.S.C. § 4318(b)(1), when a member who has been on military leave returns to work consistent with the provisions of this subdivision, then the member's employer must remit to the

System all the employer contributions for the full period of that member's military service.

- (2) Teachers and other State employees who entered the Armed Forces of the United States on or after September 16, 1940, and who returned to the service of the State prior to October 1, 1952, or who devote not less than 10 years of service to the State after they are separated or released from the Armed Forces of the United States under other than dishonorable conditions, shall be entitled to full credit for all prior service, and, in addition they shall receive membership service credit for the period of service in the Armed Forces of the United States up to the date they were first eligible to be separated or released therefrom, occurring after the date of establishment of the Retirement System.
- (3) Teachers and other State employees who enter the Armed Forces of the United States on or after July 1, 1950, or who engage in active military service on or after July 1, 1950, and who return to the service of the State within a period of two years after they are first eligible to be separated or released from such active military service under other than dishonorable conditions shall be entitled to full membership service credit for the period of such active service in the Armed Forces of the United States.
- (4) Under such rules as the Board of Trustees shall adopt, credit will be provided by the Retirement System with respect to each such teacher or other State employee in the amounts that he or she would have been paid during such service in the Armed Forces of the United States on the basis of his or her earnable compensation when such service commenced. Such contributions shall be credited to the individual account of the member in the annuity savings fund, in such manner as the Board of Trustees shall determine, but any such contributions so credited and any regular interest thereon shall be available to the member only in the form of an annuity, or benefit in lieu thereof, upon the member's retirement on a service, disability or special retirement allowance; and in the event of cessation of membership or death prior thereto, any such contributions so credited and regular interest thereon shall not be payable to the member or on the member's account, but shall be transferred from the annuity savings fund to the pension accumulation fund. If any payments were made by a member on account of such service as provided by subdivision (5) of subsection (b) of G.S. 135-8, the Board of Trustees shall refund to or reimburse such member for such payments.
- (5) The provisions of this subsection shall also apply to members of the North Carolina National Guard with respect to teachers and State employees who are called into federal service or who are called into State service, to the extent that such persons fail to receive compensation for performance of the duties of their employment other than for service in the North Carolina National Guard.
- (6) Repealed by Session Laws 1981, c. 636, s. 1. For proviso as to inchoate or accrued rights, see Editor's note below.
- (7) Notwithstanding any other provision of this Chapter, any member and any retired member as herein described may purchase creditable service in the Armed Forces of the United States, not otherwise allowed, by paying a total lump sum payment determined as follows:
  - a. For 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,

and who make this purchase within three years after first becoming eligible, the cost shall be 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.

- b. For members who complete five years of membership service, and retired members who complete five years of membership service prior to retirement, and eligible members and retired members covered by paragraph a. of this subdivision, whose membership began on or before July 1, 1981, but who did not or do not make this purchase within three years after first becoming eligible, the cost shall be an amount equal to the full liability of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities and shall take into account the retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire on an unreduced allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the term "full liability" includes assumed post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service retirement allowance.

Creditable service allowed under this subdivision 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. Provided, creditable service may 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 may include any membership or prior service credits transferred to this Retirement System pursuant to G.S. 135-18.1.

- (g) Teachers and other State employees who served in the uniformed services as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §

4303, who were not dishonorably discharged, and who returned to the service of the State within a period of two years from date of discharge shall be credited with prior service for such period of service in the uniformed services for the maximum period that they are entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301, et seq., or other federal law, and the salary or compensation of such a teacher or State employee during that period of service is deemed to be that salary or compensation the employee would have received but for the period of service had the employee remained continuously employed, if the determination of that salary or compensation is reasonably certain. If the determination of the salary or compensation is not reasonably certain, then it is deemed to be that employee's average rate of compensation during the 12-month period immediately preceding the period of service. When a member who has served in the uniformed services returns to work in compliance with the conditions of this subsection, that member's employer shall remit to the System all employer and employee contributions for the full period of that member's military service.

(h) During periods when a member is on leave of absence and is receiving less than the member's full compensation, the member will be deemed to be in service only if the member is contributing to the Retirement System as provided in G.S. 135-8(b)(5). If the member is so contributing, the annual rate of compensation paid to such employee immediately before the leave of absence began will be deemed to be the actual compensation rate of the employee during the leave of absence.

(i) Repealed by Session Laws 2020-29, s. 1(a), effective June 19, 2020.

(j) Repealed by Session Laws 2021-57, s. 1.4(a), effective July 1, 2022.

(j1) Prior to January 1, 2023, any member may purchase creditable service for service as a member of the General Assembly not otherwise creditable under this section, provided the service is not credited in the Legislative Retirement Fund nor the Legislative Retirement System, and further provided the member pays a lump sum amount equal to the full cost of the additional service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the System's liabilities, taking into account the additional retirement allowance arising on account of the additional service credits commencing at the earliest age at which a member could retire on an unreduced retirement allowance as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

(j2) Notwithstanding any provision of this Chapter to the contrary on and after January 1, 2023, any member in service with five or more years of membership service may purchase creditable service for service as a member of the General Assembly not otherwise creditable under this section, provided the service is not credited in the Legislative Retirement Fund nor the Legislative Retirement System, by paying a total lump sum payment. The amount of creditable service purchased under this subsection may not exceed a total of five years. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as 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 cost paid by the employer shall be credited

to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account. The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Consolidated Judicial 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 Consolidated Judicial Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System.

(k) Repealed by Session Laws 2021-57, s. 1.4(a), effective July 1, 2022.

(k1) North Carolina Withdrawn Service Purchased On and After January 1, 2022. – Notwithstanding any other provision of this Chapter to the contrary, on and after January 1, 2022, any member who withdrew his or her contributions in accordance with the provisions of G.S. 127-27(f) or G.S. 135-5(f) or the rules and regulations of the Law Enforcement Officers' Retirement System, and who subsequently returns to service and completes five years of membership service upon that return, while in service may purchase an amount of creditable service totaling the amount of the membership service associated with the withdrawn contributions, provided that the total of the creditable service purchased under this subsection may not exceed five years. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(l) Repealed by Session Laws 1981, c. 636, s. 1. For proviso as to inchoate or accrued rights, see Editor's note below.

(l1) Repealed by Session Laws 2021-57, s. 1.4(a), effective July 1, 2022.

(l2) Notwithstanding any provision of this Chapter to the contrary, on and after January 1, 2021, any member in service with five or more years of membership service may purchase creditable service previously rendered to the federal government or to any state, territory, or other governmental subdivision of the United States other than this State by paying a total lump sum payment. The amount of creditable service purchased under this subsection may not exceed a total of five years. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board.

Creditable service under this subsection shall be allowed only at the rate of one year of out-of-state service for each year of membership service in this State, with a maximum allowable of five years of out-of-state service. Such service is limited to full-time service that would be

allowable under the laws governing this Retirement System. Credit will be allowed only if no benefit is allowable in another public retirement system as a result of the service.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(m) Notwithstanding any language to the contrary of any provision of this section, or of any repealed provision of this section that was repealed with the inchoate and accrued rights preserved, all repayments and purchases of service credits, allowed under the provisions of this section or of any repealed provision of this section that was repealed with inchoate and accrued rights preserved, must be made within three years after the member first becomes eligible to make such repayments and purchases. Any member who does not repay or purchase service credits within said three years after first eligibility to make such repayments and purchases may, under the same conditions as are otherwise required, repay or purchase service credits provided that the repayment or purchase equals the full cost of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities and shall take into account the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which such member could retire on an unreduced retirement allowance as determined by the Board of Trustees upon the advice of the consulting actuary. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance. Notwithstanding the foregoing, on and after July 1, 2001, the provisions of this subsection shall not apply to the repayment of contributions withdrawn pursuant to subsection (k) of this section.

(n) Repealed by Session Laws 1981, c. 636, s. 1. For proviso as to inchoate or accrued rights, see Editor's note below.

(o) Repealed by Session Laws 1981, c. 636, s. 1. For proviso as to inchoate or accrued rights, see Editor's note below.

(p) Credit for prior temporary State employment. – Notwithstanding any other provision of this Chapter, on or before December 31, 2021, a member may purchase service credit for temporary State employment upon completion of 10 years of membership service and subject to the condition that the member had been classified as a temporary employee for more than three years. Each employer shall certify to the Board of Trustees that an employee is eligible to purchase this service credit prior to the member making payment. Payment for the service credit shall be in a single lump sum based upon the amount the member would have contributed if he had been properly classified as a permanent employee and been a member of this retirement system. Notwithstanding any provision of this Article to the contrary, any inchoate or accrued rights of such a member to purchase creditable service that existed before December 31, 2021, may not be diminished and may be purchased as creditable service with this Retirement System under the same conditions which would have otherwise applied.

(p1) Repealed by Session Laws 2020-29, s. 1(a), effective June 19, 2020.

(p2) Part-Time Service Credit. – Notwithstanding any other provision of this Chapter to the contrary, any member in service with five or more years of membership service may purchase service previously rendered as a part-time teacher or employee of an employer, as defined in G.S. 135-1(11) or G.S. 128-21(11), except the following service may not be purchased:

(1) Part-time service rendered as a bus driver to a public school while a full-time high school student.

- (2) 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.

Payment for service purchased under this subsection shall be made in a single lump sum in an amount 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. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board.

The Board of Trustees shall adopt rules regarding how much service in any year, as based on compensation, is equivalent to one year of service in proportion to earnable compensation, but 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.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(q) Repealed by Session Laws 2020-29, s. 1(a), effective June 19, 2020.

(r) Notwithstanding any other provision of this Chapter, 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. This service shall be purchased by paying a cost calculated in the following manner:

- (1) Leaves of Absence Terminated Prior to July 1, 1983. – The cost to 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, shall be a lump sum amount payable to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.
- (2) Leaves of Absence Terminating On and After July 1, 1983, but before January 1, 1988. – The cost to 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, shall be a lump sum amount due and payable to the Annuity Savings Fund within six months from return to service 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; Provided, however, the cost to a member whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period.

- (3) Leaves of Absence Terminating On and After January 1, 1988. – The cost to 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, shall be due and payable to the Annuity Savings Fund within six months from end of the leave of absence and shall be a lump sum amount 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. Such 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. Notwithstanding any other provision of this subdivision, the cost to a member and to a member's employer or former employer or both employers whose amount due is not paid within six months from return to service shall be the 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.

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 such creditable service shall be as determined above provided the amount due if not paid within six months from the beginning of the long-term disability period as determined in G.S. 135-106 shall be the 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.

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 such 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.

(s) Credit at Full Cost for Temporary Employment. – Any member in service with five or more years of membership service may purchase creditable service for State employment when classified as a temporary teacher or employee subject to all of the following conditions:

- (1) The member was employed by an employer as defined in G.S. 135-1(11) or G.S. 128-21(11).
- (2) The member's temporary employment met all other requirements of G.S. 135-1(10) or (25), or G.S. 128-21(10).
- (3) The member has completed five years or more of membership service.
- (4) The member has acquired from the employer such certifications of temporary employment as are required by the Board of Trustees.

The amount of creditable service purchased under this subsection may not exceed a total of five years. A member shall purchase this service by making a lump sum payment into the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(t), (u) Repealed by Session Laws 2020-29, s. 1(a), effective June 19, 2020.

(v) Omitted Membership Service. – A member who had service as an employee as defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and who was omitted from contributing membership through error may be allowed membership service, after submitting clear and convincing evidence of the error, as follows:

- (1) Within 90 days of the omission, by the payment of employee and employer contributions that would have been paid; or
- (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; or
- (3) After three years of the omission, by the payment of an amount equal to the full cost of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the system's liabilities, and shall take into account the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which a member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined

by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the omitted membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the members shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the omitted membership service.

(w) Repealed by Session Laws 2021-57, s. 1.4(a), effective July 1, 2022.

(x) Repealed by Session Laws 2001-424, s. 32.32(c), effective July 1, 2001.

(y) A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this Chapter shall be granted creditable service for each month that the member is eligible for and for which a benefit is paid under the provisions of G.S. 135-105 and G.S. 135-106; provided, however, that in no instance shall a member be granted creditable service under this subsection if creditable service is earned or credited for the same month in this retirement system or any other retirement system administered by the State.

(z) Credit at Full Cost for Leave Due to Extended Illness. – Any member in service with five or more years of membership service may purchase creditable service for periods of interrupted service while on leave without pay status due to the member's illness or injury, excluding leave due to maternity, provided that any single such interrupted service shall have included such period of time during which the member failed to earn at least two months membership service, by making a lump sum amount payable to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board. The amount of creditable service purchased under this subsection may not exceed a total of five years.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(aa) Credit at Full Cost for Parental Leave, Pregnancy or Childbirth-Related Leave, or Certain Involuntary Furloughs. – Notwithstanding other provisions of this Chapter, any member in service with five or more years of credited membership service may purchase creditable service for periods of service which were interrupted due to parental leave, pregnancy or childbirth, or involuntary administrative furlough due to a lack of funds to support the position by making a lump sum amount payable to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board. The amount of creditable service purchased under this subsection may not exceed a total of five years.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(bb) Repealed by Session Laws 2021-57, s. 1.4(a), effective July 1, 2022.

(bb1) Credit at Full Cost for Probationary Local Government Employment Purchased On and After January 1, 2022. – Notwithstanding any other provision of this Chapter, on and after January 1, 2022, a member may purchase creditable service, prior to retirement, for employment with any local employer as defined in G.S. 128-21(11) when considered to be in a probationary or employer-imposed waiting period status, between the date of employment and the date of membership service with the Local Governmental Employees' Retirement System.

The member shall purchase this service by making a lump sum amount payable to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(cc) Credit for Employment in a Charter School Operated by a Private Nonprofit Corporation or a Charter School Operated by a Municipality. – Prior to January 1, 2023, any member may purchase creditable service for any employment 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 upon completion of five years of membership service by making a lump-sum payment into the Annuity Savings Fund. The payment by the member shall be equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the Retirement System's liabilities, taking into account the additional retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire with an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the actuary plus an administrative expense fee to be determined by the Board of Trustees. Creditable service purchased under this subsection shall not exceed a total of five years. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

(cc1) Notwithstanding any provision of this Chapter to the contrary, on and after January 1, 2023, any member in service with five or more years of membership service may purchase creditable service for any employment 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 by paying a total lump sum payment. The amount of creditable service purchased under this subsection may not exceed a total of five years. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on

the basis of the 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) assumed annual postretirement allowance increases as 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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(dd) Purchase of Service Credits Through Rollover Contributions From Certain Other Plans. – Notwithstanding any other provision of this Article, and without regard to any limitations on contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase membership or creditable service pursuant to the provisions of G.S. 135-4, may, subject to such rules and regulations established by the Board of Trustees, purchase such service credits through rollover contributions to the Annuity Savings Fund from (i) an annuity contract described in Section 403(b) of the Internal Revenue Code, (ii) an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, (iii) 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, or (iv) a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code. Notwithstanding the foregoing, the Retirement System shall not accept any amount as a rollover contribution unless such amount 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 such 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.

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

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

(ff) Retroactive Membership Service. – A member who is reinstated to service as an employee as defined in G.S. 135-1(10) or as a teacher as defined in G.S. 135-1(25) retroactively to the date of prior involuntary termination with back pay, as defined by the State Human

Resources Commission, and associated benefits may be allowed membership service, after submitting clear and convincing evidence of the reinstatement, payment of back pay, and restoration of associated benefits, as follows:

- (1) When 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 is:
  - a. Within 90 days of the involuntary termination, by the payment of employee and employer contributions that would have been paid; or
  - b. After 90 days of the involuntary termination, 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.
- (2) When the reinstatement to service is by settlement agreement voluntarily entered into by the affected parties, by the payment of a lump-sum amount. The member shall purchase this service by paying a lump sum amount to the annuity savings fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account; provided, however, that an employer does not discriminate against any employed member or group of employed members in paying all or any part of the cost of the retroactive membership service.

In the event a member received a return of accumulated contributions subsequent to an involuntary termination as provided in G.S. 135-5(f), 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.

(gg) If a member who is an elected government official and has not vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts committed after July 1, 2007, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is an elected government official and has vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 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 an elected government official.

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.

(hh) Credit at Full Cost for Service With The University of North Carolina During Which a Member Participated in the Optional Retirement Program. – Notwithstanding any other provisions of this Chapter to the contrary, any member in service with five or more years of membership service may purchase creditable service for 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. The amount of creditable service purchased under this subsection may not exceed a total of five years. The member shall purchase this service by making a lump-sum amount payable to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the 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) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. The calculation of the amount payable shall also include an administrative fee to be set by the Board.

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 cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account.

(ii) 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. 135-18.10A 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. 135-18.10A 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.

(jj) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement allowance is subject to an adjustment pursuant to the contribution-based benefit cap established in G.S. 135-5(a3), except as otherwise provided under this subsection, the retirement system shall notify the member and the member's employer that the member's retirement allowance has been capped. The retirement system shall compute and notify the member and the member's employer of the total additional amount the member would need to contribute in order to make the member not subject to the contribution-based benefit cap. This total additional amount shall be the actuarial equivalent of a single life annuity adjusted for the age of the member at the time of retirement, or when appropriate, the age at the time of the member's death that would have had to have been purchased to increase the member's benefit to the pre-cap level. If the member's employer did not report to the retirement system any compensation paid to the member during

the period used to compute the member's average final compensation, the retirement system shall not notify the member's employer, but instead shall notify the employer or employers who reported compensation during the member's average final compensation period, with the notification for each such employer specifying that employer's share of the amount that would have had to have been purchased to increase the member's benefit to the pre-cap level, allocated proportionally to each employer based on the total amount of compensation to the member that each employer reported during the period used to compute the member's average final compensation. Except as otherwise provided in this subsection, the member shall have until 90 days after notification regarding this additional amount or until 90 days after the effective date of retirement, whichever is later, to submit a lump sum payment to the annuity savings fund in order for the retirement system to restore the retirement allowance to the uncapped amount. Nothing contained in this subsection shall prevent an employer or former employer from paying all or part of the cost of the amount necessary to restore the member's retirement allowance to the pre-cap amount. Notwithstanding the requirement that the payment be made as a lump sum, and notwithstanding Chapter 150B of the General Statutes, the retirement system may allow an employer or former employer of a member who became a member before January 1, 2015, or who has not earned at least five years of membership service in the retirement system after January 1, 2015, to pay the additional amount required in this subsection over an extended period using one of the following three options:

- (1) Option one. – An installment payment plan ending no more than 15 months after the retirement of the member.
- (2) Option two. – An installment payment plan ending no more than 27 months after the retirement of the member. Interest shall be assessed on the principal amount of the contribution-based benefit cap liability owed and applied to any installment payment plan term exceeding 12 months at a rate corresponding with the interest rate assumption based on the most recent actuarial valuation approved by the Board of Trustees.
- (3) Option three. – An adjustment to the required employer contribution rate for the employer as provided in G.S. 135-8(f)(5).

Payment under the selected option must be completed regardless of whether the member continues to receive a recurring monthly retirement benefit through the end of the extended payment period. An employer's continuing compliance with a payment option selected from the three options above will be deemed payment of the employer's additional contribution required by this subsection for purposes of G.S. 135-8(f)(3). (1941, c. 25, s. 4; 1943, cc. 200, 783; 1945, c. 797; 1947, c. 575; 1949, c. 1056, ss. 2, 4; 1953, c. 1050, s. 3; 1959, c. 513, s. 11/2; 1961, c. 516, s. 3; c. 779, s. 2; 1963, c. 1262; 1965, c. 780, s. 1; c. 924; 1967, c. 720, s. 3; 1969, c. 1223, ss. 3, 4; 1971, c. 117, ss. 9, 10; c. 993; 1973, c. 241, s. 2; c. 242, s. 1; c. 667, s. 2; c. 737, s. 1; c. 816, s. 1; c. 1063; c. 1311, ss. 1-5; 1975, c. 205, s. 2; c. 875, s. 47; 1977, cc. 317, 790; 1979, c. 826; c. 866, s. 2; c. 867; c. 972, s. 3; 1981, c. 557, s. 3; c. 636, s. 1; c. 1116, s. 1; 1981 (Reg. Sess., 1982), c. 1396, s. 4; 1983, c. 533, s. 1; c. 725; 1983 (Reg. Sess., 1984), c. 1030; c. 1034, ss. 230, 231; c. 1045, ss. 1, 2; 1985, c. 401, ss. 1, 2; c. 407, s. 1; c. 479, s. 193; c. 512; c. 530; c. 649, ss. 1, 4; c. 749, s. 1; 1987, c. 533, s. 1; c. 717, s. 2; c. 738, s. 29(b); c. 809, s. 2; c. 821; c. 825; 1987 (Reg. Sess., 1988), c. 1088, ss. 1-4; c. 1103; c. 1110, s. 9; 1989, c. 255, ss. 11-20; c. 762, s. 3; 1991 (Reg. Sess., 1992), c. 1017, s. 2; c. 1029, s. 1; 1995, c. 507, s. 7.23D(b); 1998-71, ss. 3, 4; 1998-190, s. 1; 1998-212, s. 9.14A(c); 1998-214, s. 2; 1999-71, s. 1; 1999-158, s. 2; 2001-424, ss. 32.28(a), 32.32(a), 32.32(b), 32.32(c); 2002-71, s. 5; 2002-153, s. 4; 2002-174, s. 3; 2003-284, s. 30.18(b); 2003-358, s. 3; 2003-359, ss. 7, 8, 9, 12.; 2005-91, s. 1; 2007-179, s. 3(b); 2007-233, s. 1; 2007-431, ss. 8, 11; 2009-281, s. 1; 2010-72, s. 5(a); 2011-183, s. 101; 2011-294, s. 5(a); 2012-130, s. 3(b), (c); 2012-193, s. 2; 2013-382, s. 9.1(c); 2013-405, s. 6(a); 2014-88, s. 1(c); 2014-115, s. 55.3(f); 2015-67, s. 6; 2015-168, s. 7(a); 2016-82, s. 1; 2017-128,

s. 2(a); 2017-129, s. 9(a); 2018-85, ss. 7, 14; 2018-145, s. 20(b); 2020-29, s. 1(a); 2020-48, s. 4.4(a), (b); 2021-57, ss. 1.1, 1.2(a), (b), 1.3, 1.4(a); 2021-72, ss. 1.1(d), 3.1(d); 2022-16, s. 1.1.)