

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

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SENATE BILL 467

Short Title: North Carolina Retirement Reform. (Public)

Sponsors: Senators Wells, Rabon, Rabin (Primary Sponsors); Brock and Sanderson.

Referred to: Rules and Operations of the Senate

March 30, 2017

A BILL TO BE ENTITLED

1 AN ACT TO REFORM THE NORTH CAROLINA RETIREMENT SYSTEM BY
2 PROVIDING THAT CERTAIN PERSONS HIRED BY THE STATE BEGINNING JULY
3 1, 2018, SHALL PARTICIPATE IN THE NORTH CAROLINA 401(K) PLAN OR
4 NORTH CAROLINA 457 PLAN RATHER THAN THE TEACHERS' AND STATE
5 EMPLOYEES' RETIREMENT SYSTEM OR THE CONSOLIDATED JUDICIAL
6 RETIREMENT SYSTEM; TO PROVIDE THAT MEMBERS OF THE GENERAL
7 ASSEMBLY WHO FIRST BECOME MEMBERS ON OR AFTER JULY 1, 2018,
8 SHALL PARTICIPATE IN THE NORTH CAROLINA 401(K) PLAN OR NORTH
9 CAROLINA 457 PLAN RATHER THAN THE LEGISLATIVE RETIREMENT
10 SYSTEM; TO PROVIDE THAT CERTAIN LOCAL GOVERNMENTAL EMPLOYEES
11 HIRED ON OR AFTER JULY 1, 2018, SHALL PARTICIPATE IN THE NORTH
12 CAROLINA 401(K) PLAN OR NORTH CAROLINA 457 PLAN; TO CHANGE STATE
13 HEALTH PLAN ELIGIBILITY FOR STATE RETIREES; AND TO MAKE
14 CONFORMING CHANGES.
15

16 The General Assembly of North Carolina enacts:

17
18 **PART I. ENACT DEFINED CONTRIBUTION PLAN FOR NEW HIRES**

19 **SECTION 1.(a)** Chapter 135 of the General Statutes is amended by adding a new
20 Article to read:

21 "Article 5A.

22 "Supplemental Retirement Income Plan and Deferred Compensation Plan Automatic
23 Enrollment.

24 **"§ 135-99.1 Definitions.**

25 The following definitions apply in this Article:

- 26 (1) Board. – The Supplemental Retirement Board of Trustees established under
27 G.S. 135-96.
28 (2) Deferred Compensation Plan. – The North Carolina Public Employee
29 Deferred Compensation Plan established under G.S. 143B-426.24.
30 (3) Eligible Plan member. – Any of the following employees:
31 a. A teacher or State employee who is not a member of the Teachers'
32 and State Employees' Retirement System, the Consolidated Judicial
33 Retirement System, or the Optional Retirement Program established
34 under G.S. 135-5.1.
35 b. A member of the General Assembly who is not a member of the
36 Legislative Retirement System.



1 c. A local government employee whose employer is a participating
2 employer in the Local Governmental Employees' Retirement System
3 but who is not a member of the Local Governmental Employees'
4 Retirement System or an equivalent locally sponsored retirement
5 plan.

6 (4) Optional Retirement Program. – The Optional Retirement Program for The
7 University of North Carolina established under G.S. 135-5.1.

8 (5) Plan member. – An eligible Plan member who is enrolled in the
9 Supplemental Retirement Income Plan, the Deferred Compensation Plan, or
10 both.

11 (6) Supplemental Retirement Income Plan. – The Supplemental Retirement
12 Income Plan provided for under Article 5 of this Chapter.

13 **"§ 135-99.2. Automatic enrollment; changes in contribution rates.**

14 (a) Except as otherwise provided in this Article, effective July 1, 2018, all eligible Plan
15 members shall be automatically enrolled in the Supplemental Retirement Income Plan, the
16 Deferred Compensation Plan, or both at the time of initial employment and at subsequent times
17 to be determined by the Board, and the Plan members' contributions shall be subject to
18 automatic adjustment on an annual basis as provided by the Board of Trustees on a date set by
19 the Board. A Plan member's compensation shall be reduced by the amount of his or her
20 contribution to the Supplemental Retirement Income Plan, the Deferred Compensation Plan, or
21 both, and the contribution shall be held in the Plan member's account. Plan members subject to
22 such a reduction in compensation shall be deemed to have authorized payroll deductions for
23 making contributions to the Supplemental Retirement Income Plan, the Deferred Compensation
24 Plan, or both.

25 (b) The contribution levels for automatic enrollment and for automatic adjustment shall
26 be set by the Board for each individual member, with the goal of achieving an adequate
27 retirement income for that individual, based upon the following criteria:

28 (1) Age of the member.

29 (2) Current salary of the member.

30 (3) The member's current account balance.

31 (4) Projected interest rates and asset returns.

32 (5) Projected salary growth.

33 (6) Target retirement age, which shall be set at the Social Security Normal
34 Retirement Age for most members.

35 (7) Target for retirement income as a percentage of income just prior to
36 retirement, which shall be set at seventy percent (70%) to ninety percent
37 (90%) for most members.

38 (8) Projected income from other sources, including Social Security.

39 (9) Account balance in any outside retirement accounts.

40 (10) Any other relevant assumptions as determined by the Board.

41 The Board shall determine default settings for the criteria listed in this subsection, subject
42 to being overridden by the Plan member.

43 (c) The Board shall establish a new investment option consisting exclusively of
44 long-term, fixed-income securities that are investment grade and indexed for inflation, except
45 for any necessary cash balance. The default investment setting shall be for a certain percentage
46 in this new investment option and a percentage in other investment options, as set by the Board.
47 The Board shall set the default investment setting so that the amount invested in the new
48 investment option increases as the member approaches the target retirement age. In the event
49 that the securities required for the new investment option are no longer available for
50 investment, then the default investment shall exclude the new investment option until such time
51 as those securities are again available for investment.

1 (d) Any automatic adjustment in employee contribution rates made by the Board of
2 Trustees may be phased in over the course of no more than three years.

3 (e) If the proposed automatic adjustment of a Plan member's contribution rate would
4 result in a change of more than five percent (5%) in that rate, the Board shall notify the Plan
5 member of the proposed adjustment and of the Plan member's right to opt out of that
6 adjustment using at least three of the following methods: e-mail, U.S. mail, telephone, or direct
7 contact by the Plan member's Human Resources representative.

8 (f) Upon the automatic enrollment of an eligible Plan member, the Board may hold any
9 contributions to the Supplemental Retirement Income Plan or Deferred Compensation Plan in
10 another State account for the 90-calendar day period in which the eligible Plan member may
11 elect to opt out of enrollment.

12 **"§ 135-99.3. Ability to opt out.**

13 (a) An eligible Plan member may elect to opt out of automatic enrollment in the
14 Supplemental Retirement Income Plan, Deferred Compensation Plan, or both, as provided for
15 under G.S. 135-99.2. The decision to opt out of automatic enrollment may be permanent or
16 may be made on a one-time basis. The decision to opt out of automatic enrollment must be
17 made within the first 90 calendar days of being automatically enrolled in the Supplemental
18 Retirement Income Plan or Deferred Compensation Plan.

19 (b) A Plan member may elect to opt out of automatic adjustment in the Plan member's
20 contribution rate in the Supplemental Retirement Income Plan, Deferred Compensation Plan, or
21 both, as provided for under G.S. 135-99.2. A Plan member may choose to participate in the
22 Supplemental Retirement Income Plan, Deferred Compensation Plan, or both at a different
23 contribution level. The decision to opt out of automatic adjustment may be permanent or may
24 be made on a one-time basis. A Plan member may change the contribution rate applicable to his
25 or her account at any time.

26 **"§ 135-99.4. Automatic monthly distribution.**

27 (a) Upon the later of separation from service or attainment of the most recent target
28 retirement age established under G.S. 135-99.2(b)(6), as overridden by the Plan member if
29 applicable, monthly distributions from the Plan member's account will commence for any Plan
30 member who has not made an election otherwise. The amount of these distributions shall be
31 equal to the amount the Plan member would receive if the Plan member completed the transfer
32 of a portion of the Plan member's account balance to the North Carolina Retirement Income
33 System established in Article 8 of this Chapter and elected a benefit with postretirement
34 increases and no survivorship benefit. The Board shall establish the portion of the account
35 balance used in determining the distribution amount.

36 (b) After a time period specified by the Board, the automatic distributions under
37 subsection (a) of this section shall cease, and the Board shall inform the Plan member of the
38 procedure for continuing monthly income for life by effecting a transfer under Article 8 of this
39 Chapter. The Plan member may elect to change the distribution amount or cease distributions at
40 any time.

41 (c) The automatic distributions under this section shall not apply to any Plan member
42 who has reached the age for minimum distributions under Section 401(a)(9) of the Internal
43 Revenue Code or who would face tax penalties for the withdrawal. The Board may further
44 delay commencement of automatic monthly distributions until the Plan's normal retirement age,
45 the Plan member's first request for a distribution, or as otherwise required to comply with
46 federal law. The Board may exempt from automatic monthly distributions accounts with
47 balances below a threshold set by the Board."

48 **SECTION 1.(b)** It is the intent of the General Assembly for the 2018-2019 fiscal
49 year to provide for a one hundred percent (100%) match by the State on the first six percent
50 (6%) in contributions made by (i) persons hired by the State on or after July 1, 2018, and who
51 are required to participate in the North Carolina 401(k) Plan or the North Carolina 457 Plan

1 rather than the Teachers' and State Employees' Retirement System, the Consolidated Judicial
2 Retirement System, or the Optional Retirement Program established under G.S. 135-5.1, and
3 (ii) members of the General Assembly who first become members on or after January 1, 2018,
4 who are required to participate in the North Carolina 401(k) Plan or North Carolina 457 Plan
5 rather than the Legislative Retirement System.

6 Further, it is the intent of the General Assembly to establish an unfunded liability
7 contribution rate, approximating such rates in existing retirement systems, to be contributed by
8 employers of those hired on or after July 1, 2018.

9 **SECTION 1.(c)** Chapter 135 of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 8.

12 "North Carolina Retirement Income System.

13 **"§ 135-160. Definitions.**

14 The following definitions apply in this Article:

- 15 (1) Board of Trustees. – The Board of Trustees established in G. 135-6.
- 16 (2) Local government employee. – An employee as defined in G.S. 128-27(10).
- 17 (3) Member. – A member of the Retirement Income System.
- 18 (4) State employee. – An employee as defined in G.S. 135-1(10).
- 19 (5) System. – The North Carolina Retirement Income System established under
20 G.S. 135-60.
- 21 (6) Teacher. – As defined in G.S. 135-(25).

22 **"§ 135-161. Membership.**

23 (a) The North Carolina Retirement Income System is established and shall be
24 administered by the Board of Trustees established in G.S. 135-6.

25 (b) The membership of the North Carolina Retirement Income System is composed of
26 the following persons who elect to transfer funds into the System:

- 27 (1) Teachers and State employees who are not members of the Teachers' and
28 State Employees' Retirement System, the Consolidated Judicial Retirement
29 System, or the Optional Retirement Program established under G.S. 135-5.1.
- 30 (2) Members of the General Assembly who are not members of Legislative
31 Retirement System.
- 32 (3) Local government employees whose employer is a participating employer in
33 the Local Governmental Employees' Retirement System but who are not
34 members of either the Local Governmental Employees' Retirement System
35 or an equivalent locally sponsored retirement plan.

36 **"§ 135-162. Benefits.**

37 (a) Retirement Allowance. – At any time coincident with or following retirement, a
38 member may make an election to transfer any portion of the member's eligible accumulated
39 contributions, not including any Roth after-tax contributions and the earnings thereon, from the
40 Supplemental Retirement Income Plan of North Carolina or the North Carolina Public
41 Employee Deferred Compensation Plan to the North Carolina Retirement Income System and
42 receive a retirement allowance, which shall be based upon the member's transferred balance.

43 A member who became a member of the Supplemental Retirement Income Plan prior to
44 retirement and who remains a member of the Supplemental Retirement Income Plan may make
45 an election to transfer eligible balances, not including any Roth after-tax contributions and the
46 earnings thereon, from any of the following plans to the Supplemental Retirement Income Plan,
47 subject to the applicable requirements of the Supplemental Retirement Income Plan, and then
48 through the Supplemental Retirement Income Plan to this Retirement System: (i) a plan
49 participating in the North Carolina Public School Teachers' and Professional Educators'
50 Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code; (iii) a
51 plan described in section 457(b) of the Internal Revenue Code that is maintained by a state,

1 political subdivision of a state, or any agency or instrumentality of a state or political
2 subdivision of a state; (iv) an individual retirement account or annuity described in section
3 408(a) or section 408(b) of the Internal Revenue Code that is eligible to be rolled over and
4 would otherwise be includible in gross income; or (v) a tax-qualified plan described in section
5 401(a) or section 403(a) of the Internal Revenue Code.

6 Notwithstanding anything to the contrary, a member may not transfer such amounts as will
7 cause the member's retirement allowance under the System to exceed the amount allowable
8 under the Internal Revenue Code. The Board of Trustees may establish a minimum amount that
9 must be transferred if a transfer is elected. The member may elect a retirement allowance with
10 no postretirement increases or a retirement allowance with annual postretirement increases
11 equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any
12 other allowance will not apply to the retirement allowance. The Board of Trustees shall provide
13 educational materials to the members who apply for the transfer authorized by this section.
14 Those materials shall describe the retirement allowance and shall explain the relationship
15 between the transferred balance and the monthly benefit and how the member's heirs may be
16 impacted by the election to make this transfer and any costs and fees involved.

17 (b) Retirement Allowance Determination. – For the purpose of determining the
18 retirement allowance under this section, the Board of Trustees shall adopt straight life annuity
19 factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as
20 may be necessary based upon actual experience. A single set of mortality and such other tables
21 will be used for all members, with factors differing only based on the age of the member and
22 the election of postretirement increases. The Board of Trustees shall modify the mortality and
23 such other tables at least every five years, as shall be deemed necessary, based upon the
24 five-year experience study as required by G.S. 135-6(n). Provided, however, a member who
25 transfers the member's eligible accumulated contributions from an eligible retirement plan to
26 this System, pursuant to this section, shall be taxed for North Carolina State income tax
27 purposes on the retirement allowance the same as if that retirement allowance had been paid
28 directly by the eligible plan or the plan through which the transfer was made, whichever is most
29 favorable to the member. The Board of Trustees shall determine the taxable amount, if any, and
30 report accordingly.

31 (c) Administrative Fee. – The Supplemental Retirement Board of Trustees established
32 under G.S. 135-96 may assess a one-time flat administrative fee not to exceed the actual cost of
33 the administrative expenses relating to these transfers. An eligible plan shall not assess a fee
34 specifically relating to a transfer of accumulated contributions authorized under this section.
35 This subsection shall not prohibit other fees that may be assessable under the plan. Each plan,
36 contract, account, or annuity shall fully disclose to any member participating in a transfer under
37 this section any surrender charges or other fees, and such disclosure shall be made
38 contemporaneous with the initiation of the transfer by the member.

39 (d) Retirement Allowance Payment Options. – The retirement allowance shall continue
40 for the life of the member and the beneficiary designated to receive a monthly survivorship
41 benefit modeled upon Option 2 or 3 as found in G.S. 135-5(g), if any. The Board of Trustees
42 shall establish two payment options that guarantee payments as follows:

- 43 (1) A member may elect to receive the retirement allowance for life but with
44 payments guaranteed for a number of months to be specified by the Board of
45 Trustees. Under this plan, if the member dies before the expiration of the
46 specified number of months, the retirement allowance will continue to be
47 paid to the member's designated beneficiary for the life of the beneficiary, if
48 the benefit modeled upon Option 2 or 3 is selected. If the benefit modeled
49 upon Option 2 or 3 is not selected, the member's designated beneficiary will
50 receive the benefit only for the remainder of the specified number of months.
51 If the member's designated beneficiary dies before receiving payments for

1 the specified number of months, any remaining payments will be paid to the
 2 member's estate.

3 (2) A member may elect to receive the retirement allowance for life but with the
 4 sum of the retirement allowance payments guaranteed to equal the total of
 5 the transferred amount. Under this payment option, if the member dies
 6 before receiving the total transferred amount, the retirement allowance will
 7 continue to be paid to the member's designated beneficiary for the life of the
 8 beneficiary, if the benefit modeled upon Option 2 or 3 is selected. If the
 9 benefit modeled upon Option 2 or 3 is not selected, the member's designated
 10 beneficiary or the member's estate shall be paid any remaining balance of the
 11 transferred amount.

12 (e) Investment of System Assets. – The State Treasurer shall invest the assets of the
 13 System exclusively in fixed-income securities of investment grade, with a close match between
 14 the projected inflation-adjusted cash flow stream of the investments and the projected
 15 inflation-adjusted cash flow payments to members. In the event that securities offering inflation
 16 indexing are no longer available for investment, then no further transfers of contributions shall
 17 be made under this Article until such time as those securities are again available for investment.

18 (f) Annual Report. – Beginning in the first year that assets in the System exceed
 19 twenty-five million dollars (\$25,000,000), the Department of State Treasurer shall post an
 20 annual report on its Web site estimating the probability distribution of any shortfall due to all of
 21 the following:

- 22 (1) The unknown rate of lifespan improvements.
 23 (2) Anti-selection in rollover by members.
 24 (3) Unknown future inflation.
 25 (4) Unknown future real interest rates.
 26 (5) Unknown levels of default on fixed income assets of investment grade.

27 The report shall also describe efforts taken by the Department of State Treasurer to
 28 minimize each of these risks, at a reasonable cost to the extent possible.

29 (g) Right to Appeal or Amend. – The General Assembly reserves the right to repeal or
 30 amend this section, but such repeal or amendment shall not affect any person who has already
 31 made the election provided for in subsection (a) of this section."

32 **SECTION 1.(d)** Article 5 of Chapter 135 of the General Statutes reads as
 33 rewritten:

34 "Article 5.

35 "Supplemental Retirement Income Act of 1984.

36 "**§ 135-90. Short title and purpose.**

37 (a) This Article shall be known and may be cited as the "Supplemental Retirement
 38 Income Act of 1984".

39 (b) The purpose of the Article is to attract and hold qualified employees and officials of
 40 the State of North Carolina and its political subdivisions by permitting them to participate in a
 41 profit sharing or salary reduction form of deferred compensation which will provide
 42 supplemental retirement income payments upon retirement, disability, termination, hardship,
 43 and death as allowed under section 401(k), or any other relevant section, of the Internal
 44 Revenue Code of 1954 as amended. As used in this Article, the term "profit" means the excess
 45 revenue over expenditures prior to the expenditure of the amount which may be optionally
 46 made available for employees to be placed in trust by the State and its political subdivisions on
 47 behalf of the employees and officials covered by this Article.

48 ...

49 "**§ 135-92. Membership.**

50 (a) The membership eligibility of the Supplemental Retirement Income Plan ~~shall~~may
 51 consist of any of the following ~~who voluntarily elect to enroll:~~persons:

- 1 (1) ~~Members of the Teachers' and State Employees' Retirement System; and~~
 2 ~~System.~~
 3 (2) ~~Members of the Consolidated Judicial Retirement System; and~~ System.
 4 (3) ~~Members of the Legislative Retirement System; and~~ System.
 5 (4) ~~Members of the Local Governmental Employees' Retirement System; and~~
 6 ~~System.~~
 7 (5) Law enforcement officers as defined under G.S. 143-166.30 and
 8 ~~G.S. 143-166.50; and~~ G.S. 143-166.50.
 9 (6) Participants in the Optional Retirement Program provided for under
 10 ~~G.S. 135-5.1; and~~ G.S. 135-5.1.
 11 (7) Members of retirement and pension plans sponsored by political
 12 subdivisions of the State so long as such plans are qualified under Section
 13 401(a) of the Internal Revenue Code of 1986 as amended from time to time.
 14 (8) Teachers and State employees who are not members of the Teachers' and
 15 State Employees' Retirement System, the Consolidated Judicial Retirement
 16 System, or the Optional Retirement System established under G.S. 135-5.1.
 17 (9) Members of the General Assembly who are not members of the Legislative
 18 Retirement System.
 19 (10) Local government employees whose employer is a participating employer in
 20 the Local Government Employees' Retirement System, but who are not
 21 members of either the Local Government Employees' Retirement System or
 22 an equivalent locally sponsored retirement plan.

23 (b) The membership of any person in the Supplemental Retirement Income Plan shall
 24 cease ~~upon~~ upon the occurrence of any of the following:

- 25 (1) ~~The withdrawal of a member's accumulated account; or~~ account.
 26 (2) ~~Retirement of a member under the provisions of the Supplemental Income~~
 27 ~~Retirement Plan; or~~ Plan.
 28 (3) ~~Death.~~ Death of the member.

29 **"§ 135-93. Contributions.**

30 (a) Each member may elect to reduce his compensation by the amount of his
 31 contribution to the Supplemental Retirement Income Plan and that amount shall be held in the
 32 member's account. Members electing such a reduction in compensation may authorize payroll
 33 deductions for making contributions to the Plan.

34 (b) The State and any of its political subdivisions may make contributions to the
 35 Supplemental Retirement Income Plan on behalf of any of its members, provided these
 36 contributions are nondiscriminatory in accordance with the Internal Revenue Code of 1954 as
 37 amended, and are duly appropriated by their governing bodies, and the contributions are held in
 38 the member's account. Employer contributions to the Plan are declared expenditures for a
 39 public purpose. The following employees shall become vested in the Plan after the attainment
 40 of five years of service to the State with respect to any contributions made by the State on their
 41 behalf:

- 42 (1) Teachers and State employees who are not members of the Teachers' and
 43 State Employees' Retirement System, the Consolidated Judicial Retirement
 44 System, or the Optional Retirement Plan established under G.S. 135-5.1.
 45 (2) Members of the General Assembly who are not members of the Legislative
 46 Retirement System.
 47 (3) Local government employees whose employer is a participating employer in
 48 the Local Governmental Employees' Retirement System but who are not
 49 members of the Local Governmental Employees' Retirement System or an
 50 equivalent locally sponsored retirement plan.

1 (c) The Department of State Treasurer and Board of Trustees shall establish maximum
 2 annual additions that may be made to a member's account and provide for multiple plan
 3 reductions in accordance with the Internal Revenue Code of 1954 as amended.

4 **"§ 135-94. Benefits.**

5 (a) The Department of State Treasurer and the Board of Trustees shall establish a
 6 schedule of supplemental retirement income benefits for all members of the Supplemental
 7 Retirement Income Plan, subject to the following limitations:

8 (1) Except as provided in ~~G.S. 143-166.30(g1)~~ and ~~G.S. 143-166.30(g1)~~,
 9 G.S. 143-166.50(e2), and G.S. 135-93(b), the balance in each member's
 10 account shall be fully vested at all times and shall not be subject to forfeiture
 11 for any reason.

12 (2) All amounts maintained in a member's account shall be invested according
 13 to the member's election, as approved by the Department of State Treasurer
 14 and Board of Trustees, including but not limited to, a time deposit account, a
 15 fixed investment account, or a variable investment account. Transfers of
 16 accumulated funds shall be permitted among the various approved forms of
 17 investment.

18 (3) The Department of State Treasurer and Board of Trustees shall provide
 19 members with alternative payment options, including survivors' options, for
 20 the distribution of benefits from the Plan upon retirement, disability,
 21 termination, hardship, and death.

22 (4) With the consent of the Department of State Treasurer and the Board of
 23 Trustees, amounts may be transferred from other qualified plans to the
 24 Supplemental Retirement Income Plan, provided that the trust from which
 25 such funds are transferred permits the transfer to be made and, the transfer
 26 will not jeopardize the tax status of the Supplemental Retirement Income
 27 Plan.

28 (5) At the discretion of the Department of State Treasurer and Board of
 29 Trustees, a loan program may be implemented for members which complies
 30 with applicable State and federal laws and regulations.

31 (b) All provisions of the Plan shall be interpreted and applied by the Department of
 32 State Treasurer and Board of Trustees in a uniform and nondiscriminatory manner.

33 (c) All benefits under the Plan shall become payable on and after January 1, 1985.

34 (d) Contributions under the Plan may be made on and after January 1, 1985.

35"

36
 37 **PART II. CEASE MEMBERSHIP IN THE TEACHERS' AND STATE EMPLOYEES'
 38 RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT
 39 SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, THE LOCAL
 40 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, AND, FOR CERTAIN
 41 EMPLOYEES, THE OPTIONAL RETIREMENT PROGRAM**

42 **SECTION 2.(a)** G.S. 135-1(13) reads as rewritten:

43 "(13) "Member" shall mean any teacher or State employee included in the
 44 membership of the System as provided in G.S. 135-3 and ~~135-4~~G.S. 135-4
 45 who earned membership service prior to July 1, 2018, and did not withdraw
 46 that service."

47 **SECTION 2.(b)** G.S. 128-21(13) reads as rewritten:

48 "(13) "Member" shall mean any person included in the membership of the
 49 Retirement System as provided in ~~G.S. 128-24~~G.S. 128-24 who earned
 50 membership service prior to July 1, 2018, and did not withdraw that
 51 service."

1 **SECTION 2.(c)** G.S. 135-3 reads as rewritten:

2 "**§ 135-3. Membership.**

3 The membership of this Retirement System shall be composed as ~~follows:~~follows, provided
4 that persons who have not earned membership service prior to July 1, 2018, may not become
5 members of the System:

6 "

7 **SECTION 2.(d)** G.S. 128-24 reads as rewritten:

8 "**§ 128-24. Membership.**

9 The membership of this Retirement System shall be composed as ~~follows:~~follows, provided
10 that persons who have not earned membership service prior to July 1, 2018, may not become
11 members of the System:

12 "

13 **SECTION 2.(e)** G.S. 128-23 reads as rewritten:

14 "**§ 128-23. Acceptance by cities, towns and counties.**

15 (a) Pursuant to the favorable vote of a majority of the employees of any incorporated
16 city or town, the governing body may, by resolution legally adopted and approved by the Board
17 of Trustees, elect to have its employees become eligible to participate in the Retirement
18 System, and the said municipal governing body may make the necessary appropriation therefor
19 and if necessary levy annually taxes for payment of the same.

20 (b) Pursuant to the favorable vote of a majority of the employees of the county, the
21 board of commissioners of any county may, by resolution legally adopted and approved by the
22 Board of Trustees, elect to have its employees become eligible to participate in the Retirement
23 System. Each county is authorized to make appropriations for these purposes and to fund them
24 by levy of property taxes pursuant to G.S. 153-65 and by the allocation of other revenues
25 whose use is not otherwise restricted by law.

26 (c) ~~Any~~On or before January 1, 2018, any eligible employer desiring to participate in
27 the Retirement System shall file with the Board of Trustees an application for participation
28 under the conditions included in this Article on a form approved by the Board of Trustees. In
29 such application the employer shall agree to make the contributions required of participating
30 employers, to deduct from the salaries of employees who may become members the
31 contributions required of members under this Article, and to transmit such contributions to the
32 Board of Trustees. It shall also agree to make the employer's contributions for the participation
33 in the Retirement System of all employees entering the service of the employer, after its
34 participation begins, who shall become members.

35 (c1) On and after July 1, 2018, there shall be no additional employers approved to
36 participate in the Retirement System. Any employers who are participating employers on July
37 1, 2018, shall remain participating employers in the Retirement System and shall be able to
38 cease participation only as provided for under G.S. 128-30(i).

39 "

40 **SECTION 2.(f)** G.S. 135-51(a) reads as rewritten:

41 "(a) This Article provides consolidated retirement benefits for (i) all justices and judges,
42 district attorneys, and solicitors who are serving on January 1, 1974, and who become such
43 thereafter; after that date and who earned membership service prior to July 1, 2018, and did not
44 withdraw that service; and for (ii) all clerks of superior court who are so serving on January 1,
45 1975, and who become such after that date; date and who earned membership service prior to
46 July 1, 2018, and did not withdraw that service; and for (iii) all public defenders who are
47 serving on July 1, 2007, and who become public defenders after that date; date and who earned
48 membership service prior to July 1, 2018, and did not withdraw that service; and for (iv) the
49 Director of Indigent Defense Services who is serving on July 1, 2008, and those who become
50 Director of Indigent Defense Services after that date; date and who earned membership service
51 prior to July 1, 2018, and did not withdraw that service."

1 **SECTION 2.(g)** G.S. 120-4.11 reads as rewritten:

2 "**§ 120-4.11. Membership.**

3 The following members of the General Assembly and former members of the General
4 Assembly are eligible for membership in the Retirement System:

- 5 (1) Members of the General Assembly who serve on and after ~~June 15,~~
6 ~~1983; June 15, 1983, and who earned membership service prior to July 1,~~
7 ~~2018, and did not withdraw that service;~~ and
8 (2) Former members of the General Assembly who served prior to June 15,
9 1983; and
10 a. Who elect to transfer current and future entitlements, or
11 contributions, from the Legislative Retirement Fund established by
12 Chapter 1269 of the 1969 Session Laws; or
13 b. Who have five or more years of service as a member of the General
14 Assembly."

15 **SECTION 2.(h)** G.S. 135-5.1 reads as rewritten:

16 "**§ 135-5.1. Optional retirement program for The University of North Carolina.**

17 (a) An Optional Retirement Program provided for in this section is authorized and
18 established and shall be implemented by the Board of Governors of The University of North
19 Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity
20 contracts, which may be both fixed and variable contracts or a combination thereof, or financed
21 through the establishment of a trust, for the benefit of participants in the Program.

22 (a1) Participation ~~For employees appointed on or before June 30, 2018, participation~~
23 the Optional Retirement Program shall be limited to University personnel who are eligible for
24 membership in the Teachers' and State Employees' Retirement Program and who ~~are~~ are any of
25 the following employees:

- 26 (1) Administrators and faculty of The University of North Carolina with the
27 rank of instructor or ~~above;~~ above.
28 (2) The President and employees of The University of North Carolina who are
29 appointed by the Board of Governors on recommendation of the President
30 pursuant to G.S. 116-11(4), 116-11(5), and 116-14 or who are appointed by
31 the Board of Trustees of a constituent institution of The University of North
32 Carolina upon the recommendation of the Chancellor pursuant to
33 ~~G.S. 116-40.22(b);~~ G.S. 116-40.22.
34 (3) Nonfaculty instructional and research staff who are exempt from the North
35 Carolina Human Resources Act, as defined by the provisions of
36 G.S. 126-5(c1)(8), and the faculty of the North Carolina School of Science
37 and ~~Mathematics;~~ and Mathematics.
38 (4) Field faculty of the Cooperative Agriculture Extension Service, and tenure
39 track faculty in North Carolina State University agriculture research
40 programs who are exempt from the North Carolina Human Resources Act
41 and who are eligible for membership in the Teachers' and State Employees'
42 Retirement System pursuant to G.S. 135-3(1), who in any of the cases
43 described in this subsection (i) had been members of the Optional
44 Retirement Program under the provisions of Chapter 338, Session Laws of
45 1971, immediately prior to July 1, 1985, or (ii) have sought membership as
46 required in subsection (b), below. Under the Optional Retirement Program,
47 the State and the participant shall contribute, to the extent authorized or
48 required, toward the purchase of such contracts or deposited in such trust on
49 the participant's behalf.

- 1 (5) Employees of The University of North Carolina Health Care System, subject
2 to rules for eligibility and participation as may be adopted by the Board of
3 Governors in the Optional Retirement Program plan document.
- 4 (6) Employees hired on or after January 1, 2013.
- 5 (a2) For all employees initially appointed or after July 1, 2018, participation in the
6 Optional Retirement Program shall be limited to those employees described in G.S. 126-5(c1),
7 subdivisions (8) through (10), and G.S. 126-5(c8) and shall be subject to rules for eligibility
8 and participation adopted by the Board of Governors in the Optional Retirement Program plan
9 document.
- 10 (b) Participation in the Optional Retirement Program shall be governed as follows:
- 11 (1) Those participating in the Optional Retirement Program immediately prior to
12 July 1, 1985, under the provisions of Chapter 338, Session Laws of 1971, are
13 deemed automatically enrolled in the Program as established by this section.
- 14 (2) Eligible employees initially appointed on or after July 1, ~~1985~~,1985, but on
15 or before June 30, 2018, shall at the same time of entering upon eligible
16 employment elect (i) to join the Retirement System in accordance with the
17 provisions of law applicable thereto or (ii) to participate in the Optional
18 Retirement Program. This election shall be in writing and filed with the
19 Retirement System and with the employing institution and shall be effective
20 as of the date of entry into eligible service. For purposes of this provision,
21 the Optional Retirement Program shall be permitted to file individual
22 election forms with the Retirement System using electronic transmission.
- 23 (2a) Eligible employees initially appointed on or after July 1, 2018, shall, at the
24 same time of entering upon eligible employment, participate in the Optional
25 Retirement Program, and subdivisions (3) and (4) of this subsection shall not
26 apply.
- 27 (3) An election to participate in the Optional Retirement Program shall be
28 irrevocable. An eligible employee failing to elect to participate in the
29 Optional Retirement Program at the time of entry into eligible service shall
30 automatically be enrolled as a member of the Retirement System.
- 31 (4) No election by an eligible employee of the Optional Retirement Program
32 shall be effective unless it is accompanied by an appropriate application for
33 the issuance of a contract or contracts or trust participation under the
34 Program.
- 35 (5) If any participant in the Optional Retirement Program having less than five
36 years of total membership service under any combination of the Teachers'
37 and State Employees' Retirement System, the Local Governmental
38 Employees' Retirement System, the Consolidated Judicial Retirement
39 System, or the Optional Retirement Program leaves the employ of The
40 University of North Carolina and either retires or commences employment
41 with an employer not having a retirement program with the same company
42 underwriting the participant's annuity contract, regardless of whether the
43 annuity contract is held by the participant, a trust, or the Retirement System,
44 the participant's interest in the Optional Retirement Program attributable to
45 contributions of The University of North Carolina shall be forfeited.
46 Consistent with Section 401(a) of the Internal Revenue Code, no part of the
47 corpus or income of the Optional Retirement Program, or any trust
48 established under that Program, may be (within the taxable year or
49 thereafter) used for purposes other than for the exclusive benefit of
50 participants and their beneficiaries, except that contributions made under a

1 good faith mistake of fact may be returned, consistent with the rules adopted
2 by the University.

3 (c) Each employing institution shall contribute on behalf of each participant in the
4 Optional Retirement Program an amount equal to a percentage of the participant's
5 compensation as established from time to time by the General Assembly. ~~Each~~ For participants
6 initially appointed on or before June 30, 2018, each participant shall contribute the amount
7 which he or she would be required to contribute if a member of the Retirement System.
8 Contributions authorized or required by the provisions of this subsection on behalf of each
9 participant shall be made, consistent with Section 414(h) of the Internal Revenue Code, by
10 salary reduction according to rules and regulations established by The University of North
11 Carolina. The Board of Governors of The University of North Carolina shall establish policies
12 for participant contributions for participants initially appointed on or after July 1, 2018.

13 Additional personal contributions may also be made by a participant by payroll deduction
14 or salary reduction to an annuity or retirement income plan established pursuant to G.S. 116-17.
15 Payment of contributions shall be made by the employing institution to the designated company
16 or companies underwriting the annuities or the trustees for the benefit of each participant, and
17 this employer contribution shall not be subject to any State tax if made under the Optional
18 Retirement Program or, otherwise, by salary reduction.

19"

20 **SECTION 2.(i)** G.S. 135-5.4(b)(1) reads as rewritten:

21 "**§ 135-5.4. Optional retirement program for State-funded community colleges.**

22 (b) Participation in the Optional Retirement Program shall be governed as follows:

23 (1) Employees initially appointed on or after the implementation of the Optional
24 Retirement Program but on or before June 30, 2018, shall at the same time of
25 entering upon eligible employment elect (i) to join the Retirement System in
26 accordance with the provisions of law applicable thereto or (ii) to participate
27 in the Optional Retirement Program. This election shall be in writing and
28 filed with the Retirement System and with the employing institution and
29 shall be effective as of the date of entry into eligible service. No employees
30 initially appointed on or after July 1, 2018, may elect to join the Optional
31 Retirement Program."

32 **SECTION 2.(j)** Any member of the Teachers' and State Employees' Retirement
33 System, the Consolidated Judicial Retirement System, or the Local Government Employees'
34 Retirement System who became a member prior to July 1, 2018, and any member of the
35 Legislative Retirement System who became a member of the General Assembly prior to July 1,
36 2018, may, during a period to be determined by the Board of Trustees established in
37 G.S. 135-6, exercise a one-time option to cease participation in the Retirement System of which
38 he or she is a member on June 30, 2017, and to be subject effective July 1, 2018, to the
39 provisions of G.S. 135-93, 135-99.2, and 135-99.3, as amended and enacted in this section, and
40 be eligible for any employer contribution to the Supplemental Retirement Income Plan or the
41 North Carolina Public Employee Deferred Compensation Plan, by irrevocably transferring the
42 member's employee contributions in the Retirement System to the Supplemental Retirement
43 Income Plan, the North Carolina Public Employee Deferred Compensation Plan, or both, and
44 forfeiting any right to future benefits under the Retirement System of which he or she was a
45 member on June 30, 2018. The member exercising this one-time option shall be required to
46 acknowledge that the General Assembly retains the authority to change the employer
47 contribution and any other features of the Supplemental Retirement Income Plan or the North
48 Carolina Public Employee Deferred Compensation Plan at any time.

49 **SECTION 2.(k)** No later than December 31, 2017, the Department of State
50 Treasurer shall submit a report to the chairs of the Senate Committee on Appropriations on
51 Pensions, Compensation, and Benefits, the chairs of the House Pensions and Retirement

1 Committee, and the Fiscal Research Division regarding local government employees in North
2 Carolina who do not participate in Social Security. The Department of State Treasurer shall
3 work with stakeholder groups in preparing the report. The report shall include history, statistics,
4 legal considerations, and the advantages and disadvantages of each policy option for covering
5 these employees under some or all of the following:

- 6 (1) Social Security.
- 7 (2) The North Carolina 401(k) and 457 Plans.
- 8 (3) A defined benefit plan designed to be as similar to the North Carolina 401(k)
9 and 457 Plans as legally possible.

10 11 **PART III. REPAY TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM** 12 **UNFUNDED LIABILITY**

13 **SECTION 3.** It is the intent of the General Assembly to appropriate the sum of one
14 hundred million dollars (\$100,000,000) in recurring funds for the 2017-2018 fiscal year and the
15 sum of two hundred million dollars (\$200,000,000) in recurring funds for the 2018-2019 fiscal
16 year to reserves for retirement contributions. This will allow the Board of Trustees of the
17 Teachers' and State Employees' Retirement System to increase the increment in its Employer
18 Contribution Rate Stabilization Policy from thirty-five one-hundredths of a percent (0.35%) of
19 pay to one percent (1%) of pay and more quickly repay the unfunded liability in the System.
20

21 **PART IV. CONFORMING CHANGES/DISABILITY INCOME PLAN/DEATH** 22 **BENEFIT PLAN**

23 **SECTION 4.(a)** G.S. 135-103(a) reads as rewritten:

24 "(a) The eligible participants of the Disability Income Plan shall consist of:

- 25 (1) All teachers and employees in service and members of the Teachers' and
26 State Employees' Retirement System or participants of the Optional
27 Retirement Program on January 1, 1988.
- 28 (2) All persons who become teachers and employees or re-enter service as
29 teachers or employees and are in service and members of the Teachers' and
30 State Employees' Retirement System or participants of the Optional
31 Retirement Program after January 1, 1988.
- 32 (3) All teachers and State employees who are not members of the Teachers' and
33 State Employees' Retirement System or the Optional Retirement Program
34 established under G.S. 135-5.1."

35 **SECTION 4.(b)** G.S. 135-5(l) reads as rewritten:

36 "(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan
37 (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is
38 separate and apart from the Retirement System and under which the members of the Retirement
39 System shall participate and be eligible for group life insurance benefits. Teachers and State
40 employees who are not members of the Retirement System or the Optional Retirement Program
41 established under G.S. 135-5.1 shall also participate and be eligible for benefits under this
42 subsection and the provisions shall apply to them as though they are members. Upon receipt of
43 proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life
44 Insurance Plan, of the death, in service, of a member who had completed at least one full
45 calendar year of membership in the Retirement System, there shall be paid to such person as he
46 shall have nominated by electronic submission prior to completing 10 years of service in a form
47 approved by the Board of Trustees or by written designation duly acknowledged and filed with
48 the Board of Trustees, if such person is living at the time of the member's death, otherwise to
49 the member's legal representatives, a death benefit. Such death benefit shall be equal to the
50 greater of:

51"

1 **SECTION 4.(c)** G.S. 128-27(l) reads as rewritten:

2 "(l) Death Benefit Plan. – The provisions of this subsection shall become effective for
3 any employer only after an agreement to that effect has been executed by the employer and the
4 Director of the Retirement System. There is hereby created a Group Life Insurance Plan
5 (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is
6 separate and apart from the Retirement System and under which the members of the Retirement
7 System shall participate and be eligible for group life insurance benefits. Local government
8 employees whose employer is a participating employer in the Local Government Employees'
9 Retirement System but who are not members of either the Local Government Employees'
10 Retirement System or an equivalent locally sponsored retirement plan shall also participate and
11 be eligible for benefits under this subsection, and the provisions shall apply to them as though
12 they are members. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity
13 as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had
14 completed at least one full calendar year of membership in the Retirement System, there shall
15 be paid to such person as he shall have nominated by electronic submission prior to completing
16 10 years of service in a form approved by the Board of Trustees or by written designation duly
17 acknowledged and filed with the Board of Trustees, if such person is living at the time of the
18 member's death, otherwise to the member's legal representatives, a death benefit. Such death
19 benefit shall be equal to the greater of:

20 "

21

22 **PART V. ELIMINATE RETIREE MEDICAL FOR NEW HIRES**

23 **SECTION 5.(a)** G.S. 135-48.1(18) reads as rewritten:

24 "(18) Retired employee (retiree). – Retired teachers, State employees, and
25 members of the General Assembly who (i) are receiving monthly retirement
26 benefits from ~~any retirement system supported in whole or in part by~~
27 ~~contributions of the State of North Carolina, the Teachers' and State~~
28 Employees' Retirement System, the Consolidated Judicial Retirement
29 System, the Legislative Retirement System, or the Optional Retirement
30 Programs established under G.S. 135-5.1 and G.S. 135-5.4 and (ii) earned
31 contributory retirement service in one of these retirement systems prior to
32 July 1, 2018, and did not withdraw that service, so long as the retiree is
33 enrolled."

34 **SECTION 5.(b)** G.S. 135-48.40 reads as rewritten:

35 **"§ 135-48.40. Categories of eligibility.**

36 (a) Noncontributory Coverage. – The following persons are eligible for coverage under
37 the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-48.43:

- 38 (1) ~~Retired teachers, State employees, members of the General Assembly,~~
39 Retired employees as defined in G.S. 135-48.1(18) and retired State law
40 enforcement officers who retired under the Law Enforcement Officers'
41 Retirement System prior to January 1, 1985. Except as otherwise provided in
42 this subdivision, on and after January 1, 1988, a retiring employee or retiree
43 must have completed at least five years of contributory retirement service
44 with an employing unit prior to retirement from any State-supported
45 retirement system in order to be eligible for group benefits under this Part as
46 a retired employee or retiree. For employees first hired on and after October
47 1, 2006, and members of the General Assembly first taking office on and
48 after February 1, 2007, future coverage as retired employees and retired
49 members of the General Assembly is subject to a requirement that the future
50 retiree have 20 or more years of retirement service credit in order to be
51 covered by the provisions of this subdivision.

1 ...
2 (b) Partially Contributory Coverage. – The following persons are eligible for coverage
3 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

4 ...
5 (3) ~~Retired teachers, State employees, members of the General Assembly,~~
6 Retired employees as defined in G.S. 135-48.1(18) and retired State law
7 enforcement officers who retired under the Law Enforcement Officers'
8 Retirement System prior to January 1, 1985. Except as otherwise provided in
9 this subdivision, on and after January 1, 1988, a retiring employee or retiree
10 must have completed at least five years of contributory retirement service
11 with an employing unit prior to retirement from any State-supported
12 retirement system in order to be eligible for group benefits under this Part as
13 a retired employee or retiree. For employees first hired on and after October
14 1, 2006, and members of the General Assembly first taking office on and
15 after February 1, 2007, future coverage as retired employees and retired
16 members of the General Assembly is subject to a requirement that the future
17 retiree have 20 or more years of retirement service credit in order to be
18 covered by the provisions of this subdivision.

19 ...
20 (c) One-Half Contributory Coverage. – The following persons are eligible for coverage
21 under the Plan, on a one-half contributory basis, subject to the provisions of G.S. 135-48.43:

22 ...
23 (2) ~~Employees and members of the General Assembly~~Retired employees as
24 defined in G.S. 135-48.1(18) with 10 but less than 20 years of retirement
25 service credit provided the employees were first hired on or after October 1,
26 2006, and the members first took office on or after February 1, 2007. For
27 such future retirees, the State shall pay fifty percent (50%) of the Plan's total
28 employer premiums. Individual retirees shall pay the balance of the total
29 premiums not paid by the State.

30 (d) Fully Contributory Coverage. – The following persons shall be eligible for coverage
31 under the Plan, on a fully contributory basis, subject to the provisions of G.S. 135-48.43:

32 ...
33 (11) ~~Retired teachers, State employees, and members of the General Assembly~~
34 Retired employees as defined in G.S. 135-48.1(18) with less than 10 years of
35 retirement service credit, provided the teachers and State employees were
36 first hired on or after October 1, 2006, and the members first took office on
37 or after February 1, 2007.
38"

39
40 **PART VI. EFFECTIVE DATE**

41 **SECTION 6.** This act becomes effective July 1, 2018.