TO: Teachers' and State Employees' Retirement System (TSERS) and Local Governmental Employees' Retirement System (LGERS) Boards of Trustees

FROM: Patrick Kinlaw, Director of Policy, Planning and Compliance

DATE: October 27, 2022

RE: Contribution-Based Benefit Cap Average Final Compensation Threshold

Question

What is the "threshold" amount of average final compensation for which, if a TSERS or LGERS member retires effective in 2023 with average final compensation greater than or equal to the threshold, the retirement allowance may be subject to the contribution-based benefit cap?

Background

N.C.G.S. § 135-5(a3) and § 128-27(a3) limit retirement allowances under TSERS and LGERS, respectively, to a contribution-based benefit cap (CBBC). The CBBC does not apply to members whose average final compensation (AFC) is less than a certain amount, which is called the "threshold" for purposes of this memo. Only members with an AFC greater than or equal to the threshold may be subject to the CBBC. The threshold increases each January 1, in accordance with statute, for retirements effective in that year.

N.C.G.S. § 135-5(a3) and § 128-27(a3) each state in pertinent part: "Notwithstanding the foregoing, the retirement allowance of a member with an average final compensation of less than one hundred thousand dollars ($100,000), as hereinafter indexed, shall not be subject to the contribution-based benefit cap. <u>The minimum average final compensation necessary for a retirement allowance to be subject to the contribution-based benefit cap shall be increased on January 1 each year by the percent change between the June Consumer Price Index in the year prior to retirement and the June Consumer Price Index in the fiscal year most recently ended, calculated to the nearest tenth of a percent (0.1%), provided that this percent change is positive.</u>" (Emphasis added.) "Consumer Price Index" (CPI) is defined in both N.C.G.S. § 135-1(7c) and § 128-21(7c) as "the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, all items, not seasonally adjusted, standard reference base, as published by the Bureau of Labor Statistics of the U.S. Department of Labor."

N.C.G.S. § 135-5(a3) and § 128-27(a3) were both effective January 1, 2015, as required by Session Law 2014-88. The underlined sentence quoted above, in each section, originally referred to "the percent change between the December Consumer Price Index in the year prior to retirement and the December Consumer Price Index in the year most recently ended." The change to current wording was effective June 25, 2018, as required by Session Law 2018-85.

The threshold of $100,000, which was effective January 1, 2015, was increased by 0.7% effective January 1, 2016, by 2.1% effective January 1, 2017, and by 2.1% effective January 1, 2018, corresponding to the percentage increases in CPI for the three years from December 2014 through December 2017. It was further increased by 2.9% effective January 1, 2019, by 1.6% effective January 1, 2020, by 0.6% effective January 1, 2021, and by 5.4% effective January 1, 2022, corresponding to the percentage increase in CPI for the three years from June 2017 through June 2021. Therefore, the threshold was $116,366.68 for retirements effective in calendar year 2022.

The CPI, as published by the Bureau of Labor Statistics, increased by 9.1% from June 2021 to June 2022. Therefore, there will be an increase of 9.1% in the threshold under N.C.G.S. § 135-5(a3) and § 128-27(a3), effective January 1, 2023. This means that the dollar amount of the threshold will increase to $126,956.05 effective January 1, 2023.