



January 27, 2022

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

FROM: Patrick Kinlaw, Retirement Systems Division (RSD) Director of Policy, Planning, and Compliance;  
Sam Watts, Department of State Treasurer (DST) Legislative Liaison

RE: Report on 2021 State Legislative Actions Affecting Retirement and Health Benefits

### Executive Summary/Key Points

The N.C. legislature enacted 19 bills affecting the Retirement Systems or State Health Plan (SHP) during the 2021 session. This included the State budget, budget technical corrections, and 17 policy bills.

#### EMPLOYER CONTRIBUTIONS AND FUNDING POLICY

- All retirement systems fully funded per the Boards' recommendations
- State budget provides one-time supplements in December 2021 (2% of annual pension) and October 2022 (3% of annual pension) for TSERS, Judicial, and Legislative retirees, and pays fully for anticipated costs within one year
- First-ever legislative appropriation to Unfunded Liability Solvency Reserve (\$40 million year 1; \$10 million year 2)
- SHP reimbursed for \$114 million in COVID-19 related expenses from March 1, 2020 through March 2, 2021
- SHP reimbursed additional \$101 million for COVID-19 testing, treatment, and vaccine administration
- New flexibility for LGERS employers to set aside funds to pay contribution-based benefit cap (CBBC) liabilities

#### BENEFIT POLICY CHANGES

- LGERS Board given limited authority to enact one-time supplements for monthly payees
- LGERS employers can no longer impose probationary periods before employees can earn membership service
- ABC Boards can no longer join LGERS as participating employers if they were not participating by July 1, 2021
- Eligibility for line-of-duty death benefit determined by Industrial Commission (and paid by RSD) expanded to include firefighters who pass away from oral cavity cancer or pharynx cancer
- Many service purchase provisions updated so that the eligibility and terms of purchase are standardized with other service purchases and/or clarified

#### ADMINISTRATION OF SYSTEMS AND PREVENTION/DETECTION OF FRAUD, WASTE, AND ABUSE

- Future CBBC liabilities to be paid through adjustment to employer contribution rate for 12-year period if an employer does not elect to pay under another available method
- CBBC provisions adjusted for situations where there is an early retirement, or where the retiree's last employer did not pay any of the salary during the four-year average final compensation period
- One-year moratorium on school boards filing CBBC litigation; working group convened between DST and N.C. School Boards Association
- State budget provides for up to eight new staff positions for RSD (four Operations, four Member Services)

### The Session

The 2021 "long session" or "first regular session" of the North Carolina General Assembly (General Assembly) initially convened on January 13, 2021 and recessed the same day to be reconvened on January 27. The session adjourned on December 10 to reconvene December 30 (HJR 979, Res 2021-10). Before the December 10 adjournment, 979 House bills or resolutions and 741 Senate bills or resolutions were introduced, for a total of 1,720 introductions. The legislature enacted 202 of these bills or resolutions.

One very significant development was the enactment of Senate Bill 105, a State budget bill for the 2021-2023 biennium, the State's first comprehensive budget law since 2018. Senate Bill 105 was approved by both chambers of the General Assembly in November, and Governor Roy Cooper signed it into law on November 18, 2021. House Bill 334, making technical corrections to Senate Bill 105, was signed into law on December 6, 2021.



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During the 2021 session, other than the State budget and budget technical corrections, 37 bills whose proposed provisions had public policy implications for the Retirement Systems or the SHP received a hearing in at least one of the pension committees or other action by the General Assembly. (G.S. 120-111.3 requires that “every bill, which creates or modifies any provision for the retirement of public officers or public employees or for the payment of retirement benefits or of pensions to public officers or public employees, shall, upon introduction in either house of the General Assembly, be referred to the Committee on Pensions and Retirement of each house.”)

Of those 37 bills, 17 were ultimately enacted and 20 were not:

**BILLS RECEIVING COMMITTEE HEARING OR OTHER ACTION AND ULTIMATELY ENACTED IN 2021**

- Retirement Policy (may also have SHP implications)
  - HB 82 Summer Learning Choice for NC Families
  - HB 160 Retirement Service Purchase Rewrite Part II
  - HB 163 Treasury Administrative Changes
  - HB 168 Retirement Administrative Changes Act of 2021
  - HB 196 2021 COVID-19 Response & Relief
  - HB 278 Sunset ABC Board Participation in LGERS
  - HB 406 Spec. Sep. Allowance/Certain 25-Yr LEOs
  - HB 602 UNC Legislative Priorities/HR/Reports
  - SB 50 Estate Planning Law Changes
  - SB 277 Ret. & Treasury Tech. Corrections Act of 2021
  - SB 311 No Waiting Period Under LGERS/VFDF Grants
  - SB 387 Excellent Public Schools Act of 2021
  - SB 668 Anti-Pension Spiking Amds & Litig. Moratorium
- SHP Policy
  - HB 395 Extend Deadlines for Mandatory HIE Particip.
  - SB 159 State Health Plan Administrative Changes
  - SB 248 Additional Info on Health Ins. Cards
  - SB 542 SHP Combat Fraud/Property Finders Stnds

**BILLS RECEIVING COMMITTEE HEARING OR OTHER ACTION AND ULTIMATELY *NOT* ENACTED IN 2021**

- Retirement Policy (may also have contained State Health Plan implications)
  - HB 83 Eliminate Income Tax for Military Retirees (#)
  - HB 86 Increase In-Service Death Benefits/LRS
  - HB 175 Ret. & Treasury Tech. Corrections Act of 2021 (#)
  - HB 243 UNC Legislative Priorities/COVID-19 Impacts (#)
  - HB 269 Give State Retirees 2% COLA/Funds
  - HB 327 Update Legislative Review of Rules Process
  - HB 361 APA Rules Review Definitions
  - HB 392 Ret. Svc. Purchase/Omitted Membership Service
  - HB 417 The Sergeant Mickey Hutchens Act
  - HB 428 Teacher Licensure/Retired Educator Program
  - HB 647 Enhanced In-Service Retirement for LEOs
  - HB 666 Up Volunteer Firefighters' Retirement Benefit
  - HB 741 Line of Duty Death Benefits for 911 Operators
  - HB 763 Preserve State Pension Plan Modernization
  - HB 776 Remote Online Notarization Act
  - HB 899 North Carolina Work and Save
  - SB 273 Charlotte Firefighters' Retirement System Act



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- SHP Policy
  - HB 169 State Health Plan Data Transparency
  - HB 176 Enhance SHP Debt Collection Abilities
  - HB 177 State Health Plan Administrative Changes (#)

# These contain (or contained) provisions that became law through Senate Bill 105 or one of the policy bills enacted in 2021.

## State Budget & Appropriations

- **2021 Appropriations Act (Senate Bill 105 / Session Law 2021-180)**
- **Budget Technical Corrections (House Bill 334 / Session Law 2021-189)**

Each year, the Department's foremost public policy objective is to obtain full funding for actuarially determined employer contributions ("ADECs," formerly "ARCs") for each of the pension plans as well as full funding for the employer premiums for the State Health Plan for active employees and funding of the health premiums for the Retiree Health Benefit Trust commensurate with the funding provided for active employees. That goal was achieved for all the pension plans through the State budget enacted for the 2021-2023 biennium. Senate Bill 105 fully funded the Actuarially Determined Contributions for all the Retirement Systems for Fiscal Year 2021-2022, as well as the anticipated recommendations for Fiscal Year 2022-2023 based on the Boards' funding policies adopted in April 2021. This included funding of the expected cost of the supplements provided under Section 39.23, each funded fully through employer contributions in the year when paid.

- Section 2.1(a): Direct Appropriations  
Appropriated amounts including the following:
  - State contributions to the Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF), the North Carolina National Guard Pension Fund (NCNGPF), and the Line of Duty Death benefit program (LODD) where benefits are determined by the Industrial Commission and paid by RSD.
  - Appropriations of \$40 million from the General Fund to the Unfunded Liability Solvency Reserve for FY 2021-2022, and \$10 million for FY 2022-2023. These funds will ultimately be contributed to the Retiree Health Benefit Trust Fund (RHBTFF) and TSERS as provided by Section 39.24.
  - Appropriation of \$101 million from the State Fiscal Recovery Fund to the SHP for FY 2021-2022, to reimburse the SHP for COVID-19 testing, treatment, and vaccine administration.
- Section 4.7: Coronavirus Relief Fund Reallocation  
Allocates up to \$114 million of unspent Coronavirus Relief Fund monies to reimburse the SHP for COVID-19 related expenses incurred between March 1, 2020 and March 2, 2021.
- Section 39.22: Mandated Employer Contributions & State Appropriations  
Appropriated State retirement system and health care contributions for Fiscal Years 2021-2022 and 2022-2023. With respect to Fiscal Year 2021-2022, further administrative adjustments were required since the contributions in the budget law were effective for the entire year. See "Employer Contribution Rates for Retirement, Health, and Related Benefits" and "Maximum Amount of State/Employer Share of SHP Premium Per Employee or Retiree" below.
- Section 39.23: Supplemental Payments to State, Judicial, and Legislative Retirees  
Provided two supplemental payments. The first was equal to 2% of the annual retirement allowance, paid in December 2021 to monthly payees on record as of September 2021. The second will be equal to 3% of the annual retirement allowance, to be paid by October 2022 to monthly payees on record as of September 2022.
- Section 39.24: Unfunded Liability Solvency Reserve (ULSR) Changes  
Modifies the ULSR statute (G.S. 143C-4-10) to clarify how ULSR funds move to the RHBTFF or TSERS.



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- For amounts placed in the ULSR due to a transfer of supplemental voluntary insurance rebates, or due to debt refinancing savings: The State Controller and State Treasurer will transfer the funds from the ULSR into the RHBT and TSERS as soon as practicable, in proportion to the unfunded liability of each according to the State's most recent annual financial report.
- For amounts placed in the ULSR due to a direct legislative appropriation, or due to overflow from the Savings Reserve: The legislature will use the funds to determine an additional employer contribution rate to be included in appropriations to the RHBT and TSERS in the following year.

**Summary of Appropriations for Retirement, Health, and Related Benefits**  
***Appropriations from All Funding Sources***

	FY 2021-2022	FY 2022-2023
<b>PENSION ADEC FUNDING/SHP PREMIUMS</b>		
Teachers' & State Employees' Retirement System*	\$2,716,074,106	\$2,830,487,484
State Health Plan Employer Premiums for Non-Retired Members**	\$2,082,986,516	\$2,194,541,960
Retiree Health Benefit Trust/Retiree Medical*	\$1,180,293,088	\$1,292,880,664
Consolidated Judicial Retirement System*	\$31,746,665	\$31,167,578
Legislative Retirement System*	\$1,029,166	\$878,574
Disability Income Plan of N.C.*	\$16,813,484	\$18,681,649
State Employee Death Benefit Plan*	\$21,556,144	\$21,556,144
National Guard Pension Fund***	\$11,031,715	\$11,031,715
Firefighters & Rescue Squad Worker's Pension Fund***	\$19,352,208	\$19,702,208
Line of Duty Death Benefits***	\$2,521,500	\$2,521,500
Coronavirus Relief Fund Reallocation to Reimburse SHP for COVID-Related Expenses Incurred 3/1/2020 to 3/2/2021***	Up to \$114,000,000 as unspent funds from previous allotments to other entities are returned to Coronavirus Relief Fund	
Appropriation from State Fiscal Recovery Fund to Reimburse the SHP for COVID-19 Testing, Treatment, and Vaccine Administration***	\$101,000,000	\$0
*Projected funding based on appropriated contribution rate and projected payroll. **Projected funding based on appropriated contribution rate and actual enrollment. ***Total appropriation.		

**Employer Contribution Rates for Retirement, Health, and Related Benefits**  
***S.L. 2021-180, Section 39.22.(b) for FY 2021-2022, and Section 39.22.(c) for FY 2022-2023***

G.S. 143C-5-4(b)(7) provided that during the first part of Fiscal Year 2021-2022, since no State budget for the fiscal year had been enacted, contribution rates would continue as they were on June 30, 2021. The same statute provided that if a State budget was subsequently enacted, the Office of State Budget and Management (OSBM) would certify adjusted rates for the remainder of the fiscal year, "to compensate for the different amount contributed between July 1 and the date [the State budget] becomes law so that the effective rates for the entire year reflect the rates set in [the State budget]." OSBM certified these adjusted rates, to be effective January 2022, in a memo to State employers dated November 29, 2021. As a result, there are two sets of contribution rates for Fiscal Year 2021-2022. The rates effective July through December 2021 are the same that were in effect June 30, 2021. The rates effective January through June 2022 are the rates certified by OSBM on November 29, 2021, so that the effective rates for the entire Fiscal Year 2021-2022 reflect the rates set in Section 39.22 of Senate Bill 105.



**Rates effective July 1, 2021 through December 31, 2021**  
**Same as Rates Effective June 30, 2021, from S.L. 2020-41, Section 1.(c)**

Jul. 2021 – Dec. 2021	Total Rate	Breakdown of Rate Type					
		Retirement	Retiree Health Benefit	Disability Income Plan	Death Benefit	Supplemental Retirement <sup>^</sup>	Qualified Excess Benefit
TSERS General	21.68%	14.77%	6.68%	0.09%	0.13%		0.01%
TSERS Law Enforcement	26.68%	14.77%	6.68%	0.09%	0.13%	5.00%	0.01%
UNC ORP	13.61%	6.84%	6.68%	0.09%			
CJRS	43.12%	36.44%	6.68%				
Legislative Ret. System	33.98%	27.30%	6.68%				

**Rates effective January 1, 2022 through June 30, 2022**  
**Total Rates from OSBM Certification Instructions, November 29, 2021**

Jan. 2022 – Jun. 2022	Total Rate	Breakdown of Rate Type					
		Retirement	Retiree Health Benefit	Disability Income Plan	Death Benefit	Supplemental Retirement <sup>^</sup>	Qualified Excess Benefit
TSERS General	24.10%	17.97%	5.90%	0.09%	0.13%		0.01%
TSERS Law Enforcement	29.10%	17.97%	5.90%	0.09%	0.13%	5.00%	0.01%
UNC ORP	12.83%	6.84%	5.90%	0.09%			
CJRS	49.50%	43.60%	5.90%				
Legislative Ret. System	35.46%	29.56%	5.90%				

**Rates effective July 1, 2022 through June 30, 2023**  
**S.L. 2021-180, Section 39.22.(c)**

FY 2022-2023	Total Rate	Breakdown of Rate Type					
		Retirement	Retiree Health Benefit	Disability Income Plan	Death Benefit	Supplemental Retirement <sup>^</sup>	Qualified Excess Benefit
TSERS General	24.19%	17.06%	6.89%	0.10%	0.13%		0.01%
TSERS Law Enforcement	29.19%	17.06%	6.89%	0.10%	0.13%	5.00%	0.01%
UNC ORP	13.83%	6.84%	6.89%	0.10%			
CJRS	46.18%	39.29%	6.89%				
Legislative Ret. System	31.16%	24.27%	6.89%				

<sup>^</sup>The "Supplemental Retirement" contributions for State Law Enforcement Officers are paid to Prudential for the NC 401(k) Plan.

**Maximum Amount of State/Employer Share of SHP Premium Per Employee or Retiree**  
**S.L. 2021-180, Section 39.22.(d) for FY 2021-2022, and Section 39.22.(e) for FY 2022-2023**

The SHP Board of Trustees adjusted the maximum fiscal year rates stated in Senate Bill 105 to monthly rates effective for the SHP's plan year, which is a calendar year. The SHP Board of Trustees adopted monthly premium rates on December 1, 2021. In scheduling these rates, the SHP Board of Trustees also accounted for the monthly premiums that had already been collected through December 2021, and accounted for a change in the way premiums are categorized under Senate Bill 105, from a "pre-Medicare" / "post-Medicare" categorization, to an "employee / retiree" categorization.



The following table provides employer (or State) premium amounts paid to the SHP for coverage each month. The SHP issues invoices for premiums in the month prior to applicable coverage. For example, the active employee rate of \$532.36 shown below for January 2022 coverage was invoiced in December 2021.

<u>Employer Premiums</u>	<u>FY 2021-2022</u>	<u>Jul.-Dec. Monthly</u>	<u>January Only</u>	<u>February Only</u>	<u>Mar.-Jun. Monthly</u>	<u>FY 2022-2023</u>	<u>Jul.-Dec. Monthly</u>	<u>Jan.-Jun. Monthly*</u>
Active Employees	\$7,019	\$521.96	\$532.36	\$763.36	\$647.86	\$7,397	\$647.86	\$584.96
Non-Medicare Retirees	\$4,856	\$521.36	\$532.36	\$229.48	\$380.92	\$5,118	\$380.92	\$472.08
Medicare-Elig. Retirees		\$405.72	\$413.60	\$348.24				

\*Monthly amounts are estimates developed by DST staff based on annual maximum amounts and may be slightly different than what is eventually adopted by the SHP Board of Trustees.

### **Policy Provisions in Budget Legislation (Senate Bill 105 and House Bill 334)**

- Section 2.1: Flexibility for New RSD Positions  
The conference report on Senate Bill 105, detailing the appropriations to DST in Section 2.1, contains approval (but no additional funding) for RSD to create up to eight new full-time staff positions: Four in RSD Operations, and four in RSD Member Services. Section 6.9 of House Bill 334 clarifies that to create these positions, DST may eliminate vacant positions without regard to fund code, but no such adjustments may increase the total budgetary requirements.
- Section 19C.9: Department of Adult Correction  
Effective January 1, 2023, created a new State employer, the Department of Adult Correction (DAC), from portions of what is currently the Department of Public Safety (DPS). The DAC will participate in TSERS. The legislation provides that the Division of Juvenile Justice remains part of DPS. Section 5.1 of House Bill 334 clarifies that for purposes of the Line of Duty death benefit program determined by the Industrial Commission and paid by RSD, "covered employees" will include public safety employees, both custodial and noncustodial, of both DAC and the DPS Division of Juvenile Justice.
- Section 36.2: Line of Duty Death Benefits for Firefighters  
Modifies the statute for the Line of Duty death benefit program determined by the Industrial Commission and paid by RSD (G.S. 143-166.2) to expand the definition of "killed in the line of duty" to include firefighters who die from oral cavity cancer or pharynx cancer.
- Section 37.12: Elimination of Reporting Requirements  
Eliminated certain regular reporting requirements from DST to the General Assembly regarding departmental receipts and investments.
- Sections 39.1, 39.16, and 39.17: Eligible State-Funded Employees Awarded Legislative Salary Increases/Effective July 1, 2021, and July 1, 2022  
Provided legislative salary increases of 2.5% for Fiscal Year 2021-2022, and 2.5% for Fiscal Year 2022-2023, to State-funded employees, except for certain categories of employees, such as those whose salaries are set by schedules, whose salary increases are in other provisions of Senate Bill 105.
- Bonuses or Other Employee Payments Provided by Senate Bill 105  
Various provisions of Senate Bill 105 included bonuses for State-funded employees under certain conditions. Many of these payments are not subject to retirement according to Senate Bill 105; that is, the employee and employer contribution rates are not to be withheld, and the payments do not serve to increase the employee's compensation for purposes of calculating the retirement benefit.



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## Retirement Policy Legislation Enacted in 2021

- **2021 COVID-19 Response & Relief (House Bill 196 / Session Law 2021-3):**

Makes modifications to State legislation for COVID-19 relief and provides guidance for expenditure of Federal relief funds. Section 2.4, which was effective March 11, 2021 and expired December 31, 2021, allowed UNC employees subject to the North Carolina Human Resources Act to use accrued vacation, sick, and bonus leave for any COVID-19 related absences, except in certain leave option circumstances. This flexibility did not apply to terminal leave payouts for transfers, separations, or reductions in force, or to terminal use of leave prior to retirement. For example, employees could not use this flexibility to exhaust sick leave prior to retirement for a reason that would not otherwise qualify for sick leave.

- **Summer Learning Choice for NC Families (House Bill 82 / Session Law 2021-7):**

Required local school administrative units to offer an extended learning and enrichment program after the end of the 2020-2021 school year, meeting certain requirements. Section 1.3, related to TSERS, was effective April 9, 2021 and expired October 1, 2021. It provided that:

- Employees in the summer program were employed under a temporary contract. During the time they are working in the summer program, they did not earn TSERS membership service, their compensation did not count as retirement-eligible, and they did not accrue paid leave.
- This program, by itself, did not cause someone to be covered under the SHP as an active employee.
- If an employer hired someone who was a TSERS retiree or beneficiary to work under the summer program, the employer was required to certify that information to RSD.
- For any TSERS retiree that an employer certified to RSD as having been hired to work in the summer program, who retired under TSERS effective December 1, 2020 through March 1, 2021 (including both of those two dates), the six-month separation period, generally required by G.S. 135-1(20) for a retirement to become effective, was not required. Instead, a one-month separation period was required. Beginning on October 1, 2021, the six-month separation period again applied to such retirees, but the time they worked under the summer program did not count toward violating the six-month separation period.

- **Excellent Public Schools Act of 2021 (Senate Bill 387 / Session Law 2021-8):**

Makes various changes to the North Carolina Read to Achieve Program. Section 7.(b), effective July 1, 2021, creates two bonus programs (a signing bonus and a reading camp performance bonus) for teachers providing instruction in reading camps. It specifies that these bonuses are not compensation for TSERS purposes.

- **Estate Planning Law Changes (Senate Bill 50 / Session Law 2021-53):**

Makes various changes to trust, estate, and guardianship laws. Section 2, effective for proceedings initiated on or after October 1, 2021, amends Article 2 of Chapter 35A to authorize a Clerk of Superior Court, without appointing a guardian, to authorize, direct, or ratify certain actions necessary or desirable to meet the foreseeable needs of a minor or incompetent person. These actions include establishment, funding, or administration of an ABL account. The court could also authorize a special fiduciary to execute these transactions.

- **Retirement Service Purchase Rewrite Part II (House Bill 160 / Session Law 2021-57):**

Standardizes and clarifies several types of service purchases for TSERS (Part I of the legislation), LGERS (Part II), and CJRS (Part III). Except as otherwise provided, House Bill 160 was effective January 1, 2022 and applies to purchases of creditable service occurring on or after that date.

- Credit for prior temporary State employment: Section 1.1 amends TSERS to clarify that a right that existed before December 31, 2021 to purchase this type of creditable service is not diminished.



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- For the situations listed below, the legislation outlines the process for purchasing service prior to January 1, 2023, and for purchasing service on and after January 1, 2023. For purchases on and after January 1, 2023, the member must purchase the service by paying a lump sum amount equal to a standard definition of the full actuarial cost.
  - Credit for employment in a charter school operated by a private nonprofit or municipality, whose board did not elect to participate in TSERS: Section 1.1 amends TSERS to provide that the current statute applies prior to January 1, 2023. It adds a new subsection to provide for service purchase as a charter school employee on and after January 1, 2023, and in addition to the process described above, the amount of service purchase may not exceed a total of five years.
  - Service as a member of the General Assembly, not credited under LRS or otherwise creditable under the Retirement System where purchased: Section 1.2.(a) for TSERS, Section 2.2.(a) for LGERS, and Section 3.3.(a) for CJRS provide that the current statutes are effective prior to January 1, 2023. Section 1.2.(b) for TSERS, Section 2.2.(b) for LGERS, and Section 3.2.(b) for CJRS provide for service purchases on and after January 1, 2023, and in addition to the process described above, any member with five or more years of membership service may make the purchase and the amount purchased may not exceed a total of five years.
  - Retroactive membership service: Section 1.3 for TSERS, Section 2.3 for LGERS, and Section 3.3 for CJRS amend the statutes in accordance with the process described above.
  - LGERS service for which the member signed a non-election form: Section 2.1 amends LGERS in accordance with the process described above.
  - Service as a Judge, District Attorney, or Clerk of Superior Court: Section 3.1 amends CJRS pertaining to service purchases prior to January 1, 2023. A new subsection is added for purchases on and after January 1, 2023, to provide that after the transfer of any accumulated contributions from TSERS or LGERS, the member must pay the full actuarial cost, plus an administrative fee.
  - CJRS purchase of State, Local, and certain Federal service: Section 3.3 amends CJRS in accordance with the process described above.
- Statutory repeals: Section 1.4 repeals duplicative or no-longer-necessary statutes under TSERS, and Section 2.4 makes similar repeals under LGERS. These repeals are effective July 1, 2022.

- **Treasury Administrative Changes (House Bill 163 / Session Law 2021-58):**

Makes clarifying and administrative changes to statutes pertaining to the State Treasurer's investment programs, the Local Government Commission, and reports submitted to the Council of State. Part I, related to the investment programs, was effective June 28, 2021. Section 1.(a) provides that the Treasurer may invest in the countries of Sudan and South Sudan to the extent that the investments are not prohibited by the United States government, or to the extent that the investment is part of an index or index replication strategy, commingled fund, limited partnership, or similar investment vehicle or derivative instrument. Section 1.(b) amends the definition of "investment" in Article 6E of Chapter 147 which pertains to the Iran Divestment Act. This amendment provides that "investment" does not include index or index replication strategies, commingled funds, limited partnerships, or similar investment vehicles or derivative instruments. Section 1.(c) repeals Article 6D of Chapter 147 which contained the Sudan (Darfur) Divestment Act from Session Law 2007-486.

- **Sunset ABC Board Participation in LGERS (House Bill 278 / Session Law 2021-59):**

Amends LGERS to provide that any Alcohol Control Board that is not a participating employer in LGERS as of June 30, 2021, is not eligible to participate in LGERS.

- **Ret. & Treasury Tech. Corrections Act of 2021 (Senate Bill 277 / Session Law 2021-60):**

Effective July 1, 2021, makes various clarifying and technical changes pertaining to the Retirement Systems and the Local Government Commission. Section 2.1 makes a technical change to TSERS statute by adding a cross-reference citation in G.S. 135-8. Section 2.2 amends the RODSPF statute to clarify that when a county submits its



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report on the receipts collected by the Register of Deeds office and the resulting contribution to the RODSPF, that report constitutes a certification of the accuracy of the amounts.

• **Anti-Pension Spiking Amds & Litig. Moratorium (Senate Bill 668 / Session Law 2021-72):**

Amends the CBBC provisions of TSERS and LGERS and institutes policies related to the CBBC.

- Section 1, effective for CBBC assessments imposed on or after July 1, 2022, amends LGERS and TSERS to add a payment option for a CBBC liability that allows the required employer contribution rate to be adjusted to include an additional contribution amount estimated to resolve the CBBC liability, under the amortization schedule selected by the Board for unfunded liabilities in the most recent actuarial valuation. The unfunded liability amortization period selected by the Boards is currently 12 years.
- Section 2, effective for TSERS retirements on or after January 1, 2019 and expiring July 1, 2022, removes the responsibility of the member's last employer to pay a CBBC liability under certain limited circumstances. It provides that if the salary that the last employer paid the employee was less than the Average Final Compensation (AFC) threshold of \$100,000 (in 2015, indexed for inflation thereafter) during the last 12 months of service, and the employee was already eligible to retire under TSERS with an unreduced service retirement allowance at the time they were hired by the last employer, the last employer is not required to pay the CBBC liability. In addition, if the AFC threshold was exceeded because of simultaneous employment with multiple employees, and the employer in question paid the employee less than the threshold during the employee's final 12 months of service, the last employer is not required to pay the CBBC liability.
- Section 3.1, effective July 1, 2022, makes several changes to the details of CBBC liability calculations:
  - In calculating the CBBC liability, the retirement allowance associated with membership service will include the effect of any percentage reduction that applies to the member's service retirement allowance by virtue of the member's age or amount of creditable service as of the retirement date (i.e., the early retirement reduction percentage).
  - In a clarification consistent with current administration, in determining the retirement allowance associated with membership service, the relevant percentage of the AFC is multiplied by the years of membership service, and not adjusted for an optional allowance elected.
  - For retirees who became members of the Retirement System prior to January 1, 2015, or have not earned at least five years of membership service after January 1, 2015: If the member's last employer did not report to the Retirement System any compensation paid to the member during the period used to compute the AFC, the last employer will not pay the liability, but instead, the employer(s) who reported compensation during the AFC period will pay the liability allocated proportionally based on the amount of compensation they reported during the AFC period.
  - For other retirees: If the member's last employer did not report to the Retirement System any compensation paid to the member during the period used to compute the AFC, the Retirement System will not notify the last employer, but instead, will notify the employer(s) who reported compensation during the AFC period. The notification to each employer will specify 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 amount of compensation they reported during the AFC period.
- Section 3.2 prohibits local boards of education from filing any legal action against the State regarding the anti-pension spiking contribution-based benefit cap, including contested case actions, and tolls any applicable statute of limitations, between July 2, 2021 and June 30, 2022. During the litigation pause, the Retirement System will not file new CBBC liability assessment cases.
- Section 4 requires DST and the N.C. School Boards Association to convene a working group to review the CBBC provisions. The working group may produce findings and recommendations on reducing the incidence of future litigation regarding the CBBC, reducing the incidence of unfunded liabilities associated with compensation decisions, assessing the feasibility of alternative methods to settle disputes regarding the CBBC, or other issues the working group wishes to address. The working group may report its



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findings and recommended changes to the Joint Legislative Oversight Committee on General Government no later than April 1, 2022.

- **Retirement Administrative Changes Act of 2021 (House Bill 168 / Session Law 2021-75):**

Makes various administrative amendments to Retirement Systems statutes.

- Section 1.1, effective July 1, 2021, provides LGERS employers with flexibility to use a trust vehicle to set aside funds for payment of future CBBC liabilities.
- Section 1.3, effective for payments due on or after July 1, 2021, amends TSERS and LGERS statutes to provide that the “date set by the Board of Trustees” for payment of a CBBC liability is the first day of the month coincident with or next following six months after the date of the invoice, if that is later than the generally required date (one year after effective retirement date). This allows extended time for employers to pay in situations where recalculations are performed after the effective retirement date.
- Section 2, effective July 1, 2021, amends TSERS and LGERS statutes to clarify that the procedure and payment to cease participation in the Retirement System applies to an employing unit that is allowed to cease participation by sale, dissolution, or otherwise changing to a business or legal form not eligible under Federal law for participation as an employer in the Retirement System.
- Section 3, effective July 1, 2021, amends TSERS and LGERS statutes to clarify that the term “actuarially equivalent” means a benefit of equal value when computed upon the basis of actuarial assumptions as shall be adopted by the Boards.
- Section 4 applies to lump sum separation buyouts offered to law enforcement officers on or after July 1, 2021. Prior to House Bill 168, such buyouts already could be offered by State or Local employers to law enforcement officers leaving employment prior to reaching eligibility for a separation allowance. The TSERS and LGERS special retirement allowance (“transfer benefit”) statutes under G.S. 135-5(m2) and 128-27(m2) allow a “transfer paid in whole or in part with employer contributions paid to the Retirement System.” Section 4 amends these statutes to provide that prior to transferring a buyout payment to TSERS or LGERS, the employer is required to have in place a written policy adopted by the employing unit that does not allow employees to choose between accepting the lump sum separation buyout as a cash payment or transferring the lump sum separation buyout to TSERS or LGERS.
- Section 5, effective for amounts owed on or after July 1, 2021, amends statutes for the Supplemental Retirement Income Plan of North Carolina (SRIP), to allow the SRIP Board of Trustees to adopt a new or amended rule to impose or change administrative fees under the SRIP, subject to certain limitations.
- Section 6, effective for amounts owed on or after July 1, 2021, amends DIPNC statutes to provide that if a member of the UNC system’s Optional Retirement Program (UNC ORP) owes an overpayment to DIPNC at the time the member would have first qualified for an unreduced service retirement benefit had the member elected to participate in TSERS, then the member must pay the total overpayment due to DIPNC. If the member does not pay the overpayment within six months after that date, then the member will not be allowed to enroll in a new year of coverage under the SHP until (1) DIPNC receives full payment of the overpayment due, or (2) the member makes payment arrangements approved by the Executive Director of the Retirement Systems.
- Section 7, effective July 1, 2021, amends TSERS and LGERS statutes to outline the process for payment of the special retirement allowance (“transfer benefit”) when the member has selected Option 2, 3, or 6 with a “guaranteed refund” provision for a certain number of months, and both the member and the member’s beneficiary die within the specified number of months. A one-time payment will be paid to the member’s legal representatives equal to the initial monthly transfer benefit, multiplied by the specified number of months, less the total monthly payments already made to the member and beneficiary.

- **UNC Legislative Priorities/HR/Reports (House Bill 602 / Session Law 2021-80):**

Makes various legislative amendments pertaining to the UNC system. Section 5, effective July 8, 2021, allows the UNC Board of Governors to authorize an early retirement incentive program (ERIP) until December 31, 2022. The ERIP could be offered only to TSERS members who are already eligible for a full service retirement, or UNC ORP



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members who are at least age 55 and vested in employer contributions to the UNC ORP. There would be no change to retirement benefits or eligibility for employees who may participate in the ERIP. UNC could provide the employee with severance payments of between one and six months' worth of base salary, plus a payment equal to the value of up to 12 months of full employer contributions for retiree health coverage if the individual does not already qualify for it. The program could apply to employees both subject to and exempt from the North Carolina Human Resources Act, but not to employees receiving disability or workers' compensation benefits.

- **No Waiting Period Under LGERS/VFDF Grants (Senate Bill 311 / Session Law 2021-178):**

Includes provisions related to LGERS and other programs that are not administered by RSD.

- Section 1, effective December 1, 2021, prevents employers who participate in LGERS from imposing a waiting period on employees who are eligible to become members of LGERS.
- Section 3, effective November 10, 2021, permits the LGERS Board to grant a one-time pension supplement to its members in a given year if a permanent increase in benefits is not paid that year and there are sufficient funds in LGERS to pay for the supplement.

- **Spec. Sep. Allowance/Certain 25-Yr LEOs (House Bill 406 / Session Law 2021-188):**

Effective for eligibility determinations on or after January 1, 2022, allows certain law enforcement officers employed by Cleveland County, Moore County, and Rutherford County to receive a special separation allowance. Special separation allowances are administered and paid by each employer, not by the Retirement Systems. To qualify for an allowance under this legislation, the law enforcement officer must complete at least 25 years of creditable service, be younger than age 62, complete at least 10 years of continuous service as a law enforcement officer for one of the named counties immediately preceding service retirement, and not receive a special separation allowance under the existing provisions of G.S. 143-166.41 or 143-166.42. The allowance under this legislation ceases to be paid to a retiree if they die, reach the age of 62, or, except in limited circumstances, are reemployed by a local government employer. The amount paid is determined on a sliding scale from 0.725% to 0.85% of the officer's base rate of compensation, times years of creditable service. The governing body of each named county determines the eligibility of employees for this benefit.

## SHP Policy Legislation Enacted in 2021

- **HIE Deadline Extension & Patient Protection (House Bill 395 / Session Law 2021-26):**

Effective May 27, 2021, does the following relative to the Health Information Exchange (HIE) Network known as NC HealthConnex: Exempts ambulatory surgical centers but requires a physician who performs procedures there to be connected and to submit demographic and clinical data; extends the mandatory deadlines for certain entities to connect; allows the Department of Health and Human Services (DHHS) to submit data on behalf of specified entities; prohibits balance billing by in-network providers and entities under the State Health Plan that have not connected; requires the HIE Authority to provide educational materials on how to access electronic health information; requires the HIE Advisory Board to submit a report by March 1, 2022 to the Joint Legislative Oversight Committee on Health and Human Services containing recommendations regarding appropriate features or actions to support the Statewide Health Information Exchange Act; and requires the HIE Authority to work with the Department of State Treasurer and the DHHS to identify and contact providers and entities who have not connected to the HIE in accordance with G.S. 90-414.4 and to report on the status of these by March 1, 2022.

- **Additional Info on Health Ins. Cards (Senate Bill 248 / Session Law 2021-30):**

Effective January 1, 2022, requires health benefit plans, including the SHP, to state on their insurance cards whether the plan is fully-insured or self-funded.



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- **State Health Plan Administrative Changes (Senate Bill 159 / Session Law 2021-125):**

Effective August 30, 2021, makes technical and clarifying changes to the SHP.

- Section 1 requires the SHP Board of Trustees to approve all SHP contracts with a value exceeding \$3,000,000, rather than the prior threshold of \$500,000.
- Section 2 eliminates the prohibition on dependent children being eligible for SHP coverage if they are eligible on another employer-based health insurance policy, except for a parent's claim. It also continues coverage for disabled dependent children past the child's 26th birthday as long as they were covered on their 26th birthday. Verification of disability must be provided to the SHP no later than 60 days after the 26th birthday. Disabled children are eligible for coverage as dependents, even if they are also eligible for coverage as employees or retired employees.
- Section 3 authorizes the Executive Administrator of the SHP to determine whether internal appeals are subject to external review. If the appeal is not subject to external review, the Executive Administrator is authorized to issue a binding decision on the matter. This section also makes conforming changes to the contested case provisions of Chapter 150B.
- Sections 4 and 5 make technical changes.

- **SHP Combat Fraud/Property Finders Stnds (Senate Bill 542 / Session Law 2021-157):**

Effective September 16, 2021, provides that the State Treasurer, in accordance with G.S. 135-48.15 and G.S. 135-48.25, may adopt rules to assist in the identification and investigation of fraud, waste, and abuse activities by a health care provider that provides services to SHP members. If the SHP adopts a program, the SHP is authorized to expend State funds to further the policy objectives. The SHP is authorized to pay an incentive of \$500, or a maximum of up to 2% of any net recovery made by the SHP resulting from a member's report, whichever amount is less. The legislation also includes provisions that do not relate to the SHP.

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*Please note that some parts of this report are extracted almost verbatim from publicly available documents created by our colleagues at the Department and from the work of legislative staff members. It is not intended to be presented as entirely original work as it is merely a compilation for convenience for users of this document.*