

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 1069

Short Title: Retirement Technical Corrections Act of 2020. (Public)

Sponsors: Representatives C. Smith and McNeill (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Pensions and Retirement, if favorable, Rules, Calendar, and Operations of the House

May 12, 2020

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES TO THE STATUTES GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, THE SUPPLEMENTAL RETIREMENT INCOME PLAN, AND THE ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) PROGRAM TRUST.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 128-21 is amended by adding a new subdivision to read:

"(8a) "Duly acknowledged" means notarized, including electronic notarization, or verified through an identity authentication service approved by the Department of State Treasurer."

**SECTION 1.(b)** G.S. 135-1 is amended by adding a new subdivision to read:

"(8a) "Duly acknowledged" means notarized, including electronic notarization, or verified through an identity authentication service approved by the Department of State Treasurer."

**SECTION 2.(a)** G.S. 135-5(m4) reads as rewritten:

"(m4) A member who has contributions in this System and is not eligible for a retirement benefit as set forth in G.S. 135-5(a) shall be paid his or her contributions in a lump sum as provided in G.S. 135-5(f) by April 1 of the calendar year following the later of the calendar year in which the member (i) attains ~~70 and one-half~~ 72 years of age or (ii) has ceased to be a teacher or State employee except by death. If ~~such the~~ member fails, following reasonable notification, to complete a refund application by ~~such the~~ required date, then the requirement that a refund application be completed shall be waived and the refund shall be paid without a refund application as a single lump-sum payment with applicable required North Carolina and federal income taxes withheld. ~~For purposes of this subsection, a member shall not be considered to have ceased to be a teacher or State employee if the member is actively contributing to the Consolidated Judicial Retirement System, Local Governmental Employees' Retirement System, or Legislative Retirement System. A lump sum refund shall not be paid under this subsection if the member is actively contributing to the Consolidated Judicial Retirement System, Local Governmental Employees' Retirement System, or Legislative Retirement System.~~

A member who has contributions in this System and is eligible for a retirement benefit as set forth in G.S. 135-5(a) shall begin to receive a monthly benefit no later than April 1 of the calendar year following the later of the calendar year in which the member (i) attains ~~70 and one-half~~ 72



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1 years of age or (ii) has ceased to be a teacher or State employee except by death. If ~~such~~the  
2 member fails, following reasonable notification, to complete the retirement process as set forth  
3 under Chapter 135 of the General Statutes by such required beginning date, ~~then~~the requirement  
4 that a retirement application and an election of payment plan form be completed shall be waived  
5 and the retirement allowance shall be paid as a single life annuity. The single life annuity shall  
6 be calculated and processed in accordance with ~~G.S. 135-5-~~this section.

7 For purposes of this subsection, a member shall not be considered to have ceased to be a  
8 teacher or State employee if the member is actively contributing to the Consolidated Judicial  
9 Retirement System, Local Governmental Employees' Retirement System, or Legislative  
10 Retirement System. A retirement benefit or lump-sum refund shall not be paid under this  
11 subsection if the member is actively contributing to the Consolidated Judicial Retirement System,  
12 Local Governmental Employees' Retirement System, or Legislative Retirement System."

13 **SECTION 2.(b)** G.S. 128-27(m3) reads as rewritten:

14 "(m3) A member who has contributions in this System and is not eligible for a retirement  
15 benefit as set forth in ~~G.S. 128-27(b21)-~~G.S. 128-27(a) or G.S. 128-27(a1) shall be paid his or  
16 her contributions in a lump sum as provided in G.S. 128-27(f) by April 1 of the calendar year  
17 following the later of the calendar year in which the member (i) attains ~~70 and one-half~~ 72 years  
18 of age or (ii) has ceased to be an employee except by death. If ~~such~~the member fails, following  
19 reasonable notification, to complete a refund application by ~~such~~the required date, ~~then~~the  
20 requirement that a refund application be completed shall be waived and the refund shall be paid  
21 without a refund application as a single lump-sum payment with applicable required North  
22 Carolina and federal income taxes withheld. ~~For purposes of this subsection, a member shall not~~  
23 ~~be considered to have ceased to be an employee if the member is actively contributing to the~~  
24 ~~Teachers' and State Employees' Retirement System, Consolidated Judicial Retirement System,~~  
25 ~~or Legislative Retirement System. A lump-sum refund shall not be paid under this subsection if~~  
26 ~~the member is actively contributing to the Teachers' and State Employees' Retirement System,~~  
27 ~~Consolidated Judicial Retirement System, or Legislative Retirement System.~~

28 A member who has contributions in this System and is eligible for a retirement benefit as set  
29 forth in ~~G.S. 128-27(21)-~~G.S. 128-27(a) or G.S. 128-27(a1) shall begin to receive a monthly  
30 benefit no later than April 1 of the calendar year following the later of the calendar year in which  
31 the member (i) attains ~~70 and one-half~~ 72 years of age or (ii) has ceased to be an employee except  
32 by death. If ~~such~~the member fails, following reasonable notification, to complete the retirement  
33 process as set forth under Chapter 128 of the General Statutes by ~~such~~the required beginning  
34 date, ~~then~~the requirement that a retirement application and an election of payment plan form be  
35 completed shall be waived and the retirement allowance shall be paid as a single life annuity.  
36 The single life annuity shall be calculated and processed in accordance with  
37 ~~G.S. 128-27(b21)-~~this section.

38 For purposes of this subsection, a member shall not be considered to have ceased to be an  
39 employee if the member is actively contributing to the Teachers' and State Employees'  
40 Retirement System, Consolidated Judicial Retirement System, or Legislative Retirement System.  
41 A retirement benefit or lump-sum refund shall not be paid under this subsection if the member is  
42 actively contributing to the Teachers' and State Employees' Retirement System, Consolidated  
43 Judicial Retirement System, or Legislative Retirement System."

44 **SECTION 2.(c)** G.S. 135-74(c1) reads as rewritten:

45 "(c1) A member who has contributions in this System and is not eligible for a retirement  
46 benefit as set forth in ~~G.S. 135-58(a6)-~~G.S. 135-57 shall be paid his or her contributions in a lump  
47 sum as provided in G.S. 135-62 by April 1 of the calendar year following the later of the calendar  
48 year in which the member (i) attains ~~70 and one-half~~ 72 years of age or (ii) has ceased to be a  
49 judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of  
50 superior court as provided in G.S. 135-53, except by death. If ~~such~~the member fails, following  
51 reasonable notification, to complete a refund application by ~~such~~the required date, ~~then~~the

1 requirement that a refund application be completed shall be waived and the refund shall be paid  
2 without a refund application as a single lump-sum payment with applicable required North  
3 Carolina and federal income taxes withheld. ~~For purposes of this subsection, a member shall not~~  
4 ~~be considered to have ceased to be a judge, district attorney, public defender, the Director of~~  
5 ~~Indigent Defense Services, or clerk of superior court as provided in G.S. 135-53 if the member~~  
6 ~~is actively contributing to the Teachers' and State Employees' Retirement System, Local~~  
7 ~~Governmental Employees' Retirement System, or Consolidated Judicial Retirement System. A~~  
8 ~~lump-sum refund shall not be paid under this subsection if the member is actively contributing~~  
9 ~~to the Teachers' and State Employees' Retirement System, Local Governmental Employees'~~  
10 ~~Retirement System, or Consolidated Judicial Retirement System.~~

11 A member who has contributions in this System and is eligible for a retirement benefit as set  
12 forth in ~~G.S. 120-4.21~~ G.S. 135-57 shall begin to receive a monthly benefit no later than April 1  
13 of the calendar year following the later of the calendar year in which the member (i) attains ~~70~~  
14 ~~and one-half~~ 72 years of age or (ii) has ceased to be a judge, district attorney, public defender,  
15 the Director of Indigent Defense Services, or clerk of superior court as provided in G.S. 135-53,  
16 except by death. If ~~such~~ the member fails, following reasonable notification, to complete the  
17 retirement process as set forth under Chapter ~~120-135~~ of the General Statutes by such required  
18 beginning date, then the requirement that a retirement application and an election of payment  
19 plan form be completed shall be waived and the retirement allowance shall be paid as a single  
20 life annuity. The single life annuity shall be calculated and processed in accordance with ~~G.S.~~  
21 ~~120-4.21~~ G.S. 135-58.

22 For purposes of this subsection, a member shall not be considered to have ceased to be a  
23 judge, district attorney, public defender, the Director of Indigent Defense Services, or clerk of  
24 superior court as provided in G.S. 135-53 if the member is actively contributing to the Teachers'  
25 and State Employees' Retirement System, Local Governmental Employees' Retirement System,  
26 or Consolidated Judicial Retirement System. A retirement benefit or lump-sum refund shall not  
27 be paid under this subsection if the member is actively contributing to the Teachers' and State  
28 Employees' Retirement System, Local Governmental Employees' Retirement System, or  
29 ~~Consolidated Judicial Retirement System~~ Legislative Retirement System."

30 **SECTION 2.(d)** G.S. 120-4.31(c1) reads as rewritten:

31 "(c1) A member who has contributions in this System and is not eligible for a retirement  
32 benefit as set forth in G.S. 120-4.21 shall be paid his or her contributions in a lump sum as  
33 provided in G.S. 120-4.25 by April 1 of the calendar year following the later of the calendar year  
34 in which the member (i) attains ~~70 and one-half~~ 72 years of age or (ii) has ceased to be a member  
35 of the General Assembly, except by death. If ~~such~~ the member fails, following reasonable  
36 notification, to complete a refund application by ~~such~~ the required date, then the requirement that  
37 a refund application be completed shall be waived and the refund shall be paid without a refund  
38 application as a single lump-sum payment with applicable required North Carolina and federal  
39 income taxes withheld. ~~For purposes of this subsection, a member shall not be considered to have~~  
40 ~~ceased to be a member of the General Assembly if the member is actively contributing to the~~  
41 ~~Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement~~  
42 ~~System, or Consolidated Judicial Retirement System. A lump-sum refund shall not be paid under~~  
43 ~~this subsection if the member is actively contributing to the Teachers' and State Employees'~~  
44 ~~Retirement System, Local Governmental Employees' Retirement System, or Consolidated~~  
45 ~~Judicial Retirement System.~~

46 A member who has contributions in this System and is eligible for a retirement benefit as set  
47 forth in G.S. 120-4.21 shall begin to receive a monthly benefit no later than April 1 of the calendar  
48 year following the later of the calendar year in which the member (i) attains ~~70 and one-half~~ 72  
49 years of age or (ii) has ceased to be a member of the General Assembly, except by death. If ~~such~~  
50 the member fails, following reasonable notification, to complete the retirement process as set  
51 forth under Chapter 120 of the General Statutes by ~~such~~ the required beginning date, then the

1 requirement that a retirement application and an election of payment plan form be completed  
2 shall be waived and the retirement allowance shall be paid as a single life annuity. The single life  
3 annuity shall be calculated and processed in accordance with G.S. 120-4.21.

4 For purposes of this subsection, a member shall not be considered to have ceased to be a  
5 member of the General Assembly if the member is actively contributing to the Teachers' and  
6 State Employees' Retirement System, Local Governmental Employees' Retirement System, or  
7 Consolidated Judicial Retirement System. A retirement benefit or lump-sum refund shall not be  
8 paid under this subsection if the member is actively contributing to the Teachers' and State  
9 Employees' Retirement System, Local Governmental Employees' Retirement System, or  
10 Consolidated Judicial Retirement System."

11 **SECTION 2.(e)** This section becomes effective January 1, 2021, and applies to  
12 members on or after that date. If a member attains age 70 and one-half years of age on or before  
13 December 31, 2019, then the statute that is in effect on the day the member attains age 70 and  
14 one-half years of age will be applicable to that member.

15 **SECTION 3.(a)** G.S. 135-90(b) reads as rewritten:

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

25 **SECTION 3.(b)** G.S. 135-92 reads as rewritten:

26 "**§ 135-92. Membership.**

27 (a) The membership eligibility of the Supplemental Retirement Income Plan shall consist  
28 of any of the following individuals who voluntarily elect to ~~enroll~~:enroll in the Plan:

- 29 (1) Members of the Teachers' and State Employees' Retirement ~~System~~;  
30 and System.
- 31 (2) Members of the Consolidated Judicial Retirement ~~System~~; and System.
- 32 (3) Members of the Legislative Retirement ~~System~~; and System.
- 33 (4) Members of the Local Governmental Employees' Retirement ~~System~~;  
34 and System.
- 35 (5) Law enforcement officers as defined under G.S. 143-166.30 and ~~G.S.~~  
36 143-166.50; and G.S. 143-166.50.
- 37 (6) Participants in the Optional Retirement Program provided for under ~~G.S.~~  
38 135-5.1; and G.S. 135-5.1.
- 39 (7) Members of retirement and pension plans sponsored by political subdivisions  
40 of the State so long as such plans are qualified under Section 401(a) of the  
41 Internal Revenue Code of 1986 as ~~amended from time to time~~: amended.
- 42 (8) Individuals required under the Internal Revenue Code to be eligible for  
43 participation in the Plan.

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

- 46 (1) The withdrawal of a member's accumulated ~~account~~; or account.
- 47 (2) Retirement under the provisions of the Supplemental Income Retirement ~~Plan~~;  
48 or Plan.
- 49 (3) Death."

50 **SECTION 3.(c)** G.S. 135-94(a)(3) reads as rewritten:

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

**SECTION 4.(a)** G.S. 147-86.70(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this section:

- (1) ABLÉ account. – An account established and owned by an eligible individual and maintained under this Article. A parent, sibling, guardian, or agent under a power of attorney may act on behalf of an account owner.
- (2) Account owner. – The person who enters into an ABLÉ savings agreement pursuant to the provisions of this Article. The account owner must be the designated beneficiary.
- (3) Board. – The ABLÉ Program Board of Trustees established in G.S. 147-86.72.
- (4) Repealed by Session Laws 2016-56, s. 9(c), effective June 30, 2016.
- (5) Designated beneficiary. – The eligible individual who established and owns an ABLÉ account.
- (6) Disability certification. – Defined in 26 U.S.C. § 529A(e)(2).
- (7) Eligible individual. – Defined in 26 U.S.C. § 529A(e)(1).
- (8) Federal ABLÉ Act. – Division B of the Tax Increase Prevention Act of 2014, P.L. 113-295, the Achieving a Better Life Experience Act of 2014.
- ~~(9) Member of the family. – A brother, sister, stepbrother, or stepsister.~~
- (10) Qualified disability expense. – Defined in 26 U.S.C. § 529A(e)(5).
- (11) Reserved for future codification purposes.
- (12) Reserved for future codification purposes.
- (13) Sibling. – A brother, sister, stepbrother, or stepsister."

**SECTION 4.(b)** G.S. 147-86.71(b) reads as rewritten:

"(b) Accounts. – The following provisions apply to an ABLÉ account:

- (1) An account owner or contributor may establish an account by making an initial contribution to the ABLÉ Program Trust, signing an application form approved by the Board or its designee, and naming the designated beneficiary. If the contributor is not the account owner, the account owner or the account owner's parent, sibling, guardian, trustee, or agent shall also sign the application form.
- (2) Any person may make contributions to an account after the account is opened.
- (3) Contributions to an account shall be made only in U.S. Dollars.
- (4) Contributions to an account shall not exceed maximum contribution limits applicable to program accounts in accordance with the federal ABLÉ Act.
- (5) An account owner may change the designated beneficiary of an account to an eligible individual who is a ~~member of the family~~ sibling of the former designated beneficiary. At the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a ~~member of the family~~ sibling of the designated beneficiary of the transferee account if the transferee account was created pursuant to this section or in accordance with the federal ABLÉ Act."

**SECTION 4.(c)** G.S. 147-86.71(d)(9) reads as rewritten:

- "(9) A parent, sibling, trustee, or guardian appointed as a signatory of an ABLÉ account does not have or acquire any beneficial interest in the account and administers the account for the benefit of the designated beneficiary."

**SECTION 4.(d)** This section is effective when it becomes law and applies to actions taken on behalf of an ABLÉ account owner on or after that date.

1                   **SECTION 5.** Except as provided otherwise, this act is effective when it becomes  
2 law.