

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH10505-LLz-180 (02/18)

Short Title: Return to Five-Year Vesting. (Public)

Sponsors: Representatives Collins and S. Ross (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO RETURN TO A FIVE-YEAR VESTING PERIOD FOR MEMBERS OF THE
3 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE
4 CONSOLIDATED JUDICIAL RETIREMENT SYSTEM WHO BECAME MEMBERS
5 ON OR AFTER AUGUST 1, 2011, AND TO MAKE A CONFORMING CHANGE TO
6 THE SPECIAL SEPARATION ALLOWANCE FOR LAW ENFORCEMENT OFFICERS,
7 AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S
8 COMMITTEE ON TREASURER INVESTMENT TARGETS AND STATE EMPLOYEE
9 RETIREMENT OPTIONS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 135-3(8) reads as rewritten:

12 "(8) The provisions of this subsection (8) shall apply to any member whose
13 membership is terminated on or after July 1, 1963 and who becomes entitled
14 to benefits hereunder in accordance with the provisions hereof.

15 a. Notwithstanding any other provision of this Chapter, any member
16 ~~who became a member prior to August 1, 2011, and~~ who separates
17 from service prior to the attainment of the age of 60 years for any
18 reason other than death or retirement for disability as provided in
19 G.S. 135-5(c), after completing 15 or more years of creditable
20 service, and who leaves his total accumulated contributions in said
21 System shall have the right to retire on a deferred retirement
22 allowance upon attaining the age of 60 years; provided that such
23 member may retire only upon electronic submission or written
24 application to the Board of Trustees setting forth at what time, not
25 less than one day nor more than 120 days subsequent to the execution
26 and filing thereof, he desires to be retired; and further provided that
27 in the case of a member who so separates from service on or after
28 July 1, 1967, or whose account is active on July 1, 1967, or has not
29 withdrawn his contributions, the aforesated requirement of 15 or
30 more years of creditable service shall be reduced to 12 or more years
31 of creditable service; and further provided that in the case of a
32 member who so separates from service on or after July 1, 1971, or
33 whose account is active on July 1, 1971, the aforesated requirement
34 of 12 or more years of creditable service shall be reduced to five or
35 more years of creditable service. Such deferred retirement allowance
36 shall be computed in accordance with the service retirement



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provisions of this Article pertaining to a member who is not a law enforcement officer or an eligible former law enforcement officer. Notwithstanding the foregoing, any member whose services as a teacher or employee are terminated for any reason other than retirement, who becomes employed by a nonprofit, nonsectarian private school in North Carolina below the college level within one year after such teacher or employee has ceased to be a teacher or employee, may elect to leave his total accumulated contributions in the Teachers' and State Employees' Retirement System during the period he is in the employment of such employer; provided that he files notice thereof in writing with the Board of Trustees of the Retirement System within five years after separation from service as a public school teacher or State employee; such member shall be deemed to have met the requirements of the above provisions of this subdivision upon attainment of age 60 while in such employment provided that he is otherwise vested.

b. In lieu of the benefits provided in paragraph a of this subdivision (8), any member ~~who became a member prior to August 1, 2011, and~~ who separates from service prior to the attainment of the age of 60 years, for any reason other than death or retirement for disability as provided in G.S. 135-5(c), after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System, may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be retired. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member ~~who became a member prior to August 1, 2011, and~~ who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his

1 total accumulated contributions in this System may elect to retire on
2 a deferred early retirement allowance upon attaining the age of 50
3 years or at any time thereafter; provided, that the member may
4 commence retirement only upon electronic submission or written
5 application to the Board of Trustees setting forth at what time, as of
6 the first day of a calendar month, not less than one day nor more than
7 120 days subsequent to the execution and filing thereof, he desires to
8 commence retirement. The deferred early retirement allowance shall
9 be computed in accordance with the service retirement provisions of
10 this Article pertaining to law-enforcement officers.

11 b2. In lieu of the benefits provided in paragraphs a and b of this
12 subdivision, any member ~~who became a member prior to August 1,~~
13 ~~2011, and~~ who is a law-enforcement officer at the time of separation
14 from service prior to the attainment of the age of 55 years, for any
15 reason other than death or disability as provided in this Article, after
16 completing five or more years of creditable service in this capacity
17 immediately prior to separation from service, and who leaves his
18 total accumulated contributions in this System may elect to retire on
19 a deferred early retirement allowance upon attaining the age of 55
20 years or at any time thereafter; provided, that the member may
21 commence retirement only upon electronic submission or written
22 application to the Board of Trustees setting forth at what time, as of
23 the first day of a calendar month not less than one day nor more than
24 120 days subsequent to the execution and filing thereof, he desires to
25 commence retirement. The deferred early retirement allowance shall
26 be computed in accordance with the service retirement provisions of
27 this Article pertaining to law-enforcement officers.

28 b3. Vested deferred retirement allowance of members retiring on or after
29 July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b.
30 of this subdivision, any member ~~who became a member prior to~~
31 ~~August 1, 2011, and~~ who separates from service prior to attainment
32 of age 60 years, after completing 20 or more years of creditable
33 service, and who leaves his total accumulated contributions in said
34 System, may elect to retire on a deferred retirement allowance upon
35 attaining the age of 50 years or any time thereafter; provided that
36 such member may so retire only upon electronic submission or
37 written application to the Board of Trustees setting forth at what
38 time, not less than one day nor more than 120 days subsequent to the
39 execution and filing thereof, he desires to be retired. Such deferred
40 retirement allowance shall be computed in accordance with the
41 service retirement provisions of this Article pertaining to a member
42 who is not a law enforcement officer or an eligible former law
43 enforcement officer.

44 b4. ~~Any member who became a member on or after August 1, 2011, and~~
45 ~~who is not a law enforcement officer and (i) separates from service~~
46 ~~prior to the attainment of the age of 60 years, after completing 25 or~~
47 ~~more years of creditable service, and who leaves the member's total~~
48 ~~accumulated contributions in said System, may elect to retire on an~~
49 ~~unreduced service retirement allowance upon attaining the age of 60~~
50 ~~years or at any time thereafter; or (ii) separates from service prior to~~
51 ~~the attainment of the age of 50 years, after completing 20 or more~~

~~years of creditable service, and who leaves the member's total accumulated contributions in said System, may elect to retire on an early reduced retirement allowance upon attaining the age of 50 years or at any time thereafter; or (iii) separates from service prior to the attainment of the age of 60 years, after completing 10 or more years but less than 25 years of creditable service, and who leaves the member's total accumulated contributions in said System, may elect to retire on an early reduced retirement allowance upon attaining the age of 60 years or at any time thereafter; or (iv) separates from service prior to the attainment of the age of 65 years, after completing 10 or more years of creditable service, and who leaves the member's total accumulated contributions in said System, may elect to retire on an unreduced retirement allowance upon attaining the age of 65 years or at any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than 120 days subsequent to the execution and filing thereof, the member desires to be retired.~~

b5. ~~Any member who became a member on or after August 1, 2011, who is a law enforcement officer and (i) separates from service prior to attainment of age 50 years, after completing 15 or more years of creditable service in this capacity, and who leaves the member's total accumulated contributions in said System, may elect to retire on an early reduced retirement allowance upon attaining the age of 50 years or any time thereafter; or (ii) separates from service prior to attainment of age 55 years, after completing 10 or more years of creditable service in this capacity, and who leaves the member's total accumulated contributions in said System, may elect to retire on an unreduced retirement allowance upon attaining the age of 55 years or any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than 120 days subsequent to the execution and filing thereof, the member desires to be retired.~~

...."

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

"(a) Service Retirement Benefits.

(1) ~~Any member who became a member prior to August 1, 2011, may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution of and filing thereof, he desires to be retired: Provided, that the said member at the time so specified for his retirement shall have attained the age of 60 years and have at least five years of membership service or shall have completed 30 years of creditable service.~~

(1a) ~~Any member who became a member on or after August 1, 2011, may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution of and filing thereof, the member desires to be retired: Provided, that the said member at the time so specified for the member's retirement shall have~~

1 attained the age of 60 years and have at least 10 years of membership service
 2 or shall have completed 30 years of creditable service.

3 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

4 (3) Any member who was in service October 8, 1981, who had attained 60 years
 5 of age, may retire upon electronic submission or written application to the
 6 Board of Trustees setting forth at what time, as of the first day of a calendar
 7 month, not less than one day nor more than 120 days subsequent to the
 8 execution and filing thereof, he desires to be retired.

9 (4) Any member who is a law-enforcement officer, ~~who became a member prior~~
 10 ~~to August 1, 2011, officer~~ and who attains age 50 and completes 15 or more
 11 years of creditable service in this capacity or who attains age 55 and
 12 completes five or more years of creditable service in this capacity, may retire
 13 upon electronic submission or written application to the Board of Trustees
 14 setting forth at what time, as of the first day of a calendar month, not less
 15 than one day nor more than 120 days subsequent to the execution and filing
 16 thereof, he desires to be retired; Provided, also, any member who has met the
 17 conditions herein required but does not retire, and later becomes a teacher or
 18 an employee other than as a law-enforcement officer shall continue to have
 19 the right to commence retirement.

20 (4a) ~~Any member who is a law-enforcement officer, who became a member on or~~
 21 ~~after August 1, 2011, and who attains age 50 and completes 15 or more years~~
 22 ~~of creditable service in this capacity or who attains age 55 and completes 10~~
 23 ~~or more years of creditable service in this capacity, may retire upon~~
 24 ~~electronic submission or written application to the Board of Trustees setting~~
 25 ~~forth at what time, as of the first day of a calendar month, not less than one~~
 26 ~~day nor more than 120 days subsequent to the execution and filing thereof,~~
 27 ~~the member desires to be retired; Provided, also, any member who has met~~
 28 ~~the conditions herein required but does not retire, and later becomes a~~
 29 ~~teacher or an employee other than as a law-enforcement officer shall~~
 30 ~~continue to have the right to commence retirement.~~

31 (5) Any member who is eligible for and is being paid a benefit under the
 32 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be
 33 deemed a member in service and may not retire under the provisions of this
 34 section. Any member who has made electronic submission or written
 35 application for long-term or extended short-term benefits under the
 36 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
 37 who has been rejected by the Plan's Medical Board for a long-term or
 38 extended short-term benefit shall have 90 days from the date of notification
 39 of the rejection to convert his application to an early or service retirement
 40 application, provided that the member meets the eligibility requirements,
 41 effective the first day of the month following the month in which short-term
 42 disability benefits ended or the first day of the month following the month in
 43 which any salary continuation as may be provided in G.S. 135-104 ended,
 44 whichever is later."

45 **SECTION 3.** G.S. 135-5(a2) is repealed.

46 **SECTION 4.** G.S. 135-5(b19) reads as rewritten:

47 "(b19) Service Retirement Allowance of Members ~~Who Became a Member Prior to August~~
 48 ~~1, 2011,~~ Retiring on or After July 1, 2002. – Upon retirement from service in accordance with
 49 ~~subdivision (a)(1), (a)(4), or~~ subsection (a) or (a1) of this section, on or after July 1, 2002, a
 50 member shall receive the following service retirement allowance:

51"

1 **SECTION 5.** G.S. 135-5(b20) is repealed.

2 **SECTION 6.** G.S. 135-5(m) reads as rewritten:

3 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, ~~who became~~
4 ~~a member prior to August 1, 2011,~~ the beneficiary designated to receive a return of
5 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
6 retirement allowance provided by Option 2 of subsection (g) above computed by assuming that
7 the member had retired on the first day of the month following the date of his death, provided
8 that all four of the following conditions apply:

9 "

10 **SECTION 7.** G.S. 135-5(m3) is repealed.

11 **SECTION 8.** G.S. 135-57 reads as rewritten:

12 **"§ 135-57. Service retirement.**

13 (a) Any member on or after January 1, 1974, ~~who became a member prior to August 1,~~
14 ~~2011, and~~ who has attained his fiftieth birthday and five years of membership service may
15 retire upon electronic submission or written application to the board of trustees setting forth at
16 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
17 subsequent to the execution and filing thereof, he desires to be retired.

18 (a1) ~~Any member who became a member on or after August 1, 2011, and who has~~
19 ~~attained the member's fiftieth birthday and 10 years of membership service may retire upon~~
20 ~~electronic submission or written application to the Board of Trustees setting forth at what time,~~
21 ~~as of the first day of a calendar month, not less than one day nor more than 120 days~~
22 ~~subsequent to the execution and filing thereof, the member desires to be retired.~~

23 (b) Any member who is a justice or judge of the General Court of Justice shall be
24 automatically retired as of the first day of the calendar month coinciding with or next following
25 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,
26 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
27 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
28 office under the provisions of G.S. 7A-4.20.

29 (c) Any member who terminates service on or after January 1, 1974, having
30 accumulated five or more years of creditable service ~~and having become a member prior to~~
31 ~~August 1, 2011,~~ may retire under the provisions of subsection (a) above, provided that he shall
32 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
33 and the requirement of subsection (a) that the member be in service shall not apply.

34 (c1) ~~Any member having accumulated 10 or more years of creditable service and having~~
35 ~~become a member on or after August 1, 2011, may retire under the provisions of subsection~~
36 ~~(a1) above, provided that the member shall not have withdrawn the member's accumulated~~
37 ~~contributions prior to the effective date of the member's retirement, and the requirement of~~
38 ~~subsection (a1) that the member be in service shall not apply.~~

39 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
40 may retire upon electronic submission or written application to the board of trustees setting
41 forth at what time, as of the first day of a calendar month, not less than one day nor more than
42 120 days subsequent to the execution and filing thereof, he desires to be retired."

43 **SECTION 9.** G.S. 135-106(b) reads as rewritten:

44 "(b) After the commencement of benefits under this section, the benefits payable under
45 the terms of this section during the first 36 months of the long-term disability period shall be
46 equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable
47 to the participant or beneficiary prior to the beginning of the short-term disability period as may
48 be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent
49 (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would
50 be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced
51 by any primary Social Security disability benefits to which the beneficiary may be entitled,

1 effective as of the first of the month following the month of initial entitlement, and by monthly
2 payments for Workers' Compensation to which the participant or beneficiary may be entitled.
3 When primary Social Security disability benefits are increased by cost-of-living adjustments,
4 the increased reduction shall be applied in the first month following the month in which the
5 member becomes entitled to the increased Social Security benefit. The monthly benefit shall be
6 further reduced by the amount of any monthly payments from the federal Department of
7 Veterans Affairs, any other federal agency or any payments made under the provisions of
8 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
9 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
10 a month. However, a disabled participant may elect to receive any salary continuation as
11 provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall
12 not extend the first 36 consecutive calendar months of the long-term disability period. An
13 election to receive any salary continuation for any part of any given day shall be in lieu of any
14 long-term benefit payable for that day, provided further, any lump-sum payout for vacation
15 leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in
16 lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's
17 benefit shall be reduced during the first 36 months of the long-term disability period by an
18 amount, as determined by the Board of Trustees, equal to a primary Social Security retirement
19 benefit to which the beneficiary might be entitled.

20 After 36 months of long-term disability, no further benefits are payable under the terms of
21 this section unless the member has been approved and is in receipt of primary Social Security
22 disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of
23 1/12th of the annual base rate of compensation last payable to the participant or beneficiary
24 prior to the beginning of the short-term disability period as may be adjusted for percentage
25 increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual
26 longevity payment to which the participant or beneficiary would be eligible, to a maximum of
27 three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security
28 disability benefits to which the beneficiary may be entitled, effective as of the first of the month
29 following the month of initial entitlement, and by monthly payments for Workers'
30 Compensation to which the participant or beneficiary may be entitled. When primary Social
31 Security disability benefits are increased by cost-of-living adjustments, the increased reduction
32 shall be applied in the first month following the month in which the member becomes entitled
33 to the increased Social Security benefit. The monthly benefit shall be further reduced by the
34 amount of any monthly payments from the federal Department of Veterans Affairs, for
35 payments from any other federal agency, or for any payments made under the provisions of
36 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
37 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
38 a month.

39 Notwithstanding the foregoing, ~~but subject to an additional integration with the five-year~~
40 ~~and 10-year retirement vesting provisions as set forth in this paragraph,~~ the long-term disability
41 benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social
42 Security disability benefit until the earliest date at which the beneficiary ~~who became a member~~
43 ~~prior to August 1, 2011,~~ is eligible for an unreduced service retirement allowance from the
44 Retirement System, at which time the beneficiary would receive a retirement allowance
45 calculated on the basis of the beneficiary's average final compensation at the time of disability
46 as adjusted to reflect compensation increases subsequent to the time of disability and the
47 creditable service accumulated by the beneficiary, including creditable service while in receipt
48 of benefits under the Plan. ~~In the case of any long-term disability beneficiary who became a~~
49 ~~member on and after August 1, 2011, and ordinarily would not be eligible for a retirement~~
50 ~~benefit without 10 years of membership service, for purposes of this conversion from long term~~
51 ~~disability to service retirement, and for that purpose only, noncontributory creditable service~~

1 ~~granted while in receipt of disability benefits under this Article shall be deemed to be~~
2 ~~membership service, through the completion of 10 years of combined membership and~~
3 ~~noncontributory service on short term and long term disability benefits in total.~~ In the event the
4 beneficiary has not been approved and is not in receipt of a primary Social Security disability
5 benefit, the long-term disability benefit shall cease after the first 36 months of the long-term
6 disability period. When such a long-term disability recipient begins receiving this unreduced
7 service retirement allowance from the System, that recipient shall not be subject to the
8 six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled
9 to a restoration of the long-term disability benefit in the event the Social Security
10 Administration grants a retroactive approval for primary Social Security disability benefits with
11 a benefit effective date within the first 36 months of the long-term disability period. In such
12 event, the long-term disability benefit shall be restored retroactively to the date of cessation."

13 **SECTION 10.** G.S. 143-166.41 reads as rewritten:

14 **"§ 143-166.41. Special separation allowance.**

15 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
16 as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department,
17 agency, or institution ~~prior to August 1, 2011,~~ and who qualifies under this section shall
18 receive, beginning in the month in which he retires on a basic service retirement under the
19 provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths
20 percent (0.85%) of the annual equivalent of the base rate of compensation most recently
21 applicable to him for each year of creditable service. The allowance shall be paid in equal
22 installments on the payroll frequency used by the employer. To qualify for the allowance the
23 officer shall:

- 24 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
25 attained 55 years of age and completed five or more years of creditable
26 service; and
- 27 (2) Not have attained 62 years of age; and
- 28 (3) Have completed at least five years of continuous service as a law
29 enforcement officer as herein defined immediately preceding a service
30 retirement. Any break in the continuous service required by this subsection
31 because of disability retirement or disability salary continuation benefits
32 shall not adversely affect an officer's qualification to receive the allowance,
33 provided the officer returns to service within 45 days after the disability
34 benefits cease and is otherwise qualified to receive the allowance.

35 ~~(a1) Notwithstanding any other provision of law, every sworn law-enforcement officer~~
36 ~~as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department,~~
37 ~~agency, or institution on or after August 1, 2011, and who qualifies under this section shall~~
38 ~~receive, beginning in the month in which the member retires on a basic service retirement under~~
39 ~~the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths~~
40 ~~percent (0.85%) of the annual equivalent of the base rate of compensation most recently~~
41 ~~applicable to him for each year of creditable service. The allowance shall be paid in equal~~
42 ~~installments on the payroll frequency used by the employer. To qualify for the allowance, the~~
43 ~~officer shall:~~

- 44 ~~(1) Have (i) completed 30 or more years of creditable service or (ii) attained 55~~
45 ~~years of age and completed 10 or more years of creditable service; and~~
- 46 ~~(2) Not have attained 62 years of age; and~~
- 47 ~~(3) Have completed at least 10 years of continuous service as a law enforcement~~
48 ~~officer as herein defined immediately preceding a service retirement. Any~~
49 ~~break in the continuous service required by this subsection because of~~
50 ~~disability retirement or disability salary continuation benefits shall not~~
51 ~~adversely affect an officer's qualification to receive the allowance, provided~~

1 ~~the officer returns to service within 45 days after the disability benefits cease~~
2 ~~and is otherwise qualified to receive the allowance.~~

3 "

4 **SECTION 11.** This act is effective when it becomes law.