

**North Carolina State Law Enforcement Personnel  
Special Separation Allowance**

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Government Performance Audit Committee  
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## NORTH CAROLINA STATE LAW ENFORCEMENT PERSONNEL SPECIAL SEPARATION ALLOWANCE

### Issue Statement

Should the “special separation allowance” benefit for state law enforcement personnel be revised or eliminated?

In its 1991 report to the Joint Legislative Commission on Governmental Operations, Systems Design Group found that overall North Carolina pays its law enforcement personnel well. Of 139 job classes evaluated, 107 exceeded Southeast regional averages, 16 equaled the average, and only 3 were less than average. The report did recommend the following change in North Carolina compensation practices:

- Elimination of the Special Separation Allowance (N.C. Statutes 143 - 166.41) that provides an early retirement supplement for law enforcement personnel over and above normal state retirement benefits and 401 (k) plan benefits available to retiring law enforcement personnel (Recommendation B-5).

### Background

North Carolina law provides a “special separation allowance” for law enforcement personnel who retire prior to age 62. (N.C. Statutes Section 143-166.41) The benefit was enacted in 1985. Beginning in 1986 this special separation allowance was also provided for local law enforcement personnel (N.C. Statutes Section 143-166.42).

The special separation allowance provides an annual benefit equal to 0.85% times the years of service times the final base annual salary of the employee. This benefit is payable from the date of retirement until age 62 (when Social Security benefits can begin). This benefit is in *addition* to normal retirement benefits through the Teachers and State Employees Retirement System (TSERS) and income from investments made by the employee with the 401 (k) plan contributions made by the State on behalf of the law enforcement officer (5% of annual salary paid entirely by the State plus voluntary contributions of up to 10% of

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salary made by the employee) (N.C. Statutes Section 143-166.30). To qualify for the special separation allowance a law enforcement officer must have 30 years service (for retirement at any age) or 5 years of service and reach age 55.

*Example:*

Final Average Salary is \$30,000

30 years of service

Total pension including special separation allowance is:

A) Special separation allowance benefit is:

\$7,650 per year or 25.5% of final average salary

(The allowance is paid until age 62, at which time Social Security benefits can begin and the allowance is terminated.)

B) Basic TSERS pension benefit is:

\$14,400 per year or 48% of final average salary.

C) Retirement income from 401 (k) plan investments is:

Undetermined amount depending on investments made by employee with 5% employer contribution plus his voluntary contributions. Earnings could be as high as 19% of final average salary using conservative earnings estimates.

Actual amount depends upon investment elections made by the employee and number of years 401 (k) contributions were made by employer before retirement.

D) Total retirement income as % of final average salary:

Basic pension:	48.0%
Special separation allowance:	25.5%
401 (k) plan earnings:	<u>5.0 to 19.0%</u>
Total	78.5 to 92.5% of final average salary

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### Findings

1. The special separation allowance is not presently included in the actuarial calculations for future retirement obligations of the State. It is funded on a "pay as you go" basis through annual appropriations. It is not presently treated as a long term obligation of the State for purposes of overall financial management.
2. A study by legislative staff in 1991 found that the lifetime costs of the special separation allowance for the 423 retired state employees receiving the benefit as of July 1991 would be \$29 million (cost from retirement to age 62 for all 423 employees). The average retiree would receive a total of \$69,000 in payments prior to age 62. No estimate was available of the costs the State will incur in the future for the more than 2,800 currently serving state law enforcement officers eligible for the benefit.
3. The compensation survey conducted for the 1991 Systems Design Group study of law enforcement personnel in North Carolina found that no other Southeastern state had a similar benefit for law enforcement personnel.
4. A 1991 study of general state employee and public safety personnel retirement benefits conducted for the National Conference of State Legislatures (NCSL) found that most states do provide more generous retirement benefits for public safety employees than for other state employees. Reasons for such higher pension benefits (for equal salary levels and years of service) for public safety employees include: a) the higher pension is post-retirement compensation for job related risks; and b) public safety employees may have shorter lives than general employees and are thus entitled to an actuarially determined increase in benefits.
5. The same NCSL study found that the key differences between general state employee and public safety employee retirement benefits were:
  - Most states used a higher factor (percent of final annual salary) to compute law enforcement pensions than was used for general employees.

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- Most retirement systems allow law enforcement employees to retire with full pensions at an earlier age than general employees.
  - On average, law enforcement personnel receive pension benefits that are 25% higher than those received by regular state employees with identical salary history and years of service.
6. North Carolina's system for providing law enforcement retirement program consists of three separate benefits (TSERS pension, special separation allowance, and employer funded 401 (k) plan). This three-part system makes it difficult to compare total retirement compensation in North Carolina to that of other states because other states tend to rely primarily on a single retirement benefit administered by a state public employee retirement system. This "CAP" would be similar to the "CAP" placed on the retirement benefits provided to judges and legislators.
  7. The combination of retirement benefits available in North Carolina to law enforcement can result in total retirement income in excess of 90% of final annual salary (considering basic TSERS pension, *employer* funded 401 (k) income, and special separation allowance). This can be as much as twice the comparable percentage for state employees generally. This is also in excess of the pension benefits received by judges, which are capped at 75% of final compensation .
  8. North Carolina's use of a defined contribution (e.g., employer funded 401 (k) contribution) approach to funding a portion of law enforcement pension benefits is an innovative practice now beginning to be used in some other jurisdictions. Such "portable" pensions benefits can help address some of the unique career path and compensation issues facing law enforcement staff. Such benefits need to be carefully coordinated with a total compensation strategy (salary, retirement, disability income, etc.) for law enforcement personnel in order to recruit and retain capable officers in light of labor market conditions.

9. The superior pension benefits received by law enforcement officers (relative to other public employees) play a significant role in recruiting and retaining employees in what can be a dangerous and stressful occupation. Employees we interviewed during this project are quite conscious of the value of retirement benefits when they assess their total compensation.

### Recommendations

1. The General Assembly should adopt a statute that sets out the State's retirement income goal, measured as a percentage of final salary, for law enforcement personnel. This goal would be a "cap" on the combined benefits from all three current programs available to law enforcement. This goal should then be used to set overall retirement policy for coordinating all post-retirement income programs for law enforcement officers.
2. Based on the "cap" adopted above, the General Assembly should revise or repeal the existing special separation allowance as set out in G.S. 143 - 166.41. In the interests of equity with local law enforcement, the General Assembly should consider making a similar revision in G.S. 143-166.42 so that local governments are not mandated to provide a benefit any greater than the state.

### Implications

1. To the extent that the retirement "cap" for law enforcement officers is reduced from the present level, the State will receive long-term cost savings in reduced retirement benefit payments. The exact savings will depend on policy choices concerning the level of the "cap" on post-retirement income of law enforcement officers as a percentage of final salary. Complete abolition of the special separation allowance would save the General Fund in excess of \$2.5 million each year.

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### Implementation Considerations

1. Intense opposition can be expected from state and local law enforcement personnel to any change in the current special separation allowance.
2. Local governments can be expected to support reduction or elimination of the special separation allowance because of expected cost savings from such a change.
3. Given the impact a major change in the special separation allowance would have on the post-retirement income of retirees and employees now near retirement age, consideration should be given to a phase-in period for any change in law.
4. To assist it in setting a retirement income "cap" the General Assembly should direct the Office of State Personnel to prepare a study of total retirement benefits available to North Carolina law enforcement officers. The study should compare North Carolina to other Southeastern states and employers with whom the state competes to recruit and retain law enforcement employees. The study should provide specific data on retirement benefits as a percentage of final annual salary to assist the legislature in setting policy in this area.

### References

1. *A Study of Law Enforcement in the State of North Carolina*, Systems Design Group, April 1991.
2. *Comparative Retirement Benefits for General State Employees and Public Safety Personnel*, Susan Ross, National Conference of State Legislatures, July 1991.