

# Living **power**

For all who have made a living **I** and now wish to make a life

## Summary of 2004 Retiree Legislation

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### IN THIS ISSUE:

*Can Public Employers  
Eliminate or Reduce  
Health Benefits?* 6

*Medicare-Approved  
Transitional  
Program* 8

*Annual Board of  
Directors' Meeting  
Held* 10

*Outgoing President's  
Remarks* 11

The General Assembly adjourned on Sunday, July 18 concluding a 10 week short session that was dominated by revisions to the 2004-05 state budget. The revised state budget for the second year of the biennium includes a Cost-of-Living Adjustment (COLA) for retired teachers and state employees. The budget also includes a number of special provisions of interest to governmental retirees. Additionally, the General Assembly approved an increase in the contributory death benefit for state and local governmental retirees. These actions and other legislative issues of interest to governmental retirees are summarized below.

### COST OF LIVING ADJUSTMENT (COLA)

The approved budget includes a 1.7% COLA for retired teachers and retired state employees. Retired state legislators and judges also received a 1.7% increase. The cost-of-living adjustment is effective July 1, 2004 and will be included in the July retirement checks.

The N.C. Retired Governmental Em-

ployees' Association had sought a 2.5% COLA for state retirees. This increase also was supported by the Board of Trustees of the Retirement Systems and State Treasurer Richard Moore. Separate legislation (House Bill 1514) was introduced to authorize a 2.5% COLA. However, this bill was re-referred to the House Appropriations Committee after being approved by the Pensions and Retirement Committee and was not incorporated into the budget.

The 2.5% COLA would have required the General Assembly to appropriate approximately \$40 million to supplement gains available in the Teachers' and State Employees' Retirement System (TSERS). The \$40 million appropriation would have increased the state's employer contribution rate to 2.38%.

The House and Senate took very different approaches to the issue of a COLA for state retirees. The House leadership adopted the position that any COLA granted to state retirees should be limited to a percentage that could be funded solely

*(Continued on next page)*



## Legislative Summary

*(Continued from page 1)*

by the undistributed gains available in the retirement system. The available gains were only sufficient to fund a 1.32% COLA for retired state employees. The proposed House budget for 2004 - 05 included the 1.32% figure.

In contrast, the Senate was willing to appropriate additional state funds to

supplement the gains available in the retirement system. The Senate's cost-of-living adjustment was the same as that of Governor Easley who proposed a 2% COLA for state retirees. The Senate's proposed budget included a 2% COLA with an appropriation of \$17.3 million to increase the employer contribution rate from 2.02% to 2.26%.

The final result of House/Senate negotiations was a compromise COLA of 1.7%. The approved budget includes a 2.17% employer contribution rate and an appropriation of \$10 million to fund the 1.7% cost-of-living adjustment.

Local governmental (city and county) retirees will not receive a cost-of-living adjustment in 2004.

The Local Governmental Employees' Retirement System (LGERS) had only a minimal amount of investment gains above the level recommended by the state's actuary to maintain the integrity of the system. According to the actuarial report for the year ending December 31,

2002, the LGERS had undistributed gains of \$4.3 million. This amount would be sufficient to fund only a 0.08% cost-of-living adjustment for local government retirees. Accordingly, the Board of Trustees for the Retirement Systems did not recommend a COLA in 2004 for retired local governmental employees.

### **REPAYMENT OF DIVERTED RETIREMENT SYSTEM FUNDS**

In 2003, the General Assembly committed to pay over a 5-year period the remaining \$129 million that the Governor had diverted from the Teachers' and State Employees' Retirement System. The General Assembly made an initial payment of \$10 million in 2003.

This year, the General Assembly provided a second payment of \$20 million. The House had included \$16 million in the proposed 2004-05 state budget. The Senate had proposed a \$10 million payment.

The \$20 million was included in House Bill 1352 which was ratified on June 30. The monies for this payment come from the state's fund balance at the end of the 2003-04 budget year.

### **STATE HEALTH PLAN**

There are no major changes in the State Health Plan for 2004-05. The General Assembly had appropriated sufficient funds in 2003 to maintain the current deductible level, co-payments, and premiums for spouse and dependent coverage through the 2004-5 budget year.

The approved state budget for 2004-05

*Living Power* is published to provide current information for NCRGEA's membership. Newsletters are printed bimonthly and mailed to all members of NCRGEA. Your comments are welcome.

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does include several important special provisions that pertain to the State Health Plan. These are summarized below.

#### **RETIREE HEALTH BENEFIT FUND**

This provision establishes a separate Retiree Health Benefit Fund that will be used to provide health benefits for retired and disabled employees as well as their applicable beneficiaries. The Fund will receive employer contributions that currently flow to the Treasurer's Reserve for Retirement Health Premiums. Contributions to the Fund are irrevocable.

The General Assembly established the fund as a step to prepare the state for compliance with impending Governmental Accounting Standards Board (GASB) regulations. The new GASB rules will require public sector group health plans to disclose the actuarial costs of retiree health benefits.

#### **TRICARE SUPPLEMENTAL HEALTH INSURANCE**

Active employees and retired employees who are eligible for TRICARE Military Health System's standard benefit option and who elect not to be covered by the State Health Plan will also receive TRICARE Supplemental Health coverage. The state will pay a monthly premium of \$63.50 for the TRICARE Supplemental coverage on behalf of each state employee and retiree who chooses to be covered by the TRICARE standard benefits option rather than the State Health Plan. This provision becomes effective January 1, 2005.

*(Editor's Note: We will provide addi-*

*tional information on the TRICARE option for retirees who also receive full military retirement in future issues of Living Power.)*

#### **OPTIONAL STATE HEALTH PLAN COVERAGE FOR LOCAL GOVERNMENTS**

Local governmental units in five counties (Bladen, Cherokee, Rutherford, Washington and Wilkes) have been given the option of providing health insurance benefits for local employees and retirees under the State Health Plan. The same terms and conditions that apply to participating state agencies will be applied to the local governments that choose to participate in the State Health Plan. The option to join the State Health Plan for the eligible local government expires June 30, 2006.

#### **CONTRIBUTORY DEATH BENEFIT**

The General Assembly approved legislation to increase the optional contributory death benefit for state and local governmental retirees from \$6,000 to \$9,000. House Bill 1624 was ratified on July 12 and sent to the Governor. The change in benefit will not require an increase in the monthly premium paid by retirees. The higher benefit level will be funded by surplus gains in the Death Benefit Fund.

#### **RE-EMPLOYMENT OF RETIREES**

Our May/June issue of *Living Power* reported that a number of bills had been introduced this year to address critical shortages of applicants for governmental jobs in a number of key areas by relaxing

*(Continued on next page)*

## Legislative Summary

*(Continued from page 3)*

restrictions on the reemployment of retired governmental employees. Public school teachers had been granted the option in 1999 of returning to work after a six-month separation from service with no restrictions on earnings. This year, several bills were introduced to extend the option for reemployment of teachers and to expand the policy to include librarians, school counselors, DOT highway engineers and engineering technicians.

The General Assembly did not approve any of these bills due to a rising concern about how the reemployment of retirees affect the Retirement System. An actuarial analysis of extending the reemployment option for classroom teachers indicated that this policy would cost the Retirement System more than \$4 million annually since there would not be a contribution to the Retirement System under existing law.

Although separate bills allowing reemployment were not enacted, the General Assembly did address the extension of the public school teacher reemployment policy through special provisions in the Appropriations Act that are summarized below.

\* The option for retired public school classroom teachers to return to work after a six-month separation from service without restrictions on earnings or pension was extended through June 30, 2005. However, all local school boards that reemploy retired teachers are required to contribute

11.7% of salaries paid to retirees to the Teachers' and State Employees' Retirement System. (This is referred to as the "Reemployed Teacher Contribution Rate".) The contribution may be paid from the salaries of these positions and from local funds.

\* The Retirement Systems Division of the Department of State Treasurer is directed to study the post-retirement reemployment issue. The Division will examine policies in other states, review relevant Federal regulations that affect post-retirement reemployment, and analyze the impact of various reemployment policies. The Division is required to submit findings and recommendations to the General Assembly by February 1, 2005.

### **RETIREMENT SYSTEM IMPROVEMENTS**

The NCRGEA supported a number of proposals offered by State Treasurer Richard Moore to improve and modernize the administration of the Retirement System. These proposals, which were approved by the General Assembly, are listed below and were funded by receipts of the Retirement Fund.

\* \$8,794,546 was authorized to continue the modernization of Retirement Systems Division information technology. This is a five-year project that was commenced in 2003.

\* \$491,089 was authorized to convert 24 existing time-limited positions in the Retirement Systems Division to permanent status. This conversion will be phased in

during this year. These positions were authorized initially in 2002 to improve the Division's customer service and accountability capacity.

#### **CONCLUSION**

We began this session of the General Assembly well aware that increases in benefits for retirees would be difficult. Although both the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System are fiscally sound and well managed, the gains available to fund benefit increases were limited.

At the same time, we understood that the slow pace of the current economic recovery would mean that state and local government revenues to augment the retirement systems would be scarce. We knew before the General Assembly convened on May 10 that local governments would not support an increase in employer contributions to the retirement system this year, effectively ruling out a 2004 cost-of-living adjustment for local retirees.

The state revenue outlook for 2004-05 is better than it has been for several years. Still, the General Assembly had to deal with a wide array of needs simply to maintain current service levels. For example, public school enrollments in grades K through 12 will increase by more than 10,000 pupils this year and more than 7,000 new students will enroll in our state universities.

Given these conditions, we are pleased

the General Assembly was able to provide a COLA for retired state employees and teachers even though it was less than we wanted. The members of the General Assembly should be thanked for their efforts. A special thanks is due to all our members who took the time to call their legislators and urge a higher COLA than the 1.32% originally adopted by the House.

As we look ahead to the next session of the General Assembly, which will convene on January 26, 2005, we should be mindful of the challenges we face. Even though the economic outlook continues to improve, it is likely that the state and local governments will have to increase their employer contributions to the retirement systems. Currently, the state's contribution rate of 2.17% is well below the level recommended by the state's actuary. Local governments pay a 4.8% contribution rate that has remained constant since 1997. Changing conditions may necessitate an increase in the next year.

The near future also presents us with an opportunity to set the stage for the 2005 legislative session. Candidates for the General Assembly and for county commissioner seats who are running for election or re-election in November need to understand the long range importance of maintaining strong retirement systems. Please take every opportunity to let your candidates for state and local offices know where we stand. We will need their help in 2005.

*- Ed Regan*

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## Can Public Employers Eliminate or Reduce Health Benefits?

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*[Editor's Note: The following summary of Employee Health Benefits is an excerpt from an article published in the Winter, 2004 issue of Popular Government, Vol. 69, No. 2. The article, "Can Public Employers Eliminate or Reduce Health Benefits" was written by Diane M. Juffras, Assistant Professor of Public Law and Government, School of Government, UNC-Chapel Hill. The entire article can be accessed on the School of Government website (<http://ncinfo.iog.unc.edu/pubs/electronicversions/pg/pgwin04/article2.pdf>). The publication Popular Government is also available at public libraries.]*

*Must public employers provide health benefits to employees?*

No. There is no legal requirement that public employers provide health benefits to their employees. Sections 160A-162(b) and 153A-92(b) of the North Carolina General Statutes authorize cities and counties respectively to offer health insurance and other benefits to their employees if their governing boards so choose.

*Why do public employers offer health benefits if they aren't required to do so?*

For two reasons. First, for employees it is a valuable form of compensation. Through group insurance plans, the employer can make health insurance available to employees at a more affordable rate than the employees could find on their own. Second, because it is common for private-sector employers to provide health insurance

benefits, public employers must do so to remain competitive in the labor market.

*May public employers offer to pay some or all of the cost of their employees' health insurance after they retire?*

Yes. Payment of retirees' health insurance premiums is considered a form of deferred compensation--that is, payment made after retirement for services the retirees provided before retirement.

*If a public employer has promised to pay all or some of the cost of health insurance premiums for its retirees, may it change its mind and cease paying premium costs?*

Probably not. When the employer told employees before they retired that it would pay a certain level of the premium costs after retirement, it entered into a contract with the employees (even though the contract did not take the form of an actual contract document). Generally speaking, the government cannot disavow such a contractual obligation. To do so would be an "impairment of contract" that violates the U.S. Constitution.

*May a public employer reduce the amount of the premium contribution it makes for retired employees?*

Probably not, for the same reasons.

*How about employees who have not yet retired but have "vested," or fulfilled minimum service requirements to qualify for employer-paid retiree benefits? Can a*

*public employer eliminate or reduce its premium contributions on their behalf?*

Again, probably not. The contract to provide retirement health benefits is formed when the employee vests, not when the employee actually retires.

*May public employers reduce the coverage provided to retirees under the health insurance plan as long as they continue to pay the promised part of the health insurance premium? Can they increase deductibles or require co-payments?*

This is an open question right now. The North Carolina courts have not yet addressed the issue. One possibility is that the courts would say that as long as the public employer meets its obligation to pay its promised share of the premium, it may reduce coverage. More likely, the courts would say that the coverage does not have to stay exactly the same but that the overall benefit to the employee does. That is, if there is an increased deductible or co-payment (a disadvantage to the employee), it must be offset by some corresponding advantage (increased coverage of certain conditions, for example).

*Are public employers forever locked in to promises made to employees in better economic times?*

Only with respect to current retirees and current employees who have vested in the retiree health benefit. Public employers may give notice now to new employees or current employees who have not yet vested that they will receive different

health benefits in retirement.

*What about current employees? May a public employer reduce the amount it pays toward a current employee's health insurance premium or reduce the coverage provided?*

Yes. The employer may change these whenever it sees the need, provided that it gives adequate notice of the change.

*Why is the law that governs changes in health insurance benefits different for retirees and current employees?*

Because current coverage for current employees is not deferred compensation. It is not the promise of doing something in the future in return for work done today. Current coverage for current employees is current compensation for current work. Generally speaking, employers, including public employers, can increase or decrease the compensation of their employees at their discretion.

*In short, what are public employers to do?*

Public employers should continue to fulfill the promises that they have made to retirees and currently vested employees to provide health benefits in retirement. These have become contractual commitments. For the future, public employers might wish to consider the extent to which they want to commit themselves to providing retiree health benefits. They must balance fairness to employees and the needs of recruitment and retention against uncertain, unmeasurable future liability.

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## Medicare-Approved Transitional Assistance Program: Find out if you qualify for the \$600 credit

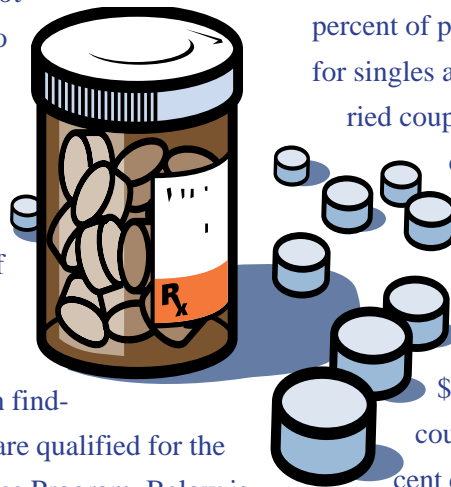
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The Medicare-approved prescription drug discount cards have caused quite a stir across the nation. Many people don't even know where to begin when it comes to choosing a card that is right for them. Unfortunately this means that people who may qualify for the Transitional Assistance Program do not even try to get help to pay for their drugs.

The Seniors' Health Insurance Information Program (SHIIP), a division of the North Carolina Department of Insurance can assist you in finding out whether you are qualified for the Transitional Assistance Program. Below is a list of the most commonly asked questions regarding the Transitional Assistance Program.

### Q. What is the Medicare Transitional Assistance Program?

A. The Medicare Transitional Assistance Program is part of the new Medicare Reform Bill that may help you if you meet certain limited income requirements qualify for a \$600 credit in 2004 and 2005 to help pay for your prescription drugs.



### Q. How can I find out if I qualify for the \$600 credit?

A. If you have Medicare Part A and/or part B with a limited income (\$12,269 per year for single and \$16,862 per year for married couples), you may qualify for the \$600 credit in 2004 and 2005 to help pay for your prescription drugs.

It is important to remember that if you qualify, you will not have to pay the annual enrollment fee. However, you will pay a coinsurance based on the discounted price from your Medicare-approved drug discount card. If your income is below 100 percent of poverty level (\$776 per month for singles and \$1,041 per month for married couples) you will pay a five percent coinsurance for each prescription. If your income is between 100 and 135 percent of poverty level (\$1,048 per month for singles and \$1,406 per month for married couples) you will pay a 10 percent coinsurance for each prescription. The figures above are only based on annual gross income and are subject to change annually.

### Q. How do I apply for the \$600 credit?

A. You can apply anytime for the \$600 credit through a Medicare-approved prescription drug discount card. If you are eligible, you will receive the full \$600 credit no matter when you apply in 2004. You do not have to reapply for the \$600 credit to help pay for your prescriptions in 2005.

As long as you have a Medicare-approved drug discount card, you will receive another \$600 credit on your discount card at the beginning of 2005.

If you apply for the first time in 2005, the amount of your credit will depend on when you apply for a Medicare-approved drug discount card. The chart below shows the credit you will receive depending on when you apply in 2005.

<b>If you apply between</b>	<b>You will get:</b>
Jan. 1 – Mar. 31, 2005	\$600 credit
Apr. 1 – June 30, 2005	\$450 credit
July 1 – Sept. 30, 2005	\$300 credit
Oct. 1 – Dec. 31	\$150 credit

**Q. Who does NOT qualify for the \$600 credit?**

A. You do not qualify if you have outpatient prescription drug coverage from Medicaid, TRICARE for Life, private group health insurance, employer group health plans or federal health plans.

**Q. How do I get the \$600 credit?**

A. To find out if you qualify for the \$600 credit from Medicare, complete an enrollment form from the company sponsoring the discount card you want. You can apply by mailing or faxing the form to the company.

The company will send your completed form to Medicare to determine if you qualify for the \$600 credit. If you qualify, you will not have to pay the annual enrollment fee for the discount card you have

chosen.

If you do not already have a Medicare-approved drug discount card, you must apply for the \$600 credit and the discount card you want at the same time. If you are already enrolled in a Medicare-approved drug discount card and you become eligible for the \$600 credit, you can apply through the company that sponsors your card at any time.

The Seniors' Health Insurance Information Program (SHIIP) has volunteers across North Carolina who have received updated training regarding the Medicare-approved Prescription Drug Discount Card and Transitional Assistance Program. Volunteers can meet with you locally for one-on-one counseling to explain and compare the benefits of these new cards.

“SHIIP staff, volunteers and coordinators are prepared to answer your questions regarding the new Medicare law,” says North Carolina Insurance Commissioner Jim Long. “Call the SHIIP office or talk to one of your local SHIIP volunteers to get assistance and advice on the new Medicare Law.”

This article was provided by SHIIP. SHIIP's toll-free consumer line (1-800-443-9354) is available Monday through Friday from 8 a.m. to 5 p.m. Visit the website at [www.ncshiip.com](http://www.ncshiip.com) for answers to your questions or e-mail [shiip@ncdoi.net](mailto:shiip@ncdoi.net) to get questions answered online. SHIIP also has trained volunteers in all 100 counties of North Carolina for one-on-one counseling sessions.

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## Annual Board of Directors' meeting held

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The NCRGEA annual Board of Directors' meeting was held on June 23, 2004 at the North Carolina State University Club in Raleigh.

Board members heard updates on Association business from Executive Director Ed Regan and staff.

Tina McCormick, Director of Communications, detailed information of the past year's district meetings.

Betty West, Director of Membership, reported the Association had gained over 3900 members in the last fiscal year. The Association has experienced a 3% growth in members. She said that this year the Association will target for membership those employees who are 55 years of age or who have 25 years of service. She also wants to target new members in the counties which have the lowest percentage of members.

Susan Warren, the Association's Office Manager, gave the Board information about the MetLife Dental Plan. The number of members who have enrolled in the new dental plan increased by 33%. Over 4,750 of our members have enrolled in the MetLife plan. She said there have been vast improvements with the new, enhanced plan that began in January and the number of complaints has decreased dramatically.

An oral, as well as written, legislative report was presented by Mr. Regan and a handout written by lobbyist Jack Cozort was distributed. Mr. Regan also discussed

the Association's investments.

Treasurer Betsy Meldau presented the 2004 - 05 budget, which was accepted by the Board of Directors.

Several personnel policy changes were approved by the Board.

The Board authorized the creation of a temporary working group to look into enhancing our member benefits. This group, comprised of Board members, will study different options in increasing the benefits offered to our members.

Board President Dennis Ducker gave the Nominating Committee report, which the Board approved.

New to the Board of Directors is Roger Cotten of Greensboro, who has been appointed to replace Mazie Bullard, whose term has expired. Mr. Cotten retired as the Guilford County Manager.

Officers approved for 2004 - 05 include the following:

President	Peggy Lowdermilk
Vice-President	Leroy Henderson
Treasurer	Betsy Meldau
Secretary	Willis Whichard

Incoming President Peggy Lowdermilk made comments about her goals for the next two years, which include continuing the strong organization of NCRGEA as well as increasing our membership.

Ed Regan presented outgoing Board Member Mazie Bullard with a serving tray and Dennis Ducker a plaque in recognition of his stint as President.

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## Outgoing Association President gives remarks at annual board meeting

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*Editor's Note: Following is the text of remarks given by Dennis Ducker, President of the NCRGEA, at the Annual Meeting of the Board of Directors held on June 23, 2004 at the University Club in Raleigh, North Carolina:*

I call this Annual Meeting of the Board of Directors of the North Carolina Retired Governmental Employees' Association to order.

Before we proceed with our Agenda and the business before us, please allow me a few moments to reflect on the past two years that I have had the honor and privilege to serve as the Association's President. Later in our meeting, you will have the opportunity to elect a new President -- a person who is highly qualified and, in my opinion, will do a terrific job for the Association.

First, let me thank all of the persons who have made the past two years such a success. These are:

- (i) Members of the Board of Trustees, who have served with dedication and distinction, and without compensation;
  - (ii) a hard-working, loyal and conscientious staff; and,
  - (iii) two excellent Executive Directors.
- Which brings me to the worst of times and the best of times during my tenure as President. The worst was when Leigh

Hammond told me he had decided to retire as our Executive Director. The best was when we recruited and the Board of Directors employed our new Executive Director, Ed Regan.

As to the Association's accomplishments over the past two years, here are some highlights:

(i) Post-retirement increases of 3.06% for the TSERs; and 5.57% for the LGERs plus "catch-up" increases ranging from 1.1% to 6% depending on a person's date of retirement;

(ii) a 4% net increase in the Association's membership, to a current 48,392;

(iii) Procurement and installation of an enhanced Dental Plan for Association members;

(iv) 20 District Meetings attended by 2,697 Association members;

(v) Established Internet access for members relative to activities and actions of the General Assembly;

(vi) Completed a much-needed addition to the Association's office building; and,

(vii) Reconstituted the Legislative Committee to have only Board Members.

Finally, I believe that we have and continue to fulfill our Association's "reasons  
(Continued on page 12)

**"I believe that we have and continue to fulfill our Association's 'reasons for being'."  
- Outgoing Association President  
Dennis Ducker.**



*North Carolina*  
**Retired  
 Governmental  
 Employees'**  
*Association*

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**President's Remarks**

*(Continued from page 10)*

for being". These are to:

- (i) Protect and preserve the Trust Funds from which we receive our monthly allowances, including appropriate and consistent funding by employers;
- (ii) Diligently promote post-retirement increases in the allowances of all state and local government retirees; and,
- (iii) Protect our Health Plan benefits and funding.

Thank you all very much for allowing me to serve as your President.

*- Dennis Ducker*

**Important Phone Numbers to Remember**

NCRGEA .....	1-800-356-1190
NC Retirement System .....	1-877-733-4191
(questions about your retirement check, to get direct deposit, change of address, to report a death)	
CIGNA (Medicare Administrator) .....	1-800-672-3071
NC State Health Plan .....	1-919-881-2300
Seniors' Health Insurance Information Program .	1-800-443-9354
Medical Review of North Carolina .....	1-800-722-0468
MetLife Dental .....	1-888-466-9073
Blue Cross/Blue Shield .....	1-800-672-7897
(State Health Plan Administrator)	
Social Security Administration .....	1-800-772-1213
MedAmerica (Long Term Care Insurance) .....	1-800-943-1549