

JANET COWELL
TREASURER

STEVE TOOLE
RETIREMENT SYSTEMS DIRECTOR

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TO: Retirement Administration

FM: Sam Watts, Emma Hanson, Bryan Allard, Taylor Warnock

RE: Summary of 2015 Legislation Affecting the Retirement Systems Division

State Budget & Appropriations:

- The 2015 Appropriations Act (House Bill 97/Session Law 2015-241) funds the Annual Required Contributions for the Retirement Systems and has several sections affecting the Division.
 - Sections 2.1, 21.1, 30.20, and 30.24 - Appropriates the Department's budget, state pension fund contributions, National Guard, and Fire and Rescue Squad Workers' state contributions for the 2015-2016 Fiscal Year:

	2015-2016	2016-2017
State Retirement System Projected Employer Contributions for Fiscal Year 2016 (TSERS)	\$1,271,456,001	\$1,271,456,001
State Treasurer – Operations ABLE Program Staff – Four Positions & Non Salary Costs	\$215,500	\$540,000
State Treasurer – Operations ABLE Non-Recurring Startup Costs	\$250,000	\$55,000
Treasurer – Retirement/Benefits Non-recurring funds for ORBIT self-service upgrades	\$850,000	N/A
Treasurer – Retirement/Benefits National Guard Pension Fund	\$7,066,299	\$7,066,299
Treasurer - Retirement/Benefits: Firefighters & Rescue Squad Worker's Pension Fund (Provision Allows \$350,00 of total to be used for a Data Audit in first year of Biennium)	\$13,900,000	\$13,900,000
Line of Duty Death Benefits	\$725,000	\$725,000

Employer Contribution Rates for Retirement, Health, and Related Benefits

Rates effective July 1, 2015

S.L. 2015-133

Section 30.20

	Total Rate	Breakdown of Rate Type					
		Retirement	Retiree Health Benefit	Disability Income Plan	Death Benefit	Supplemental Retirement	Qualified Excess Benefit
TSERS General	15.32%	9.14%	5.60%	0.41%	0.16%		0.01%
TSERS Law Enforcement	20.32%	9.14%	5.60%	0.41%	0.16%	5.00%	0.01%
UNC ORP	12.85%	6.84%	5.60%	0.41%			
Com. Coll. ORP	12.85%	6.84%	5.60%	0.41%			
CJRS	32.81%	27.21%	5.60%				
Legislative Retirement System	7.40%	1.80%	5.60%				

The Director of the Budget may further modify the rates for the remainder of the 2015-2016 fiscal year so as to compensate for the different amount contributed between July 1, 2015 and the date that the Appropriations Act of 2015 became law (September 18, 2015) so that the effective rates for the entire year reflect the rates set in the Appropriations Act of 2015.

- Section 30.24 - National Guard Pension Enhancement: Effective July 1, 2015, National Guard Pension Fund benefits shall be increased from \$99.00 per month to \$105.00 for 20 years' creditable military service with an additional \$10.50 per month for each additional year of service (which is an increase from \$9.90). The maximum monthly benefit shall be increased from \$198.00 to \$210.00.
- Section 30.25 -State Health Plan (SHP) Changes and Clarification for Certain Re-Hired State Retirees: This section changes the health coverage for rehired State retirees working on a temporary, full-time basis for State agencies, public schools, community colleges, and universities. The individuals affected by this section have not returned to full time contributing service for that would require their retirement benefit to be suspended, but they are working enough hours that the federal Patient Protection and Affordable Care Act (Affordable Care Act) requires that their employer provide health coverage. These employees are required to be covered under the regular State Health Plan options (Traditional 70/30, Enhanced 80/20, or Consumer Directed Health Plan), with the employer paying the employer premium. Employing agencies must choose which plan they will offer to employees in this class and must offer all employees similarly situated the same plan. Examples of temporary employees include certain substitute teachers, interim principals, adjunct professors, interim managers, and temporary office staff. "Full-time" generally means working 30 or more hours per week.
 - This section does not affect coverage for any of the following:
 - Permanent, full-time employees, for example regular classroom teachers. In most cases, a retiree who started working on a permanent, full-time basis would have to suspend his or her retirement benefit and resume making contributions to and earning service in the retirement system, and thus would no longer be a retiree.
 - Non-retiree, temporary, full-time employees, for example postdoctoral researchers at a university.
 - Part-time employees, regardless of retiree status or whether they are permanent or temporary.
 - The current statutes governing rehired retiree health coverage were added in Sections 35.16 and 35.16A of Session Law 2014-100 (the 2014 budget), in preparation for the

2015 effective date of the employer mandate under the federal Affordable Care Act. (However, those statutes are similar to a provision that has been in the budget since 2007, most recently in Section 35.15 of Session Law 2013-360.)

- Federal Restrictions – two federal laws impact the coverage that the State must offer its employees:
 - The Affordable Care Act imposes a penalty on any employer that does not offer affordable minimum essential coverage to its full-time employees. The law generally defines full-time as working 30 or more hours per week, but the regulations allow some flexibility in how an employer determines full-time status for those whose hours vary.
 - Medicare secondary-payer law, in place since 1980, forbids employers from refusing to cover, offering different coverage, restricting coverage, or in other ways discriminating against employees who are on Medicare. It also requires the employer's plan to be primary (pay first) if the employee elects to be covered in the employer's plan. These requirements do not apply to someone whose only relationship to the employer is as a retiree.
- Section 30.18A – Compensation Bonus for Teachers and State Employees provides funds for a \$750 one-time bonus in December 2015 for Teachers, State employees, and all persons whose salary is set in the appropriations act and who were employed on November 1. This nonrecurring bonus shall not be considered part of an employee's annual salary or base rate of pay for retirement purposes.
- Section 30.30A – Extend Sunset for Preservation of Benefits Plan amends the sunset contained in Session Law 2013-405 which established the Qualified Excess Benefit Arrangement. The arrangement provides benefits to retirees and/or beneficiaries of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System, whose benefits would otherwise be limited by Section 415 of the Internal Revenue Code. Under the amended law, individuals who retire on or after August 1, 2016 will not be eligible for this excess benefit, and they will not receive retirement benefits in excess of the amount that is allowable under Sec. 415(b) of the Internal Revenue Code. The original sunset on the arrangement was January 1, 2015.
- Section 32.16(b) Senior Tax Deduction for Medical Expenses reinstated a state medical expense tax deduction that was eliminated for the 2014 tax year. This section effectively restores the deduction for the 2015 tax year.

Agency Legislation (All RSD-requested Agency Bills have been enacted)

- *Retirement Technical Corrections Act of 2015 (House Bill 274/Session Law 2015-67)*
 - Section 1 - Clarify TSERS Membership Definition makes a minor clarification to the definition of "employee" in G.S. 135-1 for purposes of the Teachers' and State Employees' Retirement System (TSERS) that establishes a minimum threshold for participation. The revised law provides that employees who are employed in permanent positions on a recurring basis must work *at least* 30 hours per week for nine or more months per calendar year in order to be covered by the provisions of the subdivision. This section amends the provision that the N.C. Supreme Court relied upon in its 1997 Wiebenson v. Board of Trustees decision. Effective July 1, 2015.
 - Section 2 – Conform Change in Disability Offset for Social Security amends G.S. 135-106(b), which pertains to long-term disability benefits under the Disability Income Plan. The amendment clarifies that when a beneficiary's benefit is reduced during the first 36 months of the long-term disability period by an amount equal to a primary Social Security retirement benefit, this reduction

becomes effective as of the first of the month following the month of initial entitlement to the Social Security benefit. New law is effective July 1, 2015.

- Section 3 – Change Asset Transfer Date for IRS 415(m) Plans changes "fiscal year" to "calendar year" in G.S. 135-151(e) for TSERS, and G.S. 128-38.10(f) for LGERS, as it relates to the treatment of unused assets of the Qualified Excess Benefit Arrangement (QEBA) plan. This changes the annual deadline for transfers of assets from supplemental employer funds to the Pension Accumulation Fund from the end of the fiscal year to the end of the calendar year. The purpose of this change is to minimize the amount of time that funds will remain in a benefit payment account. New law is effective July 1, 2015.
 - Section 4 – Repeal Vestigial LGERS Investment Statutes repeals G.S. 128-29.1, which provided the LGERS Board of Trustees authority to invest in certain common and preferred stocks. This LGERS investment statute was inadvertently overlooked when the parallel TSERS investment statutes were repealed in 1979. New law is effective July 1, 2015.
 - Section 5 – Conform State Law for Funds Recovered from Legal Settlements to Federal Law amends G.S. 114-2.4A(c), which was enacted by the 2014 State Budget Act (S.L. 2014-100, Section 6.6), provided for the disposition of funds received by the State or a State agency from a settlement or other final order or judgment of the court. The change adds language to provide that Subsections (b) and (e) of G.S. 114-2.4A, which previously restricted the transfer or expenditure of settlement funds and over-realized receipts, do not apply to funds received by the Escheat Fund or to benefit plans administered by the Department of State Treasurer. New law is effective July 1, 2015.
 - Section 6 – Uniformed Services Employment and Reemployment Rights Act (USERRA) amends G.S. 135-4(g) as it relates to creditable service in TSERS for teachers and other State employees who served in the uniformed services as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA). The provision changes "honorably discharged" to "who were not dishonorably discharged." Currently, 38 U.S. Code § 101 (2) defines a veteran as "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable." This section conforms the TSERS service purchase statute to federal law related to the treatment of active duty military service. The new State law also adds language specifying that when a member who has served in the uniformed services returns to work in compliance with the conditions of this subsection, that member's employer shall remit to the System all employer and employee contributions for the full period of that member's military service. *The Retirement Systems Division has handled these cases correctly under the federal law, but until this change, this section of the North Carolina statute had not been updated to reflect the Uniformed Services Employment and Reemployment Rights Act (USERRA – 38 U.S. Code 4301-4335).* New law is effective July 1, 2015.
- *Fire, Rescue, and Safety Worker System Changes (Senate Bill 99/Session Law 2015-88)*
 - Section 1 – Clarify Definitions for Certain Public Safety Programs clarifies definitions in G.S. 58-84-5 applying to: Local Firefighters' Relief Funds; Statewide Firefighters' Relief Fund; State Fire Protection Grant Fund; Volunteer Safety Workers Assistance Fund; Rescue Squad Workers' Relief Fund. The definition of "fire district" was amended to include any federally recognized Native American tribe within the State. The new definition of "firefighter or fireman" states that a person must meet all of the following requirements: is a volunteer, employee, contractor, or member of a rated and certified fire department; performs work or training connected with fire protection, fire prevention, fire control, fire education, fire inspection, fire investigation, rescue, Emergency Medical Services, special operations, or performs the statutory duties and responsibilities of the fire chief as set forth in G.S. 160A-292; performs work or training at the direction of the fire chief; and is included on the certified roster submitted to the North Carolina State Firemen's Association. *This section does not change the definitions used for purposes of*

the Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF). The Retirement Systems administration intends to monitor the rosters for several years to study whether applying the new definitions provided in this section to the FRSWPF would make a material difference in the actuarial liabilities of the pension fund. New law is effective June 19, 2015.

- Section 2 – Record Correction Procedure for Firefighters' and Rescue Squad Workers' Pension Fund changes G.S. 58-86-10 to provide that if any change or error in a member's record is due to the submission of fraudulent or incorrect information that results in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had their records been correct, the LGERS Board of Trustees shall correct the error and, insofar as is practicable, will adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled will be paid. New law is effective June 19, 2015.
- Sections 3 & 4 – Change Roster Certification Procedure amends the Firefighters' and Rescue Squad Workers' Pension Fund statutes pertaining to the certification of rosters of firefighters and rescue squad workers, G.S. 58-86-25 and 58-86-30, to provide that each eligible fire department and rescue or emergency medical services squad must: (1) annually report a certified roster of the names of those individuals meeting eligibility qualifications; and (2) submit the list to the N.C. State Firemen's Association or N.C. Association of Rescue and Emergency Medical Service, Inc. Submission of a roster constitutes a certification of the accuracy of the information on the roster by the department submitting said roster, as required under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation (GASB). These changes are necessary to assist the Department of State Treasurer in applying new GASB pension accounting standards. New law is effective June 19, 2015.
- Sections 5, 6, & 7 – Rescue Squad Workers' Relief Fund Changes alters the administration of the Rescue Squad Workers' Relief Fund in three ways: adds "legal guardian or legal guardians" to the requirement in G.S. 58-88-5 that the parent or parents must maintain active membership in the rescue or EMS service for the continuation of educational benefits; amends membership eligibility in G.S. 58-88-10 to specify that the required 36 hours must be training only and not training and meetings; and amends G.S. 58-88-25 to increase the amount of time from 30 days to 180 days that the chief or chief officer of the local department has to notify the Secretary-Treasurer that the person applying for benefits is a member of the fund and to request that the necessary forms be submitted for benefits. *These sections do not affect the Firefighters' and Rescue Squad Workers' Pension Fund.* New law is effective June 19, 2015.
- Section 8 – Line of Duty Death Benefit Surviving Spouses Requirement in G.S. 143-166.2 is removed. The law formerly required that surviving spouses prove every year that they had not re-married for four years after a "line of duty death" claim was certified as eligible for payment by the Industrial Commission in order to remain eligible to receive a benefit derived from a deceased member's service. This requirement is not applicable after June 30, 2015. This section also makes changes to the statute to incorporate gender-neutral language. New law is effective June 19, 2015.
- Section 9 – Line of Duty \$50,000 Death Benefit Lump-Sum Payment under G.S. 143-166.3(b) is allowed in all cases. Prior to July 1, 2015, if the deceased member had eligible survivors, the \$50,000 line-of-duty benefit was paid out as \$20,000 the first year and \$10,000 per year for the next three years. However, if the deceased member had no eligible survivors, the benefit was paid to the deceased member's estate as a \$50,000 lump sum. This change makes the complete \$50,000 benefit payable as a lump sum in all circumstances after certification of the death by the Industrial Commission instead of spreading the payments over four years. *Unless there is an unusually high number of line-of-duty deaths in fiscal year 2016, the cost of accelerating these payments is not expected to exceed the current appropriation for this benefit. If the cost does exceed the appropriation, the Department of State Treasurer is allowed to request funds from the*

state's Contingency and Emergency Fund to pay for the program. New law is effective June 19, 2015.

- Section 10 – Governmental Control Requirement for Retirement System Participation creates uncodified session law that requires 16 nonprofit fire departments that commenced participation in LGERS between 1977 and 1992 to include a provision in their charter or articles of incorporation that allows the local governmental unit with which they maintain their highest dollar value contract to remove fifty percent (50%) plus one (1) members of the fire department's governing board. *Failure to include the provision required by this section in a governing document of an affected agency may disqualify the agency as a participating employer in LGERS and result in its immediate removal from the retirement system.* New law is effective June 19, 2015.

- Agency Participation Procedures Act of 2015 (House Bill 276/Session Law 2015-168)

- Section 1 – New Procedure for Charter Schools Entry removes the 30-day requirement from G.S. 135-5.3 for all charter schools to elect to participate in TSERS and requires the board of directors of an entering charter school to adopt a written resolution acknowledging acceptance of the terms and conditions of membership, including the exit procedures provided in section three of this legislation. Currently, schools that do not elect to participate within 30 days of obtaining their charter must seek legislative approval to enter the Retirement System. This legislation allows the TSERS Board of Trustees to approve entry for charter schools that have been in operation for more than one year based on the results of an actuarial and financial review. Charter schools may also participate in the Retirement System during their first year of operation on a provisional basis and must be approved by the Board of Trustees to continue participation in the system after the end of their first year of operation based on the results of an actuarial and financial review. New law is effective January 1, 2016.
- Section 2 – Require Review Prior to Changing Employer Participation in TSERS or LGERS amends G.S. 120-114, the law governing actuarial notes prepared by the General Assembly's Fiscal Research Division, to require additional procedures for actuarial notes in connection with bills that affect a public retirement system. This section requires the Fiscal Research Division to obtain an estimate of the cost of the applicable withdrawal liability for any legislation that would remove an agency from TSERS or LGERS. New law is effective January 1, 2016.
- Section 3 – Require Payment of Withdrawal Liability for an Exiting Agency adds G.S. 135-8 (i) and G.S. 128-30(i), which require any agency exiting the Retirement Systems that has participated in TSERS or LGERS for more than one year to pay a withdrawal liability before exiting. The amount of the payment for this withdrawal liability is the greater of either \$1000 or an amount determined by the Boards of Trustees on advice of the consulting actuary to reflect the exiting agency's share of the System's unfunded accrued actuarial liability plus a risk premium that covers the investment, mortality, and other actuarial risk associated with the exiting agency's participants. New law is effective January 1, 2016.
- Section 4 – Use Dissolution Bond Funds for Unpaid Invoices from Retirement System and State Health Plan provides that in the event of a voluntary or involuntary dissolution of certain charter schools, certain funds reserved for closure proceeding shall be used to pay wages owed to charter school employees, funds owed to TSERS, and funds owed to the State Health Plan, in that order. New law is effective January 1, 2016 and only applies to charter schools required to post a dissolution bond under G.S. 115C-218.100.
- Sections 5 & 6 – Prohibit Granting Prior Service to New Agencies in LGERS amends G.S. 128-21 and G.S. 128-26(a) to disallow the granting of retirement service credits for years that employees worked at a local government agency before the agency joined LGERS. This prohibition applies to agencies that join the system on or after August 1, 2015. The section is effective July 23, 2015.

- Section 7 – Allow Payment Plans for Pension Spiking Invoices amends G.S. 135-4(jj) and G.S. 128-26(y) to permit the Retirement Systems Division to allow employers to pay the amount that is required based on the contribution-based benefit calculation established in G.S. 135-5(a3) and G.S. 128-27(a3) in installments that must be completed within one year of the employee's effective date of retirement. The section is effective July 23, 2015.
- Retirement Administrative Changes Act of 2015 (House Bill 277/ Session Law 2015-164)
 - Section 1 – Change Term Length and Impose Term Limits for Supplemental Board Members amends G.S. 135-96 to change the length of terms for members of the Supplemental Retirement Board of Trustees from two years to three years. It sets a limit of two consecutive terms for Board members. In addition, the new law terminates the terms of all present members of the Board, effective June 30, 2016, and staggers the expiration of newly established terms specified in this section in order to ensure stability, flexibility, and continuity of governance. New law is effective October 1, 2015.
 - Section 2 – Revenue from Food Service Contracts to Services for the Blind adds a new section of Article 3 of Chapter 111, G.S. 111-47.3, which authorizes the Department of State Treasurer to contract with vendors for food services for employees. The net proceeds from such contracts shall be credited to the Division of Services for the Blind. New law is effective October 1, 2015.
 - Section 3 –Clarify Investment Statutes for Commingled Fixed Income amends the types of investment entity structures that are authorized for the State's externally managed fixed income investments in G.S. 147-69.2(b). Currently, commingled vehicles such as limited partnerships, limited liability companies, and group trusts are authorized for the State Treasurer's other asset classes, but not fixed income. This provision would amend existing law to authorize externally managed fixed income investments to be made either by commingled structures or by investment management agreements, giving investment staff the flexibility to evaluate the most cost-effective structures. This section also increases the maximum allowable waiver delineated in G.S. 147-77 for public agencies for daily deposits into the state banking system. The maximum waiver amount in the statute, which had not been updated since 1985, is increased from \$250 to \$5,000, effective October 1, 2015.
 - Section 4 –Clarify Statute to Encourage Volunteering during Separation of Service Period clarifies the volunteer service provision in the definition of retirement under TSERS in G.S. 135-1(20) to explicitly allow retirees to serve in positions normally considered to be held by *bona fide* unpaid volunteers during the six-month period following the effective date of their retirement (the "separation-of-service" period). Volunteering in this capacity is not considered to be service for retirement purposes. This clarification is intended to reduce the uncertainty surrounding the return-to-work restrictions in statute and thereby encourage retirees to volunteer for State agencies during their retirement. Additionally, this section includes a technical correction that clarifies the distinction between the definition of retirement under TSERS and the definition of retirement for judges. New law is effective October 1, 2015.
 - Section 5 – Require Employer Attestations of Data Accuracy adds G.S. 135-8(f)(4) and G.S. 128-30(g)(4), which require participating employers to attest to the accuracy of their monthly data submissions to the Retirement Systems Division by stating that submission of the information by the employer constitutes a certification of its accuracy. This change is one of several changes required for annual audit procedures to comply with latest standards from the Governmental Accounting Standards Board of the Financial Accounting Foundation. New law is effective October 1, 2015.
 - Section 6 – Improve Tools to Collect Monies Due to the Retirement Systems amends G.S. 135-8(f)(3) and G.S. 128-30(g)(3), the laws governing payments from TSERS and LGERS employers, to provide that, if an employer fails to submit required payments within 90 days, the Board can collect delinquent payments by intercepting State appropriations allocated to the delinquent

employer. Upon notification from the Board of Trustees of the employer's failure to submit payment, the Office of State Budget and Management must withhold an amount equal to the amount due to the Retirement System from any State appropriations allocated to the employer and transmit the amount to the Retirement System. The legislation also makes a conforming change in G.S. 115C-438, the public schools statute, to allow the Department of Public Instruction to withhold appropriations from specific public school employers as provided in this section. New law is effective October 1, 2015.

- Section 7 – Clarify Rule-Making Provisions amends the Administrative Procedure Act by adding G.S. 150B-21.3A(e1) to create an exception to the process whereby rules undergo a periodic review. Currently, if an agency fails to review and readopt an existing rule as required by law, the rule will automatically expire. This section creates an exception for rules deemed by the Board of Trustees of the Retirement Systems to protect inchoate or accrued rights of retirement system members. This provision does not relieve the Retirement Systems Division of the duty to review and readopt its rules. New law is effective October 1, 2015.
- Section 8 – Clarify Application of the 1,000-Hour Rule for LGERS Membership clarifies the application of the “1,000-Hour Rule” and revises the definition of “employee” to exclude temporary employees and statutorily defined Interim City and County Managers. To accomplish this goal, the new law adds three new definitions to the law governing LGERS. The provision defines “regularly employed” in G.S. 128-21 (10a) as employment in a position for which the duties require at least 1000 hours of work in a calendar year, but does not include temporary or statutorily required interim employees. “Temporary employment” is defined in G.S. 128-21 (10b) as employment for a limited term which does not exceed 12 months on a non-recurring basis. “Statutorily-required interim employment” in G.S. 128-21 (10c) means employment as an interim city or county manager for a period that does not exceed 12 months on a nonrecurring basis. New law is effective October 1, 2015.
- Section 9 – Human Resources Flexibility for Retirement Systems Division creates an exemption in G.S. 126-5 (c13) from the State Human Resources Act for employees of the Department of State Treasurer who possess specialized skills or knowledge necessary for the proper administration of the Supplemental Retirement Plans. By amending G.S. 135-91(c), the State Treasurer is authorized to establish market-oriented compensation plans, including salaries and performance related bonuses for these employees. New law is effective October 1, 2015.
- Section 10 – Clarify Procedures for Required Minimum Distributions amends the laws of TSERS, LGERS, the Consolidated Judicial Retirement System (CJRS), and the Legislative Retirement System (LRS) to require that a member's contributions must be paid or retirement benefit must begin by April 1 of the year following the year in which the member reaches age 70 1/2 or ceases to be an employee, whichever is later. This is an IRS-mandated provision. This section establishes the procedures for paying a member's Required Minimum Distributions from the member's accumulated contributions to the Retirement Systems and the conditions under which these procedures apply. G.S. 135-5 (m4); G.S. 128-27 (m3); G.S. 135-74 (c1); and G.S. 120-4.31(c1) are the new statutes that provide for automatic retirement or automatic return of contributions. New law is effective October 1, 2015.
- Section 11 – RTW Enforcement Flexibility changes the enforcement policy for *de minimus* separation of service violations in G.S. 135-3(8) f. and G.S. 128-24(5) e. by lessening the financial penalty for a retiree who returns to work during the six months immediately following retirement. The member can either be deemed to have retired the month after the month the member performed services for the employer and repay all retirement benefits received until that date or make a lump sum payment to the Retirement System equal to three times the compensation earned during the six-month period. New law is effective October 1, 2015.
- Community Colleges 403(b) Plan (House Bill 264/Session Law 2015-169) extends eligibility to participate in the 403(b) supplemental retirement program to teachers and faculty of the North Carolina Community

College System. The legislation adds a new section to the Community Colleges statute, 115D-25.4, authorizing local boards of trustees to offer participation in the North Carolina Public School Teachers' and Professional Educators' Investment Plan as operated by the Department of State Treasurer.

- The following criteria apply to the Department of State Treasurer's 403(b) offerings to community college employees under this section:
 - Annuity contracts, trust accounts, and/or custodial accounts must be administered by a qualified third-party administrator to provide custodial, record-keeping and administrative services
 - Governance and oversight of the Plan will be performed by the Department of State Treasurer and the North Carolina Supplemental Retirement Board of Trustees.
 - Investment options shall be solely determined by the Department of State Treasurer and the North Carolina Supplemental Retirement Board of Trustees consistent with section 403(b) of the Internal Revenue Code.
 - Investment staff of the Department of State Treasurer may make recommendations as to appropriate investment options.
 - The State Treasurer and the Board of Trustees have sole responsibility for selection of the service provider.
 - All contributions made under this section must be remitted directly to the administrator and held in a custodial account on behalf of the participating employee. Any investment gains or losses must be credited to those accounts.
 - Any local board of trustees may elect to make contributions to the employee's account on behalf of the employee.
 - The design and administration of annuity contracts, trust accounts, and custodial accounts under this section must comply with applicable provisions of the Internal Revenue Code.
- In addition to the authority described above, in G.S. 115D-25 the new law clarifies that local boards of trustees can continue to purchase interests in custodial accounts for the benefit of their employees pursuant to sections of the Internal Revenue Code using funds derived from salary reductions. Under this law the board of trustees of a community college may authorize the purchase of annuity or retirement income contracts for the benefit of faculty members, administrative officers, or any other employees of the community college. Funds for this purchase are derived from a reduction in the officer or employee's salary. In lieu of the annuity or related contract, interests in a custodial account pursuant to Section 401(f), Section 403(b)(7) and related sections of the Internal Revenue Code may be purchased for the benefit of qualified employees with the funds derived from the reduction in salaries of these employees.
- Achieving A Better Life Experience Act (ABLE) (House Bill 556/Session Law 2015-67) authorizes the establishment of the Achieving a Better Life Experience (ABLE) Program Trust, which will be administered by the ABLE Board of Trustees. The aim of this program is to facilitate and encourage the contribution of private funds to accounts that eligible individuals with disabilities may use for certain qualified expenses.
 - Section 1 – Creation of Article 6E of Chapter 147 of the NC General Statutes establishes the Achieving a Better Life Experience (ABLE) Program Trust in North Carolina. This section states that the policy of the General Assembly is to encourage and assist individuals and families in saving and accumulating private funds to enable individuals with disabilities to maintain their health and independence and to improve their quality of life. It also establishes definitions for the administration of the program.
 - ABLE Accounts – G.S. 147-86.51 outlines the framework for the ABLE program, including how accounts are established and maintained, and the limitations imposed on the program.

The following provisions apply to ABLE accounts:

- An account owner or individual with signatory authority over the account owner may establish an account by making an initial contribution, signing an approved application form, and naming the designated beneficiary.
- Any person may contribute to an account after the account is opened.
- Contributions to an account must be made in cash.
- Contributions to an account must not exceed the maximum contribution limits applicable to ABLE program accounts in accordance with the federal law.
- An account owner may transfer ownership of an account to an eligible individual who is a member of the account owner's family.

The following limitations apply to ABLE accounts:

- Rollovers from one ABLE account owner to another ABLE account owner are permitted to the extent allowed under federal law.
- An individual must be eligible for an ABLE account in the taxable year in which the contribution is made.
- An account owner is limited to one ABLE account.
- An ABLE account may only be established for residents of North Carolina or of a contracting state.
- Except as permitted under the federal ABLE Act, an account owner may not change the investment of any contributions to or earnings in an ABLE Account more than twice each year.
- An account or a legal or beneficial interest in an account may not be assigned, pledged, or otherwise used to secure or obtain a loan or other advancement.
- Separate records and accounting must be maintained for each ABLE account.
- Reports to each ABLE account owner must be made no less frequently than annually.
- A trustee or guardian appointed as a signatory of an ABLE account may not have or acquire any beneficial interest in the account and must administer the account for the benefit of the designated beneficiary.

- ABLE Program Board of Trustees – G.S. 147-86.52 establishes the ABLE Program Board of Trustees. The Board will provide oversight over the program, including the development of an investment strategy for funds in the ABLE Program Trust. The investment strategy may include a combination of fixed income assets and preferred or common stocks or other appropriate investment instruments which may achieve long-term return through a combination of capital appreciation and current income. *With consent of the State Treasurer*, the Board may enter into agreements with other states to either allow North Carolina residents to participate in other states' ABLE programs or to allow the residents of other states to participate in North Carolina's ABLE program.

- The Board will consist of the following 6 members:
 - The State Treasurer, or designee.
 - The Commissioner of Banks, or designee.
 - The Secretary of DHHS, or designee.
 - A person appointed by the Governor with experience in investment and finance.
 - A person appointed by the Senate with experience in advocacy for the disabled.
 - A person appointed by the House who is an immediate family member or guardian of an individual eligible for an ABLE Account.
- The duties of the Board include:

- Delegating the authority to the State Treasurer to administer the ABLE Program Trust, implement the investment strategy of the Board, and provide all other services necessary to administer the program.
 - Hiring consultants, auditors, attorneys, investment counseling firms, and other individuals with professional skill necessary for the administration of the program.
 - Developing marketing plans for the program.
 - Establishing procedures for the administration of the ABLE Accounts.
- Administration by the State Treasurer's Office – G.S. 147-86.53 provides for the administration of the program. If delegated to it by the Board, the State Treasurer's office may administer the ABLE Program Trust, implement the investment strategy of the Board, and provide all other services necessary to the program. The Treasurer may establish fees to cover the administration costs of the program. In addition to fees for application, account, and administration fees, costs for administering the program may be paid directly out of the ABLE Program Trust.
- Means-Tested Program Eligibility – Notwithstanding any other provision of law, assets held in, as well as qualified distributions from, an ABLE account must be disregarded for purposes of determining whether a designated beneficiary's financial circumstances meet the eligibility requirements of other means-tested State assistance programs.
- Medicaid Clawback – Upon the death of the account owner of an ABLE account, the State has a claim for payment from the deceased designated beneficiary's account equal to the amount of medical assistance paid on behalf of the beneficiary during his or her lifetime from Medicaid. The State may file a claim for the funds within 60 days of receiving notice of the account owner's death from the State Treasurer. Any funds remaining after the State's claim will be distributed as provided in the account agreement, or distributed to the beneficiary's estate if no other designation is made.
- Public Records – All information related to individual ABLE accounts is not considered a public record under Chapter 132 of the General Statutes.
- Section 2 – Department of Health and Human Services (DHHS) Must Provide Data requires the DHHS to provide information and assistance to the State Treasurer for the purposes of administering the ABLE Program and requires the Treasurer to consult with other departments as needed. This section is an uncodified Session Law.
- Section 3 – Rulemaking Authority authorizes the State Treasurer and the Department of Health and Human Services to adopt rules to administer the program. This section is an uncodified Session Law.
- Section 4 – Implementation May Be Delayed provides that the State Treasurer may begin accepting contributions to ABLE accounts once finalized federal regulations governing the program have been adopted. If the federal regulations conflict with any provision adopted under this act, the Board may delay implementation until the General Assembly can modify the act. This section is an uncodified Session Law.
- Section 5 – Initial Board Terms provides that the Board of Trustees shall be organized immediately after a majority of the members have been qualified or appointed and have taken the oath of office. The terms for the trustees that are appointed shall be for initial terms to expire June 30, 2018. This section is an uncodified Session Law.

Non-Agency Legislation Affecting Retirement Systems Division Policy

- Magistrates Recusal for Civil Ceremonies (Senate Bill 2/Session Law 2015-75) – Section five of the legislation grants membership service in TSERS via an uncodified Session Law to any magistrate who resigned or was terminated from, his or her office between October 6, 2014 and June 11, 2015 and who was subsequently reappointed within 90 days after June 11, 2015 (September 9, 2015). The membership service for these individuals is granted for the full period of the break in service at the rate of compensation that would have applied had there been no break. The Judicial Department is required to pay both the employee and employer contributions related to this service to TSERS. *The Retirement Systems Division will treat this service as “omitted service.”*
- Local Governments in State Health Plan (House Bill 154/Session Law 2015-112) – allows local governments with fewer than 1,000 active employees and dependents to enroll those active employees and dependents in the State Health Plan. Eighteen local governments have active employees and dependents who participate in the State Health Plan for Teachers and State Employees, and 11 of those 18 enroll retirees. These local governments were added to the State Health Plan in various laws enacted beginning in 2004, and there has been no consistent set of policies to which local governments are subject regarding participation in the State Health Plan. Local governments joining the State Health Plan for the first time under this legislation will not be permitted to enroll retirees. The eleven local governments who currently cover retirees may opt in to the coverage specified under this new law, meaning that their retirees would no longer receive coverage.
 - The new law makes local governments eligible to have their employees participate in the State Health Plan for Teachers and State Employees (State Health Plan) under specified conditions:
 - The local government unit must pass a valid resolution expressing the local government's desire to participate in the State Health Plan.
 - The local government unit must enter into a memorandum of understanding with the State Health Plan.
 - The local government unit must provide at least ninety (90) days' notice to the State Health Plan prior to entry and complete the requirements outlined in the bill at least sixty (60) days prior to entry into the State Health Plan.
 - The local government unit and its employees must meet the federal requirements to enter into a governmental plan, and the State Health Plan has the right to deny entry of the local government unit if the Plan's qualification as a governmental plan would be jeopardized as a result.
 - The Plan would be required to admit any local government unit that meets the qualifications outlined in the bill, regardless of past claims experience or the financial impact to the State Health Plan.
 - A local government unit must determine the eligibility of its employees and their dependents as well as the portion of the premiums their employees will pay to the local government unit.
 - The State Health Plan options for coverage and the associated premiums will be the same as those offered to State employees and their dependents on a fully contributory basis.
 - The local government unit must pay all premiums for covered individuals directly to the State Health Plan or its designee.
 - Enrollment in the State Health by local government units is capped – no additional local governments will be allowed to join the State Health Plan after the number of employees and dependents of employees enrolled reaches 10,000. Any local government electing to participate must have fewer than 1,000 employees and dependents eligible to enroll at the time of notice to the Plan.
 - Local governments currently participating in the State Health Plan would be given an option to elect to participate under the specified conditions outlined in the bill. Local government units

electing to participate would also cease monthly contributions to the Retiree Health Benefit Fund. The Retiree Health Benefit Fund is a fund in which accumulated contributions from employers and any earnings on those contributions shall be used to provide health benefits to retired and disabled employees and their applicable beneficiaries.

- The new law also authorizes Board of Directors of the Pioneer Springs Community School, a charter school, to elect to become a participating unit in the State Health Plan.
- This new law was effective June 24, 2015.
- State Health Plan Modifications (House Bill 190/Session Law 2015-100)
 - Section 1 amends G.S. 135-48.42(e) pertaining to enrollment in the State Health Plan to allow retirees and surviving spouses to disenroll from the Plan during the plan year without a qualifying event. It also allows retirees and surviving spouses to disenroll their dependents from the Plan without a qualifying event. Section is effective July 1, 2015.
 - Section 2 amends G.S. 135-48.44(a) specifying that coverage will cease on the last day of the month in which the Plan approves cancellation of coverage for an employee or retired employee or on the earliest administratively feasible date thereafter. This section also adds language to clarify that coverage will be terminated for failure to pay premiums. Termination for failure to pay will occur on the last day of the month for which a premium is paid. Effective July 1, 2015.
 - Section 3 amends G.S. 135-48.40(b)(8) pertaining to partially contributory coverage to add “employees eligible for coverage on a noncontributory basis” to the section. According to the State Health Plan, this change is needed to clarify treatment for Reduction in Force (RIF) employees. Section is effective July 1, 2015.
 - Section 4(a) amends G.S. 135-48.40(d) regarding fully contributory coverage to allow surviving spouses of Disability Income Plan beneficiaries to be eligible for coverage under the Plan on a fully contributory basis. Section is effective July 1, 2015.
 - Section 4(b) amends G.S. 135-48.41(g) pertaining to additional eligibility provisions to remove references to preexisting conditions and waiting periods. Section is effective July 1, 2015.
 - Section 5 amends G.S. 135-48.42(a) to add “other contributory basis” to enrollment language pertaining to new employees who must be given the opportunity to enroll or decline enrollment for themselves and their dependents within 30 days from the date of employment or from first becoming eligible on a partially contributory or other contributory basis. Effective July 1, 2015.