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TO: Retirement Administration

FM: Sam Watts

RE: Summary of 2016 State Legislative Actions Affecting the Retirement Systems Division

The 2016 "short session" of the North Carolina General Assembly convened on April 25 and adjourned *sine die* on July 1, 2016, ending the biennial session and dispensing with all pending business. The legislature was in session for 68 calendar days, the House met on 44 of those days and the Senate met on 41 of them. During that period of time, there were 206 new House bills or resolutions and 181 new Senate bills or resolutions introduced. These new introductions are in addition to the 1,675 that had already been introduced in previous sessions during the current biennium. During the short session, 141 bills were enacted by the legislature bringing the biennial total to 457. To date, one bill, S-71 regarding the Coal Ash Commission and related matters, was vetoed by Governor Pat McCrory. The veto was sustained (not overridden) by the General Assembly. A new session of legislature will convene on January 11, 2017 for the next regular biennial session.

Normally during a short session, most of the legislature's work is done in the Appropriations Committees because the purpose of a short session is to make modifications for the second year of the biennial budget passed the previous year. Notably, during this session, the pension policy committees were atypically active. The Senate Committee on Pensions and Retirement and Aging met three times and the House Committee on Pensions and Retirement met five times during the session. The Senate committee met on June 1 (*HB103*); June 16 (*HB1011*, *HB1137*, *HB964*, *HB960*); and June 24 (*SB886*). The House committee met on May 18 (*HB 1030*); May 24 (*HB960*, *HB964*, *HB1011*, *HB1027*); June 21 (*HB1135*, *HB1088*); and June 30 (*SB886*). Of the ten bills that received hearings in the pensions committees, six were ratified and four were not:

BILLS HEARD IN PENSION COMMITTEES IN 2016 AND ULTIMATELY RATIFIED*

SB 886	Retirement Amendments
HB 960	Retirement Creditable Service Charter Schools
HB 964	Commission Membership Winston-Salem Ret. Fund
HB 1011	Retirement Technical Corrections Act of 2016 (Agency Bill)
HB 1030	2016 Appropriations Act
HB 1137	Treasurer's 2016 Investment Admin. Changes (Agency Bill)

BILLS HEARD IN PENSION COMMITTEES IN 2016 AND ULTIMATELY NOT RATIFIED

HB 1027	Study Unfunded Liability/Retiree Health Fund
HB 1088	Allow Election Day Service - Retired LEOs
HB 1134	Admin. Changes Retirement System/Treasurer
HB 1135	Retirement Credits for Peace Corps Service

** N.C.G.S. 120-111.3 requires that "every bill, which creates or modifies any provision for the retirement of public officers or public employees or for the payment of retirement benefits or of pensions to public officers or public employees, shall, upon introduction in either house of the General Assembly, be referred to the Committee on Pensions and Retirement of each house."*

The Retirement Systems Division originally requested 28 policy bill provisions be included in legislation considered by the General Assembly. Of those original 28 provisions, 15 were enacted by the General Assembly, primarily as portions of HB1011 and SB886. Additionally, eight provisions enacted in SB886, HB 960, and HB1030 were developed during the session in collaboration with the committee chairs and bill sponsors. Consequently, 64% of the Division's requested policy changes became law. Comparatively, 21.4% of introduced bills during the biennium were passed.

Since making changes to the \$22.3 billion State budget for the second year of the biennium is the primary purpose of a “short session,” the Division closely monitors the budget legislation. The Division’s first and foremost public policy objective is to obtain full funding for the actuarially determined contributions (“ADCs,” formerly “ARCs”) for all of the pension plans administered by the Division. That goal was completely achieved in HB 1030, the 2016 Appropriations Act.

State Budget & Appropriations:

- The 2016 Appropriations Act (House Bill 1030/Session Law 2016-XXX) fully funds the Annual Required Contributions for all of the Retirement Systems and has several other sections affecting the Division.
 - Sections 2.1, 22.1, and 36.20 - Appropriates the Department’s budget, state pension fund contributions, National Guard, and Fire and Rescue Squad Workers’ state contributions for the 2016-2017 Fiscal Year:

	2015-2016	2016-2017
State Retirement System Projected Employer Contributions for Fiscal Year 2016 (TSERS)	\$1,271,456,001	\$1,459,486,078*
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	\$8,517,073*
Treasurer - Retirement/Benefits: Firefighters & Rescue Squad Worker’s Pension Fund (Provision Allows \$350,000 of total to be used for a Data Audit in first year of Biennium)	\$13,900,000	\$17,602,208*
Line of Duty Death Benefits	\$725,000	\$770,000

**Appropriation for second year of biennium was changed during 2016 session.*

The 2016 legislature provided \$183,342,059 in “new” appropriations to programs administered by the Retirement Systems Division.

- Section 36.21 – One-Time Pension Supplement for TSERS/CJRS/LRS Retirees: Provides for a payment of a one-time pension supplement in the amount of 1.6% of annualized benefit in effect on September 1, 2016 to be paid on or before October 31, 2016 to retirees in affected systems. Unlike a traditional COLA, this does not change the ongoing monthly benefit and, absent additional action by the General Assembly, the payment will not recur in future years.
 - Section 36.21(d): provides that in order to administer the one-time cost-of-living supplement for retirees, the Retirement Systems Division may increase receipts from the retirement assets of the corresponding retirement system or pay costs associated with the administration of the payment directly from the retirement assets.

- Section 36.20 – Employer Contribution Rates for Retirement, Health, and Related Benefits provides guidance to the Division with regard to contribution rates to charge to agencies participating in the State Retirement Systems as employers

Employer Contribution Rates for Retirement, Health, and Related Benefits

Rates effective July 1, 2016 through December 31, 2016 #

S.L. 2016-XXX

Section 36.20

	Total Rate	Breakdown of Rate Type					Qualified Excess Benefit
		Retirement	Retiree Health Benefit	Disability Income Plan	Death Benefit	Supplemental Retirement^	
TSERS General	16.12%	9.97%	5.60%	0.38%	0.16%		0.01%
TSERS Law Enforcement	21.12%	9.97%	5.60%	0.38%	0.16%	5.00%	0.01%
UNC ORP	12.82%	6.84%	5.60%	0.38%			
Com. Coll. ORP	12.82%	6.84%	5.60%	0.38%			
CJRS	35.06%	29.46%	5.60%				
Legislative Retirement System	23.82%	18.22%	5.60%				

Employer Contribution Rates for Retirement, Health, and Related Benefits

Rates effective January 1, 2017 through June 30, 2017 #

S.L. 2016-XXX

Section 36.20

	Total Rate	Breakdown of Rate Type					Qualified Excess Benefit
		Retirement	Retiree Health Benefit	Disability Income Plan	Death Benefit	Supplemental Retirement^	
TSERS General	16.54%	9.97%	6.02%	0.38%	0.16%		0.01%
TSERS Law Enforcement	21.54%	9.97%	6.02%	0.38%	0.16%	5.00%	0.01%
UNC ORP	13.24%	6.84%	6.02%	0.38%			
Com. Coll. ORP	13.24%	6.84%	6.02%	0.38%			
CJRS	35.48%	29.46%	6.02%				
Legislative Retirement System	24.24%	18.22%	6.02%				

#Section 36.20 of the Appropriations Act provides that if the Director of the Budget determines that additional health benefit cost-controlling measures adopted by the Board of Trustees and the State Treasurer are sufficient to reduce the projected State Health Plan, employer premium increases to four percent (4%) or less in both the 2018 and 2019 plan years, then the Director of the Budget is authorized to reallocate funds to allow individual State agencies to pay either 6.02% for the Retiree Health Benefit beginning January 1, 2017 or 5.81% beginning July 1, 2016. The Retirement Systems Division reading of the provision is that the default Retiree Health Benefit rate for employers beginning July 1, 2016 is 5.60% and that the increase to 6.02% in January is contingent on the Governor determining that the cost controls have met the Legislature's projected cost savings.

^The "Supplemental Retirement" contributions for State Law Enforcement Officers are paid to Prudential for the NC 401(k) Plan.

- Section 36.20 - Maximum annual employer contributions to the State Health Plan: Sets the maximum annual amount per employee or retiree payable to the State Health Plan for Teachers and State Employees for fiscal year 2016-2017.

	<u>2015-2016</u>	<u>Jan-Jun Monthly</u>	<u>2016-2017</u>	<u>Jul-Dec Monthly</u>	<u>Jan-Jun Monthly[#]</u>
Medicare Eligible	\$4,251	\$360.24	\$4,397	\$360.24	\$373
Non-Medicare Eligible	\$5,471	\$463.68	\$5,659	\$463.68	\$479

- Section 36.23 – Eliminate Sunset for Preservation of Benefits Plan amends the sunset contained in Session Law 2013-405 which established the Qualified Excess Benefit Arrangement (QEBA). The arrangement provides benefits to retirees and/or beneficiaries of the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS), whose benefits would otherwise be limited by Section 415 of the Internal Revenue Code. Under the amended law, individuals who became a member on or after January 1, 2015, 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 for all members was January 1, 2015 and was previously extended to July 1, 2016.
 - Further amends QEBA law and requires that the last employer of a payee who retires on or after August 1, 2016, and who receives any supplemental benefit payment under this section shall be required to reimburse the QEBA in the amount of any supplemental benefit payment made to that payee. The reimbursement amount shall be calculated on an annual basis every calendar year.
 - Employers will not have to provide the “new” reimbursement to the Retirement System for employees who retired prior to August 1, 2016.
 - For purposes of calculating the new reimbursement amount, the Board of Trustees may include a pro rata share of direct costs attributable to administration of the QEBA.
 - The total amount of new reimbursement owed by the University of North Carolina and UNC Health Care combined shall not exceed five hundred thousand dollars (\$500,000) annually. This maximum reimbursement figure is not indexed for inflation. The Fiscal Research Division of the General Assembly is required to review all reimbursement amounts prior to [the Retirement Systems Division] notifying an employer of the reimbursement amount owed.
 - The employer shall have 60 calendar days from the date of notification of the reimbursement amount owed to pay the amount in full or the employer shall be assessed a penalty, in lieu of interest, of one percent (1%) per month, or fraction thereof, that the payment is made beyond the due date.
 - The Boards of Trustees of TSERS and LGERS may develop procedures to implement the QEBA reimbursements required from the last employers notwithstanding Chapter 150B of the General Statutes.
- Section 36.18 – Mitigate Bonus Leave: allows State agencies, departments, institutions, the North Carolina Community College System, and the University of North Carolina to offer State employees the opportunity to use or to cash in special bonus leave benefits that have accrued pursuant to Section 28.3A of S.L. 2002-126, Section 30.12B(a) of S.L. 2003-284, Section 29.14A of S.L. 2005-276, and Section 35.10A of S.L. 2014-100, but only if all of the following requirements are met: (1) employee participation in the program must be voluntary; (2) special leave that is liquidated for cash payment to an employee must be valued at the amount based on the employee's current annual salary rate; and (3) agencies shall collect and report demographic information on the employees who opt to use or cash in special leave under the incentive program. By March 1, 2017, the demographic information shall be reported to the respective agency head or employing agency and to the General Assembly's Fiscal Research Division
- Salary Increases for Most State Employees

- Section 36.15.(b): Effective July 1, 2016, salaries in effect on June 30, 2016, shall be increased by 1.5% for permanent full-time State officials whose salaries are set in accordance with the N.C. Human Resources Act, as well as permanent full-time State officials and persons in positions exempt from the N.C. Human Resources Act. Permanent part-time State employees, and both temporary and permanent hourly State employees' salaries shall be increased on a prorated and equitable basis subject to the availability of funds in the employing State agency, department, or institution and within regular State Budget Act procedures.
 - Section 36.16 – Compensation Bonus for State Employees: provides that all employees, except teachers in a State-funded position on September 1, 2016, shall be awarded a one-time, lump sum compensation bonus for the 2016-2017 fiscal year in the amount of one-half of one percent (0.50%) during the month of October 2016. The compensation bonus awarded by this section does not meet the definition of compensation under N.C.G.S. 135-1(7a) for the Teachers' and State Employees' Retirement System.
 - Section 36.16 – Treatment of DIPNC Short Term/Extended Short Term Participants for Bonus: provides that recipients of disability benefits under Article 6 of Chapter 135 of the General Statutes who have not terminated their employment, and who otherwise meet the conditions of this section, are eligible to receive the bonus, which shall be paid by the employing agency. The Disability Income Plan will neither pay the bonus nor reimburse the employer for payment.
- Section 22.2 – ABLÉ Program Trust Report requires the Department of State Treasurer to report to the Joint Legislative Oversight Committee on General Government on the status of the Achieving a Better Life Experience (ABLE) Program Trust no later than December 1, 2016. The report shall include all of the following: (1) a description of various organizational structures and approaches that may be utilized to implement the ABLÉ Program Trust; (2) a comparison of the advantages and disadvantages of the various organizational structures and approaches that may be utilized to implement the ABLÉ Program Trust; (3) information regarding implementation discussions and plans of the multistate ABLÉ consortium; (4) information about plan design and implementation in other states, including Virginia, South Carolina, and Tennessee; (5) detailed costs of implementing and operating the ABLÉ Program Trust as a single-state program operated within North Carolina, as compared to entering into an agreement with another state or states for operation; and (6) upon consideration of the various approaches to implementation of the ABLÉ Program Trust, a detailed plan for implementation in North Carolina and the status of that implementation. The cost of the detailed plan for implementation shall be within the Department of State Treasurer's current appropriation for the ABLÉ Program Trust.
- Section 22.1 – Line of Duty Deaths include Certain Cancers as Occupational Disease for Firefighters Only: creates a presumption that (1) mesothelioma; (2) testicular cancer; and (3) intestinal cancer are occupationally related to firefighting and requires the Industrial Commission to find that a firefighter who dies as a direct and proximate result of those cancers has been killed in the line of duty.
- Section 27.1 – Budget Transparency for Department of State Treasurer: requires the Office of State Budget and Management to study the feasibility of converting operating funds within the Department of the State Treasurer, from receipt-supported to General Fund-supported. The report is due to the December 2016 meeting of Joint Legislative Oversight Committee on General Government.

Policy Legislation that was enacted in 2016:

- Retirement Amendments (Senate Bill 886/Session Law 2016-XXX) has several sections affecting the Division. Except as otherwise described in Section 1, this act is effective when it becomes law.

- Section 1: FRSWPF Line of Duty Death Survivorship Benefit/Name Beneficiaries
Amends G.S. 58-86-2 and G.S. 58-86-55 to provide a survivorship benefit for members of the Firefighters' & Rescue Squad Workers' Pension Fund (FRSWPF). The new benefit provides that beneficiaries would receive the same benefit the deceased member would have received beginning when the deceased would have reached age 55. For Line of Duty Deaths occurring between June 1, 2016 and July 1, 2018, the benefit is available to the member's spouse. Beginning July 1, 2018 the survivorship benefit is available to the member's named beneficiary. To that end, the provision also amends G.S. 58-86-60 to allow members of the FRSWPF to name beneficiaries for return of contributions available upon the death of a fund member. Additionally, the provision specifies the order of payments for the return of contributions for a member who does not select a beneficiary first as spouse, then estate. This change removes a cumbersome current requirement that the Retirement System identify all children of a deceased member regardless of the children's age for a return of contributions. As such, by simplifying the return of contributions, the provision will reduce the administrative complexity and align procedures for this pension fund with the state's other pension funds.
- Section 2: Public Records Statute for Retirement
Creates new consolidated statutes defining how the public records law relates to retirement records and makes conforming changes to existing statutes. Currently, the Retirement Systems Division relies on nine different statutes governing groups of public employees and three separate opinions from the Department of Justice to respond to requests for public information regarding all members of the Retirement Systems. This provision would consolidate the laws that apply to retirement records into the retirement statutes. This provision does not make any information that is currently public into private information or vice versa.
- Section 3: Electronic Cancellation of Retirement Application
Amends G.S. 135-10 and G.S. 128-32.1 to allow the Retirement System to notify a member by electronic means regarding the cancellation of a retirement application due to failure to provide necessary information. Current statute requires regular U.S. mail notification. The Department is requesting this change to enhance the online retirement application process. The Department plans to still use U.S. Mail notification for applications made by paper, but needs this change in order to provide electronic notification regarding online applications.
- Section 4: Collateralization of Deposits
Updates G.S. 147-79(a), the statute specifying documents that may be used to collateralize deposits in the State Banking System, by allowing the use of letters of credit issued by a Federal Home Loan Bank. This change was requested by the State Banking System staff to simplify administration of the system.
- Section 5: Require Contribution Stabilization Policy for FRSWPF
Requires the Board of Trustees of the Local Governmental Employees' Retirement System to develop a "State Contribution Rate Stabilization Policy (SCRSP)" for the Firefighters' & Rescue Squad Workers' Pension Fund (FRSWPF). This policy would be similar in concept to policies the Board adopted in January 2016 for the state and local pension plans. Those policies were adopted in recognition of the criticism that current low interest rates and volatile investment markets may incentivize public pension funds to take on excessive investment risk to achieve their investment return assumption if they don't increase contribution rates. Trustees adopted Board policies that will reduce the volatility of employer contribution rates by increasing the state's contribution rates in predictable increments for the next five years.
- Section 6: Retirement Systems Boards of Trustees' Chair Statutes
Clarifies governance statutes of the Retirement Systems by providing that the State Treasurer is the ex-officio Chair of the Teachers' and State Employees' (TSERS) and the Local Governmental Employees' (LGERS) Boards of Trustees, and provides that the Director of the Retirement Systems Division is selected by the Treasurer. This statute change is consistent with long-time practice. The Department recommended this change in advance of the transition to a new

Treasurer because the prior statute could be read so as to allow the Boards to select two different chairs and two different Directors of the Retirement Systems Division. The provision removes the seat on the TSERS Board designated for a University Employee and replaces that seat with the Director of the Office of State Human Resources. Further, the provision requires that annual actuarial valuations to the TSERS Board and LGERS Board include a supplementary section that provides an analysis of assets on a market basis using the 30-year U.S. Treasury rate as of December 31 of the year of the valuation as the discount rate.

- Section 7: Purchasing Clarification for Supplemental Retirement Plan
Makes the legal name of the Supplemental Retirement Board of Trustees consistent across all programs administered by the Board and clarify that the NC 403(b) Program uses the same procurement procedures as the Board uses for the NC 401(k) and the NC 457 Plans.
 - Section 8: Reduce Unnecessary Paperwork/Administrative Efficiency/Statement of Income Forms
Allows the Retirement System to require that Statement of Income forms be submitted by disability recipients only when the information in the form would be important or useful, or when the member's income has changed. This change provides an administrative efficiency by not requiring submission of forms that have little purpose.
- Retirement Creditable Service Charter Schools (House Bill 960/Session Law 2016-82) has several sections affecting the Division. This act became effective June 30, 2016.
 - Section 1: Remove Restriction on Charter School Service Purchase
Amends G.S. 135-4(cc) and removes the requirement that employees who are purchasing creditable service in the Teachers' and State Employees' Retirement System (TSERS) for employment at a public charter school operated by a private nonprofit corporation must return to a traditional public school and then complete five years of membership service after the period of employment at the charter school for which the service is being purchased. Under the revised law, the employee must still have completed at least five years of membership at some point before purchasing service. This section also restricts this purchase to a total of five years in order to make the state statute consistent with federal law for purchase of "nonqualified service credit" under Internal Revenue Code section 415(n)(3)(B).
 - Section 2: Repeal Duplicative Unused Charter School Service Purchase Statute
Repeals G.S. 135-8(b)(5)d. which is a provision that allows members whose TSERS membership is interrupted by an approved leave of absence for employment in a charter school to purchase service for that time by paying all employee and employer contributions based on compensation earned immediately prior to service interruption. The Department of State Treasurer requests that this statute be repealed because it is unclear exactly how the law was intended to function, is duplicative of the service purchase provision in section one, has never been used by the Retirement Systems Division, and appears to be in conflict with Internal Revenue Code section 415(n)(3)(B).
 - Section 3: Use Risk-Free Interest Rates for Service Purchase Actuarial Notes
Amends G.S. 120-114 to require the Fiscal Research Division to obtain an estimate using a "risk-free" 30-year U.S. Treasury interest rate and other assumptions consistent with that rate to evaluate the cost of bills that propose changes to service purchase statutes in the state-administered retirement systems. This estimate will be in addition to the current actuarial evaluations provided by the Division.
 - Retirement Technical Corrections Act of 2016 (Agency Bill) (House Bill 1011/Session Law 2016-56) has several sections affecting the Division. Sections 3 and 6 of this act become effective January 1, 2017. The remainder of the act became effective on June 30, 2016.

- Section 1: Clarify Service Purchase Provision for FRSWPF
Amends 58-86-45 to clarify wording of the service purchase provision of the Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF) with regard to which cost calculation to use, given the age of the member. The long-standing interpretation and administrative practice has been that the state policy set forth in the statute is to encourage members to purchase service when they are younger than 35 years old. To that end, the statute requires the Retirement System to charge members 35 or older more to purchase service. The change in this provision clarifies the wording of the statute regarding the availability of the lower cost calculation to existing, as well as new members of the fund.
- Section 2: Repeals Outdated Statute
Repeals G.S. 128-25 because this section of the Local Governmental Employees' Retirement System (LGERS) employer participation statutes is no longer needed because Session Law 2015-168 amended 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. The statute being repealed provided an optional procedure for employers to pay for that service credit.
- Section 3: Uniformed Services Employment and Reemployment Rights Act (USERRA)
Conforms G.S. 128-26(a1), a service purchase statute in LGERS, to federal law related to the treatment of active duty military service and clarifies that the employer's required payment includes the employer and employee portions of the service purchase. The Retirement System has handled these cases correctly under the federal law, but the LGERS statute has not been updated to reflect USERRA. This section is effective January 1, 2017.
- Section 4: Beneficiary Selection When Member Dies While Filing For Retirement
Amends G.S. 135-5(g) and G.S. 128-27(g) to provide that if a member dies after having filed an application for retirement, but before selecting payment options and selecting a beneficiary, the administrator or executor of the member's estate may select the option and name the beneficiary or beneficiaries. This change clarifies how to handle a situation not explicitly addressed in the current statute and is consistent with similar statutes.
- Section 5: Clarification of Transfer Benefit Irrevocability
Clarifies long time legal interpretation of G.S. 135-5(m2), G.S. 128-27(m2), and administrative practice that choosing "transfer benefit" is an irrevocable option, just like selecting any other benefit payment option.
- Section 6: Typo Correction & Conforming Change to Educational Leave Limitation
Corrects a typo in G.S. 135-8(b)(5), a change made to educational leave for the Teachers' and State Employees' Retirement System (TSERS) in Session Law 2015-241, and amends G.S. 128-30(b)(4) to conform the Local Governmental Employees' Retirement System (LGERS) Session Law 2015-241, in order to simplify communication and administration of the two systems. This section is effective January 1, 2017.
- Section 7: Accounting Fund & Procedure for Penalty Assessment Clarification
Amends G.S. 135-8(f) and G.S. 128-30(g) to clarify that funds collected under the anti-pension spiking contribution-based benefit cap will be included in the Pension Accumulation Fund, which is consistent with other required employer payments. Additionally, clarifies that to receive a one-time exception to payment of the penalty for late payment of retirement contributions, an agency must make arrangements in advance with the Retirement System.
- Section 8: Typo Correction in Name of FRSWPF
Corrects spelling of name of the Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF) name in G.S. 135-48.40(d)(13), the State Health Plan statute.

- Section 9(a): ABLE Program Definition of “Cash”
Amends G.S. 147-86.71(b)(3) to clarify the definition of “cash” in the Achieving a Better Life Experience (ABLE) Program Trust legislation passed in 2015 means “U.S. Dollars.”
- Section 9(b): ABLE Procurement Exception
Amends G.S. 147-86.72(c)(3) to clarify that the ABLE procurement exception applies to all professional services needed to start up the program.
- Section 9(c): Conforms State ABLE Act to new Federal Law #1 of 2
Repeals G.S. 147-86.70(b)(4) to conform the state ABLE act passed in 2015 to changes made in the federal ABLE act by the U.S. Congress after the General Assembly adjourned. This change is necessary to ensure that residents from other states will not be prohibited from participating in the N.C ABLE program. This section repeals language that envisions a distinction between “contracting” and “contracted” states that is no longer needed because of the federal change.
- Section 9(d): Conforms State ABLE Act to new Federal Law #2 of 2
Similar to Section 9(c), this provision repeals G.S. 147-86.71(d)(4) to conform the state ABLE act passed in 2015 to changes made in the federal ABLE act by the U.S. Congress after the General Assembly adjourned. This change is also necessary to ensure that N.C. residents will not be prohibited from participating in the N.C ABLE program. This section repeals language that envisions a distinction between “contracting” and “contracted” states that is no longer needed because of the federal change.
- State Health Plan Changes (Senate Bill 865/Session Law 2016-XXX) has several sections affecting the Department. Section 4 of this act becomes effective January 1, 2017, and applies to premiums paid on or after that date. The remainder of this act is effective when it becomes law and applies to contracts entered into on or after that date.
 - Section 1: Define Claims Data
Amends G.S. 135-48.1 to add definitions for "Claims Data Feed" and "Claim Payment Data."
 - Section 2: Claims Data is Not Public Record
Amends G.S. 135-48.10(a) to clarify that Claims Payment Data and materials derived from Claims Payment Data are confidential and exempt from the provisions of Chapter 132 of the General Statutes.
 - Section 3: Require Processors of Claims Data to Provide Data to State Health Plan
Amends G.S. 135-48.32 to require claims processors to provide the Claims Data Feed and all available claims data elements, including the identification of providers and the allowed amounts paid, to the Plan. Claims Processors are allowed to withhold information that reflects rates negotiated with or agreed to by a third party, so long as sufficient documentation to support the payment of claims is provided. Section 3 makes any section of a contract between a Claims Processor and medical provider, subcontractor, or third party void and unenforceable to the extent that it prohibits or prevents the Claims Processor from disclosing the required Claims Payment Data. The Plan may only use the Claims Payment Data for purposes of administering the Plan in accordance with G.S. 135-48.2 and the provisions of this Article. It may not use the Claims Payment Data to negotiate rates, fee schedules, or master charges with any medical provider, or if disclosure would compromise the proprietary nature of the Claims Payment Data, its status as a trade secret, or misappropriate the Claims Payment Data. The Plan may disclose Claims Payment Data to a third party to use on the Plan's behalf only if it first gets permission to do so from the Claim Processor and enters into a contract with the third party preventing the third party from disclosing the Claims Payment Data. Finally, Section 3 exempts a Claims Processor who discloses Claims Payment Data in accordance with this section from civil liability or equitable relief.

- Section 4: Limits Local Governments to Charging Premiums Set by State Health Plan
Amends G.S. 135-48.47(b) to prohibit local government units that participate in the Plan from charging employees more for their coverage than allowed under the structure set by the Plan. It also prohibits local governments from charging premiums for employees' dependents which are greater than those set by the Plan.
- Section 5: Increases Limit on Local Government Participants in State Health Plan
Amends G.S. 135-47(c) to increase the enrollment limitation on the number of employees and dependents of local governments from 10,000 to 16,000 and sets forth a schedule for this increase.
- Section 6: Allow Local Governments to Withdraw from the State Health Plan
Amends G.S. 135-48.17 to allow local governments to withdraw from the Plan effective January 1, 2017, so long as notice is given to the Plan no later than September 15, 2016.
- Section 7: Clarify Federal Filing Requirements
Adds a new Part to Article 3B of Chapter 135 of the General Statutes to clarify that the Plan is responsible for federal filing requirements under sections 6055 and 6056 of the Internal Revenue Code for retirees and direct bill members, but employing units are responsible for those filings for all other individuals. The Plan shall provide employing units with access to the necessary data and may facilitate a reporting solution, but the employing unit is responsible for paying all costs of that solution. For 2015, the Plan provided and paid for a solution for all employing units. The filing requirements relate to the "individual mandate" and "employer mandate" under the federal Affordable Care Act.
- Section 8: Clarify Insurance Statute
Amends G.S. 58-3-167(a)(1) to clarify that a "Health benefit plan" does not include any plan implemented or administered by the State Health Plan for Teachers and State Employees.
- Achievement School Districts (House Bill 1080/Session Law 2016-XXX) has one section of interest to the Division. The new law allows the State Board of Education to select five schools across North Carolina to put in a so-called "Achievement School District," or ASD, and hire entities that operate Charter Schools to run the schools. This act is effective when it becomes law and supervision of achievement schools by the Achievement School District shall begin with the 2017-2018 school year.
 - Section one of the bill creates G.S. 115C-75.9(h) which states "All employees of the [Achievement School District (ASD)] shall be eligible for enrollment in the Teachers' and State Employees' Retirement System of North Carolina, the State Health Plan, and other benefits available to State employees. The AS operator shall provide funds to the ASD in an amount sufficient to provide salary and benefits for employees of the ASD working in the achievement school based on the terms of employment established by the AS operator."
- Treasurer's 2016 Investment Admin. Changes (Agency Bill) (House Bill 1137/Session Law 2016-55) has several sections affecting the Division. Except as otherwise provided, this act becomes effective January 31, 2017.
 - Section 1.1: Modernize Treasurer's office hours
Updates an 1869 statute to clarify that the Treasurer's workweek is Monday to Friday and acknowledge that the Treasurer may travel.
 - Section 1.2: Update list of federally-backed entities and clarify credit ratings
The first set of changes in this section remove obsolete entries in the list of federally-backed entities eligible for investment in the Treasurer's investment-grade fixed income portfolio. The remaining changes clarify the existing statute by adding references to the terminology of each rating service (Moody's, S&P, and Fitch). To avoid confusion, it is important to reference each service's terminology because today, S&P and Fitch utilize a gradation (indicated by adding a "+")

to the end of the rating) within their highest category for short-term obligations, but Moody's does not. Under the revised statute, it will be clear that short-term obligations are not held to a higher standard when rated by S&P and Fitch than when rated by Moody's.

○ Section 1.3: Investment Allocations

- Updates to G.S. 147-69.2 to authorize internal asset management, more clearly define how certain investment structures should be classified, and make technical corrections updates to subsection (a) make technical corrections to the list of funds held by the State Treasurer. By adding text in the introductory paragraph of subsection (b), deleting text in subdivisions (6b), (6c), (7), (8), (9), and (9a) of subsection (b), and adding a new subsection (e) on the same topic as the deleted text, the bill would standardize the set of approved investment vehicle structures, making the same types of structures (such as separate accounts or limited partnerships) authorized for all asset classes. Today, the statute does not authorize internally managed separate accounts in the real estate or inflation protection portfolios, such as for publicly traded Real Estate Investment Trusts and U.S. Treasury Inflation Protected Securities. Two added sentences in the introductory paragraph of subsection (b) specify that the percentage “caps” on each asset class are calculated according to the primary investment type or strategy utilized and make clear that no investment counts in more than one asset class.
- Changes to subdivisions (b)(4) and (b)(6) clarify how gradations (such as “-“ and “+” added after “AA” by S&P) are treated under the investment-grade fixed income portion of the statute. Matching current Department of State Treasurer practice, investments would be authorized if within the highest four ratings (AAA, AA, A, or BBB/Baa), regardless of plus/minus gradations. A change to subdivision (b)(7) clarifies that timberlands are placed in the inflation protection portfolio, not the real estate portfolio. New text in subdivision (b)(8) adds the Registers of Deeds’ Pension Fund to the statutory list of “North Carolina Retirement Systems;” this will cause all the pension funds administered by the Treasurer to be authorized for the same investment asset classes. The 65% limit on public equity investments is moved to new sub-subdivision (b)(8)(a1.) from the main text of subdivision (b)(8), where the 65% limit was embedded within text moved to new subsection (e). Changes to sub-subdivision (b)(8)(b.) harmonize the text with new subsection (e), indicating that the 8.5% limit on private market vehicles that invest in public equity strategies applies to all strategies utilizing investment companies as defined under Financial Accounting Standards Board generally accepted accounting principles. An exception provides that group trusts and individual, common, or collective trust funds of banks and trust companies would not count toward the 8.5% limit. This exception is necessary to avoid unintended application of the 8.5% limit to the Treasurer of the State of North Carolina Equity Investment Pooled Trust, a pass-through group trust that currently holds most of the Treasurer’s long-only public equity separate accounts.
- Changes to subdivision (b)(9a) clarify that real assets such as infrastructure or transportation are always placed in the inflation protection asset class. Under existing statutes, assets can only be placed in the inflation protection asset class if the primary purpose for making the investment is protecting against the risks associated with inflation; the change makes clear that in this asset class, the Treasurer’s staff may focus on both inflation protection, and investment returns within the group of inflation-sensitive investments. Text in subdivision (b)(10a) is moved to proposed G.S. 147-69.12(a)(1), part of Section 4.1(a) of the bill, as part of the consolidation of the Treasurer’s reporting statutes. Technical corrections are made to subdivision (b)(12) to indicate what kind of investment structures can be utilized, delete sub-subdivision (b.), which is duplicated in G.S. 147-69.2A, and correct an incorrect cross-reference in sub-subdivision (c.).
- A change to subsection (b1) requires the same experience for all members of the Investment Advisory Committee, including the members selected from among the

trustees of the North Carolina Retirement Systems. Changes to subsections (b2), (b3), (b4), (b5), and (d) standardize statutes for state agencies investing funds with the State Treasurer. Under the current statute for the University of North Carolina Hospitals, the Local Government Other Post-Employee Benefits Trust Fund, and the Law Enforcement Special Separations Allowance Fund, it is not clear that fees paid by these funds can be used to defray the costs of administering these programs. This statutory update will provide clarity around how the fees assessed related to investment management by the Department of State Treasurer may be used.

- New subsection (e) authorizes internal management of assets in any asset class where prudent. Since the time of Treasurer Harlan Boyles, the Treasurer's staff have internally managed the State's investment-grade fixed income portfolio, generating above-benchmark performance at a very low cost. The bill would allow the Treasurer to internally manage investments across all asset classes upon the conditions set out in subdivisions (e)(1) and (e)(2). Internally managed investments would be required to be subject to industry standard portfolio guidelines developed after consultation with Investment Advisory Committee. The State Treasurer would be required to assess certain fiduciary factors in determining the use of internal or external investment management, including resourcing, expertise, alignment of interests, transparency, risk controls, and cost-effectiveness. Subdivisions (e)(3) to (e)(6) set processes and conditions for any investment using external third-party investment managers. Subdivision (e)(6) codifies the longstanding practice of the Department of State Treasurer, indicating that any indemnification clauses must be limited to the amount of the Department's contractual investment.
- Section 1.4(a): Administrative changes for Venture Capital Multiplier Fund
The bill added a cross-reference to G.S. 147-69.2(b)(12)(c.) and strengthen the standard of care applicable to the Venture Capital Multiplier Fund by referencing the fiduciary standard in G.S. 147-69.7.
- Section 1.4(b): Clarifications to Venture Capital Multiplier Fund financial assessment
Changes to subsection (d) correct references to a "valuation" of the Escheat Fund. Actuaries have indicated this is technically the incorrect term for an unclaimed property fund, since the Escheat Fund's unfunded liability is different than the liability measurement for the pension fund. The revised statute would refer to the work as an assessment and projection of financial status.
- Section 1.5: Technical corrections to deputy authorization statute
The bill deletes a reference in the current statute to a facsimile signature machine. This is a type of technology that is no longer used.
- Section 1.6: Clarifies language on the master trust fund for investments
The existing language describes the Treasurer using rules or regulations to establish the master trust for the retirement system. The proposed language clarifies that the Treasurer shall contractually define operation of the master trust. This modernizes language in line with actual authority and practice.
- Section 2.1: Allows fiduciary discretion related to investing pension funds collectively or separately
Currently, the statute indicates that the Treasurer will operate one or more investment programs for the assets under her management. Additional proposed language in G.S. 147-69.3(a) would make clear that the investment programs could be applied collectively, or separately, to the underlying funds in the retirement systems. This flexibility is needed because various funds could have different funding levels and other relevant investment characteristics. Changes in G.S. 147-69.3(h) delete language moved to the introductory paragraph of proposed G.S. 147-69.12(a) and to proposed G.S. 147-69.2(d). Changes in G.S. 147-69.3(i) delete language that is moved to proposed G.S. 147-69.12(a)(6). A change in G.S. 147-69.3(i2) places limitations upon the

Treasurer's power to establish market-oriented compensation plans for key public employees performing investment functions. Proposed new language would ensure that the compensation plans would be consistent with the Treasurer's fiduciary duties. Adding this provision will hold the Treasurer accountable at the highest standard to the Retirement System for setting employees' compensation packages.

- Section 2.2: Clarifies the scope of Treasurer's fiduciary duty over all the funds managed by the Treasurer
 - Certain special funds, such as the Venture Multiplier Fund, are not clearly listed as falling within the fiduciary duty section of the existing statutes. Proposed changes to G.S. 147-69.7(a) to (d) clarify that the fiduciary duty responsibilities extends to cover all special funds given to the Treasurer's care; the statutory fiduciary duties of the State Treasurer should apply to all the funds managed by the Treasurer, not only the Retirement Systems. This ensures the highest standard is applicable to all the monies entrusted to the Department of State Treasurer.
 - Proposed new G.S. 147-69.7(e) would clarify that the Treasurer does not have a duty to provide advice to other governmental agencies when agencies exercise discretionary control over the assets they have on deposit. When other governmental agencies decide to voluntarily deposit or withdraw funds into one of the Treasurer's investment programs, or dictate the allocation of the deposited funds, the Treasurer should not be required to provide advice to those agencies. Each agency has its own duty to make decisions on what money to deposit and how to allocate those deposits.
- Section 3.1: Continue audited financial statement filings

The proposed changes would add a new section to Article 6 chapter 147. As recommended by the Investment Fiduciary Governance Commission, this provision enhances the State's existing audit obligations by requiring financial statements, audited by a commercial independent third-party firm, for the Retirement Systems investment program, to be prepared annually. This information will be provided to the General Assembly on an annual basis as well. The first such financial statements were transmitted to the General Assembly in December 2015.
- Section 3.2: Expands the Scope of oversight by the Investment Advisory Committee

The changes proposed are in line with the clarification to the scope of the fiduciary duty of the State Treasurer extending to all funds managed by the Treasurer, not just the Retirement Systems, but in reference to the Investment Advisory Committee. This provision ensures that the Investment Advisory Committee oversight includes all the funds, not only the Retirement Systems.
- Section 3.3: Require consultation with the Investment Advisory Committee and independent experts on key policies

The proposed language would be an addition to Article 6, Chapter 147. This new section relates to the Investment Policy Statement and Retirement System performance reviews. The Investment Advisory Committee would continue providing consultation on the Investment Policy Statement, which covers investment objectives and strategy, asset classes and allocations, and evaluation criteria, on a biennial basis. And the Treasurer would be required to have an independent expert firm evaluation making recommendations on the governance, operations, and investment practices of the department, at least once every four years. These reviews have been the practice of the current Treasurer; adding these new sections to the statutes would provide oversight for key activities of the Investment Management Division, and help ensure the Department continues to use the best investment strategies.
- Section 3.4: Gives Investment Advisory Committee oversight for departmental Ethics Policies

Adding a new section to Chapter 147 relates to the most critical ethics policies including a Code of Ethics, acceptance of gifts by state employees, placement agents, and conflicts of interest.

This provision requires the Department of State Treasurer to adopt such policies, in consultation with the Investment Advisory Committee, and would ensure that the investment programs continue to be managed with the highest ethical and professional standards

- Section 4.1: Clarifies information required for quarterly and annual reporting by the Department
This new section of statute covers reporting by the Department of State Treasurer to the General Assembly, Legislative committees, the Governor, Council of State, and the State Auditor. These reports would also be made public by the Treasurer This is a consolidation of all the statutorily required reporting requirements of the Department of State Treasurer into one section of the statutes. Additionally, changes the existing statutes governing quarterly reports to require the detailed fee and performance reporting that is currently being provided by the Treasurer in accordance with Department Policies.