

## **Chapter 147.**

### **State Officers.**

#### Article 1.

#### Classification and General Provisions.

##### **§ 147-1. Public State officials classified.**

The public officers of the State are legislative, executive, and judicial. But this classification shall not be construed as defining the legal powers of either class. (1868-9, c. 270, ss. 1, 2; Code, s. 3317; Rev., s. 5323; C.S., s. 7624.)

##### **§ 147-2. Legislative officers.**

The legislative officers are:

- (1) Fifty Senators;
- (2) One hundred and twenty members of the House of Representatives;
- (3) A Speaker of the House of Representatives;
- (4) A clerk and assistants in each house;
- (5) A Sergeant-at-arms and assistants in each house;
- (6) As many subordinates in each house as may be deemed necessary. (1868-9, c. 270, s. 3; Code, s. 3318; Rev., s. 5324; C.S., s. 7625; 1995, c. 379, s. 13.)

##### **§ 147-3. Executive officers.**

(a) Executive officers are either:

- (1) Civil;
- (2) Military.

(b) Civil executive officers are:

- (1) General, or for the whole State;
- (2) Special, or for special duties in different parts of the State;
- (3) Local, or for a particular part of the State.

(c) The general civil executive officers of this State are as follows:

- (1) A Governor;
- (2) A Lieutenant Governor;
- (3) Private secretary for the Governor;
- (4) A Secretary of State;
- (5) An Auditor;
- (6) A Treasurer;
- (7) An Attorney General;
- (8) A Superintendent of Public Instruction;
- (9) The members of the Governor's Council;
- (10) A Commissioner of Agriculture;
- (11) A Commissioner of Labor;
- (12) A Commissioner of Insurance. (1868-9, c. 270, ss. 24, 25, 26; Code, s. 3319; 1899, c. 54, ss. 3, 4; c. 373; 1901, c. 479, s. 4; Rev., s. 5325; C.S., s. 7626; 1931, c. 312, s. 5; 1943, c. 170.)

##### **§ 147-4. Executive officers – election; term; induction into office.**

The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor, who shall be elected for a term of four years, by the qualified electors of the State, at the same time and places, and in the same manner, as members of the General Assembly are elected. Their term of office shall commence on the first day of January next after their election and continue until their successors are elected and qualified. The persons having the highest number of votes, respectively, shall be declared duly elected, but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the General Assembly. Contested elections shall be determined by a joint ballot of both houses of the General Assembly in such manner as shall be prescribed by law. (Const., art. 3, ss. 1, 3; 1897, c. 1, ss. 1, 2, 3; Rev., s. 5326; C.S., s. 7627; 1931, c. 312, s. 5; 1953, c. 2; 1981, c. 504, s. 7; 1985, c. 563, s. 12.)

**§ 147-5. Executive officers – report to Governor; reports transmitted to General Assembly.**

It shall be the duty of the officers of the executive department to submit their respective reports to the Governor to be transmitted by him with his message to the General Assembly. (1813, c. 60, s. 2, P.R.; Rev., s. 5373; C.S., s. 7628.)

Article 2.

Expenses of State Officers and State Departments.

**§ 147-6. Expenses paid by warrants; statements filed.**

All salaries, purchases of equipment and expenses authorized by law to be paid out of the various funds herebefore mentioned shall be paid by warrant drawn on the State Treasurer. The officer of State or head of any department thereof shall file an itemized statement of the salaries, bills for purchase of equipment and other expenses of his department, and warrants shall be drawn on the State Treasurer for the payment of all salaries, purchases of equipment, and expenses as authorized by law, to be paid by the said officer of State or head of any department thereof, as evidenced by statements so approved and filed. The State Treasurer is hereby authorized and directed to pay said warrants. (1919, c. 117, s. 2; C.S., s. 7630; 1983, c. 913, s. 44.)

**§ 147-7. Traveling expenses on State's business.**

When, to efficiently and properly carry into effect and execute any of the duties imposed by his appointment or by the provision of any statute of this State, and provide for the expenses thereof, it is required that any officer of the State or any employee of any department thereof shall travel from place to place, such traveling and other expenses as shall be required shall be approved by said officer or head of the department whose employee incurs such expenses. (1919, c. 117, s. 3; C.S., s. 7631.)

**§ 147-8. Mileage allowance to officers or employees using public or private automobiles.**

Where it is provided by any law affecting the State of North Carolina, or any subdivision thereof, whereby any employee or officer of the same is allowed to charge mileage for the use of any motor vehicle when owned by the State or any subdivision thereof or by any such employee or officer of the State or any subdivision thereof, when in the discharge of any duties imposed upon him by reason of his employment or office, the same is hereby repealed to the extent that

said charge shall be limited to the actual miles traveled by said motor vehicle and no mileage charge shall be allowed for but one occupant of any motor vehicle so used, and provided further that no such mileage charge shall exceed seven cents (7¢) per mile. (1931, c. 382, s. 1; 1953, c. 675, s. 20.)

**§ 147-9. Unlawful to pay more than allowance.**

It shall be unlawful for any officer, auditor, bookkeeper, clerk or other employee of the State of North Carolina or any subdivision thereof to knowingly approve any claim or charge on the part of any person for mileage by reason of the use of any motor vehicle owned by the State or any subdivision thereof or by any person and used in the pursuit of his employment or office in excess of seven cents (7¢) per mile as set out in G.S. 147-8 and any officer, auditor, bookkeeper, clerk or other employee violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1931, c. 382, s. 2; 1953, c. 675, s. 21; 1993, c. 539, s. 1053; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 147-9.1. Municipalities and counties exempt.**

Nothing in this Article shall be deemed to be applicable to counties or municipalities or to limit or restrict the amount of any automobile mileage allowance, or automobile expense allowance, or any other travel expense allowance or payment which may be paid by a county or municipality or by any board, commission, or other agency of any county or municipality. (1967, c. 941; 1969, c. 180, s. 2.)

Article 2A.

Annuities and Deferred Compensation for Teachers and State Employees.

**§ 147-9.2. Definitions.**

The following words when used in this Article shall have the meanings ascribed to them in this section except when the context clearly indicates a different meaning:

- (1) "Board" shall mean the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan established pursuant to Chapter 433 of the 1971 Session Laws and G.S. 143B-426.24.
- (1a) "Chief executive officer" shall mean the person or group of persons responsible for the administration of any employer, or an agent of such chief executive officer duly authorized to enter into the contracts with teachers or State employees referred to in G.S. 147-9.3 and 147-9.4.
- (2) "Employee" shall mean a permanent employee of the State of North Carolina, or of any of its departments or agencies, or of any of its wholly owned institutions and instrumentalities.
- (3) "Employer" shall mean (i) the State of North Carolina, its departments and agencies, and its wholly owned institutions and instrumentalities or (ii) a local board of education.
- (4) "Plan" shall mean the North Carolina Public Employee Deferred Compensation Plan.
- (5) "Teacher" shall have the meaning provided in G.S. 135-1(25). (1971, c. 433, s. 1; 1983, c. 559, s. 2; 1991, c. 389, s. 1.)

**§ 147-9.3. Annuity contracts; salary deductions.**

Notwithstanding the provisions of G.S. 143B-426.40A and notwithstanding any provision of law relating to salaries or salary schedules of State employees, if the employee be one described in section 403(b)(1)(A)(i) or (ii) of the United States Internal Revenue Code, the chief executive officer of such employee, on behalf of the employer, may enter into an annual contract with the employee which provides for a reduction in salary below the total established compensation or salary schedule for a term of one year. The chief executive officer shall use the funds derived from the reduction in the salary of the employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said employee. An employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the employee before his election for a salary reduction has become effective. The agreement for salary reduction referred to herein shall be effective under the necessary regulations and procedures adopted by the chief executive officer and on forms prescribed by him. Notwithstanding any other provision of law, the amount by which the salary of an employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, if any, and in computing and providing matching funds for retirement system purposes, if any. (1971, c. 433, s. 2; 1991, c. 389, s. 1; 2006-66, s. 6.19(a); 2006-203, s. 112; 2006-221, s. 3A; 2006-259, s. 40(a).)

**§ 147-9.4. Deferred Compensation Plan.**

(a) Notwithstanding the provisions of G.S. 143B-426.40A and notwithstanding any provision of law to the contrary relating to salaries or salary schedules of teachers or State employees, the chief executive officer of an employer, on behalf of the employer, may enter into a contract with a teacher or employee under which the teacher or employee irrevocably elects to defer receipt of a portion of his or her scheduled salary in the future, but only if, as a result of such contract, the income so deferred is deferred pursuant to the Plan provided for in G.S. 143B-426.24 or pursuant to some other plan established before January 1, 1983, and is not constructively received by the teacher or employee in the year in which it was earned, for State and federal income tax purposes. In addition, the income so deferred shall be invested in the manner provided in the applicable Plan; however, the teacher or employee may revoke his or her election to participate and may amend the amount of compensation to be deferred by signing and filing with the Board a written revocation or amendment on a form and in the manner approved by the Board. Any such revocation or amendment shall be effective prospectively only and shall cause no change in the allocation of amounts invested prior to the filing date of such revocation or amendment.

A teacher or employee who has agreed to the deferral of income pursuant to the Plan shall have the right to receive the income so deferred only in accordance with the provisions of the Plan. Funds so deferred shall not be in lieu of any amount earned by the teacher or employee before his or her election to defer compensation became effective. The agreement to defer income referred to herein shall be effective under such necessary regulations and procedures as are adopted by the Board, and on forms prepared or approved

by it. A teacher or employee who agrees to defer income as provided in this section may authorize payroll deductions for deferral of the income. An employer shall make payroll deduction available for a teacher or employee who authorizes payroll deduction. Notwithstanding any other provisions of law, the amount by which the salary of a teacher or employee is deferred pursuant to the Plan shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, if any, and in computing and providing matching funds for retirement system purposes, if any.

Except for the applications of the provisions of G.S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a teacher or employee, who elects to defer income pursuant to the North Carolina Public Employee Deferred Compensation Plan under G.S. 143B-426.24, to benefits that have vested under the Plan, is nonforfeitable. These benefits are exempt from levy, sale, and garnishment, except as provided by this section.

(b) Notwithstanding the provisions of G.S. 143B-426.40A and any provision of law to the contrary relating to salaries or salary schedules of teachers or State employees, the chief executive officer of an employer, on behalf of the employer, may contribute to a deferred compensation account of a teacher or employee additional funds, not in excess of limitations under federal law; provided that for State and federal income taxes purposes, the funds are not constructively received by the teacher or employee in the year in which the funds were earned. (1971, c. 433, s. 3; 1983, c. 559, s. 3; 1985, c. 660, s. 4; 1989, c. 792, s. 2.10; 1991, c. 389, s. 1; 2006-66, s. 6.19(a); 2006-203, s. 113; 2006-221, s. 3A; 2006-259, s. 40(a); 2017-129, s. 7.)

### Article 3.

#### The Governor.

#### **§ 147-10. Governor to reside in Raleigh; mansion and accessories.**

The Governor shall reside in the City of Raleigh during his continuance in office. A convenient and commodious furnished dwelling house, supplied with necessary lights, fuel, and water, shall be provided for his accommodation; and an automobile and driver shall be provided and maintained for the use of the executive mansion. (1868-69, c. 270, ss. 32, 33; Code, ss. 3325, 3326; 1885, c. 244; Rev., s. 5327; 1919, c. 307; C.S., s. 7635.)

#### **§ 147-11. Salary and expense allowance of Governor; allowance to person designated to represent Governor's office.**

(a) The salary of the Governor shall be one hundred forty-four thousand three hundred ninety-nine dollars (\$144,399) annually, payable monthly.

(b) He shall be paid annually the sum of eleven thousand five hundred dollars (\$11,500) as an expense allowance in attending to the business for the State and for expenses out of the State and in the State in representing the interest of the State and people, incident to the duties of his office, the said allowance to be paid monthly.

(c) In addition to the foregoing allowance, the actual expenses of the Governor while traveling outside the State on business incident to his office shall be paid by a warrant drawn on the State Treasurer. Whenever a person who is not a State official or employee is designated by the Governor to represent the Governor's office, such person shall be paid actual travel expenses incurred in the performance of such duty; provided that the payment of such travel expense shall conform to the provisions of the biennial appropriation act in effect at the time the payment is made. (1879, c. 240; Code, s. 3720; 1901, c. 8; Rev., s. 2736; 1907, c. 1009; 1911, c. 89; 1917, cc. 11, 235; 1919, c. 320; C.S., s. 3858; 1929, c. 276, s. 1; 1947, c. 994; 1953, c. 1, s. 1; 1961, c. 1157; 1963, c. 1178, s. 1; 1965, c. 1091, s. 1; 1971, c. 1083, s. 1; 1973, c. 600; 1977, 2nd Sess., c. 1136, s. 39; c. 1249, s. 5; 1979, 2nd Sess., c. 1137, s. 31; 1981, c. 1127, s. 7; 1983, c. 761, ss. 194, 195; c. 913, s. 45; 1983 (Reg. Sess., 1984), c. 1034, s. 217; 1985, c. 479, s. 215; 1985 (Reg. Sess., 1986), c. 1014, s. 20; 1987, c. 738, s. 11; 1987 (Reg. Sess., 1988), c. 1086, ss. 6, 172; 1989, c. 752, ss. 23(a), (b), 167; 1991 (Reg. Sess., 1992), c. 900, ss. 32(a), (b), 182; 1993, c. 321, s. 48; 1993 (Reg. Sess., 1994), c. 769, s. 7.1; 1995, c. 507, s. 7.1(a); 1996, 2nd Ex. Sess., c. 18, s. 28(a); 1997-443, s. 33(a); 1998-153, s. 3(a); 1999-237, s. 28(a); 2000-67, s. 26(a); 2004-124, s. 31.1(b); 2005-276, s. 29.1(a); 2006-66, s. 22.1(a); 2007-323, s. 28.1(a); 2008-107, s. 26.1(a); 2012-142, s. 25.01(b); 2014-100, s. 35.1(a); 2016-94, s. 36.1(a).)

**§ 147-11.1. Succession to office of Governor; Acting Governor.**

(a) Lieutenant Governor. –

- (1) The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.
- (2) During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(b) President of Senate, Speaker of the House and Other Officers. –

- (1) If, by reason of failure to qualify, death, resignation, or removal from office, there is neither a Governor nor a Lieutenant Governor to discharge the powers and duties of the office of Governor, then the President of the Senate shall, upon his resignation as President of the Senate and as Senator, become Governor.
- (2) If, at the time when under subdivision (1) of this subsection the President of the Senate is to become Governor, there is no President of the Senate, or the President of the Senate fails to qualify as Governor, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative, become Governor.
- (3) If, at the time when under subdivision (2) of this subsection the Speaker of the House of Representatives is to become Governor, there is no Speaker of the House of Representatives, or the Speaker of the House of Representatives fails to qualify as Governor, then that officer of the State of North Carolina who is

highest on the following list, and who is not under disability to serve as Governor, shall, upon his resignation of the office which places him in the order of succession, become Governor: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.

(c) Acting Governor Generally. –

- (1) If, by reason of absence from the State or physical or mental incapacity, there is neither a Governor nor a Lieutenant Governor qualified to discharge the powers and duties of the office of Governor, then the President of the Senate shall become Acting Governor.
- (2) If, at the time when under subdivision (1) of this subsection the President of the Senate is to become Acting Governor, there is no President of the Senate, or the President of the Senate fails to qualify as Acting Governor, then the Speaker of the House of Representatives shall become Acting Governor.
- (3) If, at the time when under subdivision (2) of this subsection the Speaker of the House of Representatives is to become Acting Governor, there is no Speaker of the House of Representatives, or the Speaker of the House of Representatives fails to qualify as Acting Governor, then that officer of the State of North Carolina who is highest on the following list, and who is not under disability to serve as Acting Governor, shall become Acting Governor: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.

(d) Governor Serving under Subsection (c). – An individual serving as Acting Governor under subsection (c) of this section shall continue to act for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified, except that:

- (1) If his tenure as Acting Governor is founded in whole or in part upon the absence of both the Governor and Lieutenant Governor from the State, then he shall act only until the Governor or Lieutenant Governor returns to the State; and
- (2) If his tenure as Acting Governor is founded in whole or in part upon the physical or mental incapacity of the Governor or Lieutenant Governor, then he shall act only until the removal of the incapacity of the Governor or Lieutenant Governor.

(e) Officers to Which Subsections (b), (c) and (d) Applicable. – Subsections (b), (c), and (d) of this section shall apply only to such officers as are eligible to the office of Governor under the Constitution of North Carolina, and only to officers who are not under impeachment by the House of Representatives at the time they are to become Governor or Acting Governor.

(f) Compensation of Acting Governor. – During the period that any individual serves as Acting Governor under subsection (c) of this section, his compensation shall be at the rate then provided by law in the case of the Governor. (1961, c. 992, s. 1.)

## **§ 147-12. Powers and duties of Governor.**

(a) In addition to the powers and duties prescribed by the Constitution, the Governor has the powers and duties prescribed in this and the following sections:

- (1) To supervise the official conduct of all executive and ministerial officers; and when the Governor deems it advisable to visit all State institutions for the purpose of inquiring into the management and needs of the same.
- (2) To see that all offices are filled, and the duties thereof performed, or in default thereof apply such remedy as the law allows, and if the remedy is imperfect, acquaint the General Assembly therewith.
- (3) To make the appointments and fill the vacancies not otherwise provided for in all departments.

In every case where the Governor is authorized by statute to make an appointment to fill a State office, the Governor may also appoint to fill any vacancy occurring in that office, and the person the Governor appoints shall serve for the unexpired term of the office and until the person's successor is appointed and qualified.

In every case where the Governor is authorized by statute to appoint to fill a vacancy in an office in the executive branch of State government, the Governor may appoint an acting officer to serve

- a. During the physical or mental incapacity of the regular holder of the office to discharge the duties of the office,
- b. During the continued absence of the regular holder of the office, or
- c. During a vacancy in an office and pending the selection and qualification, in the manner prescribed by statute, of a person to serve for the unexpired term.

An acting officer appointed in accordance with this subsection may perform any act and exercise any power which a regularly appointed holder of such office could lawfully perform and exercise. All powers granted to an acting officer under this subsection shall expire immediately

- a. Upon the termination of the incapacity of the officer in whose stead the person acts,
- b. Upon the return of the officer in whose stead the person acts, or
- c. Upon the selection and qualification, in the manner prescribed by statute, of a person to serve for the unexpired term.

The Governor may determine (after such inquiry as the Governor deems appropriate) that any of the officers referred to in this paragraph is physically or mentally incapable of performing the duties of the office. The Governor may also determine that such incapacity has terminated.

The compensation of an acting officer appointed pursuant to the provisions of this subdivision shall be fixed by the Governor.

- (3a) To make appointments to fill vacancies in offices subject to appointment by the General Assembly as provided in G.S. 120-122.
- (3b) Whenever a statute calls for the Governor to appoint one person from each congressional district to a board or commission, and at the time of enactment of that statute, the gubernatorial appointments do not cover all of the congressional districts, then the Governor, in filling vacancies on that board or commission as they occur, shall make appointments to



satisfy that requirement, but shall not be required to remove any person from office to satisfy the requirement.

- (3c) Notwithstanding any other provision of law, whenever a statute calls for the Governor to appoint a person to an office subject to confirmation by the General Assembly, the Governor shall notify the President of the Senate and the Speaker of the House of Representatives by May 15 of the year in which the appointment is to be made of the name of the person the Governor is submitting to the General Assembly for confirmation.
- (3d) Notwithstanding any other provision of law, whenever a statute calls for the Governor to appoint a person to an office subject to confirmation by the Senate, the Governor shall notify the President of the Senate by May 15 of the year in which the appointment is to be made of the name of the person the Governor is submitting to the General Assembly for confirmation.
- (4) To be the sole official organ between the government of this State and other states, or the government of the United States.
- (5) To have the custody of the great seal of the State.
- (6) If the Governor is apprised by the affidavits of two responsible citizens of the State that there is imminent danger that the statute of this State forbidding prizefighting is about to be violated, the Governor shall use, as far as necessary, the civil and military power of the State to prevent it, and to have the offenders arrested and bound to keep the peace.
- (7) Repealed by Session Laws 1997-443, s. 32.30(j), effective July 1, 1999.
- (8) In carrying out ex officio duties, to designate the Governor's personal representative to attend meetings and to act in the Governor's behalf as the Governor directs.
- (9) To appoint such personal staff as the Governor deems necessary to carry out effectively the responsibilities of the Governor's office.
- (10) To contract in behalf of the State with the government of the United States to the extent allowed by the laws of North Carolina for the purpose of securing the benefits available to this State under the Federal Highway Safety Act of 1966. To that end, the Governor shall coordinate the activities of any and all departments and agencies of this State and its subdivisions relating thereto.
- (11) Upon being furnished information from law-enforcement officers that public roads or highways or other public vehicular areas, as defined in G.S. 20-4.01, are being blocked by privately owned and operated vehicles or by any other means, thereby impeding the free flow of goods and merchandise in North Carolina, if such information warrants, to declare that a state of emergency exists in the affected area, and to order that the Highway Patrol and/or National Guard remove the offending vehicles or other causes of the blockade from the emergency area.

- (12) To name and locate State government buildings, monuments, memorials, and improvements, as provided by G.S. 143B-373(a)(1).
- (13) To oversee and approve all memoranda of understanding and agreements between the State and foreign governments, as defined in G.S. 66-280(c), and international organizations. Any memoranda of understanding or agreements under this subsection to be signed on behalf of the State must first be approved by the Governor after review by the Attorney General, and after execution filed with the Secretary of State in accordance with G.S. 66-280.
- (14) To negotiate and enter into Class III Tribal-State gaming compacts, and amendments thereto, on behalf of the State consistent with State law and the Indian Gaming Regulatory Act, Public Law 100-497, as necessary to allow a federally recognized Indian tribe to operate gaming activities in this State as permitted under federal law. The Governor shall report any gaming compact, or amendment thereto, to the Joint Legislative Commission on Governmental Operations.

(b) The Department of Transportation, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Natural and Cultural Resources, and the Division of Marine Fisheries in the Department of Environmental Quality shall deliver to the Governor by February 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of each year, detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated annual report, on or before March 1 of each year, to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations committees with jurisdiction over Natural and Economic Resources. (1868-9, c. 270, s. 27; 1870-1, c. 111; 1883, c. 71; Code, s. 3320; 1895, c. 28, s. 5; 1905, c. 446; Rev., s. 5328; C.S., s. 7636; 1955, c. 910, s. 3; 1959, c. 285; 1967, c. 1253; 1973, c. 1148; 1981 (Reg. Sess., 1982), c. 1191, ss. 3, 4, 68; 1983, c. 913, s. 46; 1985, c. 122, s. 5; c. 757, s. 181(a); 1985 (Reg. Sess., 1986), c. 955, ss. 106, 107; 1997-14, s. 3; 1997-443, s. 32.30(j); 1999-260, s. 4; 2001-487, s. 92; 2001-512, s. 9; 2001-513, s. 29(a); 2006-6, s. 6; 2006-79, s. 15; 2006-203, s. 114; 2006-259, s. 33(a); 2009-281, s. 1; 2011-145, ss. 19.1(g), (h); 2012-83, s. 58; 2015-241, s. 14.30(ccc); 2017-102, ss. 28, 45; 2017-186, s. 2(ssssss).)

**§ 147-13. May convene Council of State; quorum; journal.**

(a) The Governor may convene the Council for consultation whenever he may deem it proper. In all meetings of the Council of State, five members exclusive of the Governor shall constitute a quorum.

(b) The advice and proceedings of the Council of State shall be entered in a journal, to be kept for this purpose exclusively and signed by all members present. Any member of the Council may have entered in the journal his dissent to any part of the journal. The journal shall be maintained by the Governor and shall be placed before the General Assembly when called for by either house. (1868-9, c. 270, s. 40; Code, s. 3335; Rev., s. 5329; C.S., s. 7637; 1971, cc. 32, 151.)

**§ 147-13.1. Governor's power to consolidate State agencies.**

(a) The Governor is hereby authorized to direct the inauguration of studies to determine which agencies of the State conduct operations which are so nearly related to the operations of one or more other agencies that a consolidation would produce the same or a more efficient operational result at a reduction in cost, and to prepare recommendations to be presented to the 1971 General Assembly to effect such consolidations.

(b) For purposes of conducting the study, the Governor is authorized to utilize funds available to him from private sources, or from federal or other governmental grants, to be matched, as may be required, by funds available within the existing Department of Administration budget.

(c) The Governor shall direct that agencies which should be consolidated with or absorbed into other agencies having similar responsibilities and duties, as determined by the outcome of the study, shall be so consolidated or absorbed when, in his opinion, efficiency in State governmental operations will be increased thereby, or when such consolidation will result in a reduction in the cost of administering State activities without a reduction in the effectiveness of such operations; provided, however, that the Governor shall not direct such consolidation or combination as would diminish the duty or authority of any State agency or institution created by act of the General Assembly. (1969, c. 1209, ss. 1-3.)

**§ 147-14. Appointment of private secretary; official correspondence preserved; books produced before General Assembly.**

The Governor shall appoint a private secretary, who shall enter in books kept for that purpose all such letters, written by and to the Governor, as are official and important, and such other letters as the Governor shall think necessary. Such books shall be deposited in the office of the executive by the private secretary, and there carefully preserved, and the Governor shall produce the same before the General Assembly whenever requested. (1868-9, c. 270, ss. 33, 34; Code, ss. 3326, 3327; Rev., s. 5330; C.S., s. 7638.)

**§ 147-15. Salary of private secretary.**

The salary of the private secretary to the Governor shall be fixed by the Governor. (R.C., c. 102, s. 12; 1856-7, p. 71, res.; 1881, c. 346; Code, ss. 1689, 3721; P.R. 1901, c. 405; 1903, c. 729; Rev., s. 2737; 1907, c. 830; 1911, c. 95; 1913, c. 1; 1915, c. 50; 1917, c. 214; C.S., s. 3859; 1921, c. 227; 1929, c. 322, ss. 1, 2; 1945, c. 45; 1953, c. 675, s. 22; 1955, c. 910, s. 4; c. 1313, s. 8; 1961, c. 738, s. 1; 1983, c. 717, s. 88.)

**§ 147-15.1: Repealed by Session Laws 1995, c. 379, s. 11.**

**§ 147-16. Records kept; certain original applications preserved; notice of commutations.**

(a) The Governor shall cause to be kept the following records:

- (1) A register of all applications for pardon, or for commutation of any sentence, with a list of the official signatures and recommendations in favor of such application.
- (2) An account of all his official expenses and disbursements, including the incidental expenses of his department, and the rewards offered by him for the apprehension of criminals.

These records and the originals of all applications, petitions, and recommendations and reports therein mentioned shall be preserved in the office of the Governor, but when applications for offices are refused he may, in his discretion, return the papers referring to the application.

(b) The Governor shall, unless otherwise requested by any person listed in subdivisions (1) through (4) of this subsection, provide notice of the commutation of any sentence within 20 days after the commutation by first-class mail to the following at the last known address:

- (1) The victim or victims of the crime for which the sentence was imposed;
- (2) The victims' spouse, children, and parents;
- (3) Any other members of the victims' family who request in writing to be notified; and
- (4) The Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety. (1868-9, c. 270, ss. 29, 30; 1870-1, c. 111; Code, ss. 3322, 3323; Rev., s. 5331; C.S., s. 7639; 1983, c. 913, s. 47; 1995, c. 507, s. 19.3(a); 1997-443, s. 21.4(b); 2001-138, s. 2; 2011-291, s. 2.54.)

#### **§ 147-16.1. Publication of executive orders.**

The Governor must submit Executive Orders to the Secretary of State, who must compile, index, and publish the Executive Orders. The Governor's office shall also send a copy of each executive order to the President of the Senate, to the Speaker of the House of Representatives, to the Principal Clerk of the House of Representatives and to the Principal Clerk of the Senate. (1971, c. 1196; 1985, c. 479, ss. 150-152; c. 746, s. 8; 1991, c. 418, s. 14.)

#### **§ 147-16.2. Duration of boards and councils created by executive officials; extensions.**

(a) Any executive order of the Governor that creates a board, committee, council, or commission expires two years after the effective date of the executive order, unless the Governor specifies an expiration date in the order; provided, however, that any such executive order that was in effect on July 1, 1983, expires on June 30, 1985, unless the Governor specified a different expiration date in any such order. The Governor may extend any such executive order before it expires for additional periods of up to two years by doing so in writing; copies of the writing shall be filed by the Governor with the Secretary of State and the Legislative Library.

(b) Any other State board, committee, council, or commission created by the Governor or by any other State elective officer specified in Article III of the North Carolina Constitution expires two years after it was created; provided, however, that any such board, committee, council, or commission existing as of July 1, 1984, expires on June 30, 1985, unless it was due to expire on an earlier date. The elective officer creating any such board, committee, council, or commission may extend the board, committee, council, or commission before it expires for additional periods

of up to two years by doing so in writing; copies of the writing shall be filed by the elective officer with the Secretary of State and the Legislative Library.

(c) Any State board, committee, council, or commission created by any official in the executive branch of State government, other than by those officials specified in subsections (a) and (b) of this section, expires two years after it was created; provided, however, that any board, committee, council, or commission existing as of July 1, 1984, expires on June 30, 1985, unless it was due to expire on an earlier date. The Governor may extend any such board, committee, council, or commission before it expires for additional periods of up to two years by executive order; copies of the executive order shall be filed by the Governor with the Secretary of State and the Legislative Library.

The words, "official in the executive branch of State government," as used in this section, do not include officials of counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivision, or local boards of education, other local public districts, units or bodies of any kind, or community colleges as defined in G.S. 115D-2(2), or private corporations created by act of the General Assembly.

(d) Any elective officer specified in subsection (b) of this section and any other official in the executive branch of State government who creates a board, committee, council, or commission shall do so in writing and shall file copies of the writing with the Secretary of State and the Legislative Library. (1983, c. 733, s. 1; 1983 (Reg. Sess., 1984), c. 1053; 2004-203, s. 50(b).)

### **§ 147-16.3. Timely nominations if legislative body must confirm.**

Notwithstanding any other provision of law, whenever:

- (1) A statute specifies that an office shall be filled by nomination by the Governor and confirmation by the General Assembly or by one house thereof, and
- (2) The statute specifies that the nominee shall take office without legislative action if the General Assembly adjourns without action being taken or fails to take action within a specified time, and
- (3) The Governor fails to nominate a person for the office by May 15 of a regular session of the General Assembly during an odd-numbered year or by June 7 of a regular session of the General Assembly during an even-numbered year, and
- (4) The appropriate legislative body does not act on the nomination before it next adjourns for more than 10 days or **sine die**,

the nominee shall serve only on an interim basis until 60 days after the convening of the next regular session of the General Assembly, subject to rejection or approval by the appropriate legislative body before that time. (1987, c. 867, s. 4.)

### **§ 147-17. May employ counsel in cases wherein State is interested.**

(a) No department, officer, agency, institution, commission, bureau or other organized activity of the State which receives support in whole or in part from the State shall employ private counsel, except with the approval of the Governor. The Governor shall give his approval only if the Attorney General has advised him, as provided in subsection (b) of this section, that it is impracticable for the Attorney General to render the legal services. In any case or proceeding, civil or criminal, in or before any court or agency of this State or any other state or the United States, or in any other matter in which the State of North Carolina is interested, the Governor may employ private counsel as he may deem

proper or necessary to represent the interest of the State, and may fix the compensation for their services, subject to the provisions of subsection (c1) of this section.

(b) The Attorney General shall be counsel for all departments, officers, agencies, institutions, commissions, bureaus or other organized activities of the State which receive support in whole or in part from the State. Whenever the Attorney General shall advise the Governor that it is impracticable for him to render legal services to any State agency, officer, institution, commission, bureau or other organized activity, or to defend a State employee or former employee as authorized by Article 31A of Chapter 143 of the General Statutes, the Governor may authorize the employment of private counsel, as in his judgment, should be employed to render such services, and may fix the compensation for their services.

(c) Subject to the provisions of subsection (c1) of this section, the Governor may direct that the compensation fixed under this section for private counsel shall be paid out of appropriations or other funds credited to the appropriate department, agency, institution, commission, bureau, or other organized activity of the State or out of the Contingency and Emergency Fund.

(c1) Notwithstanding subsection (c) of this section and G.S. 143C-4-4(b), no State funds shall be withdrawn from the State treasury to pay for litigation services provided by private counsel except as expressly authorized by an appropriation of the General Assembly. As used in this subsection, litigation services include legal work conducted in anticipation of, or in preparation for, any suit or action. As used in this section, private counsel includes any licensed attorney retained by, engaged by, or otherwise representing a department, officer, agency, institution, commission, bureau, or other organized activity of the State but does not include a licensed attorney who holds a permanent budgeted position in either the Department of Justice or the applicable department, officer, agency, institution, commission, bureau, or other organized activity of the State.

(d) In those instances when a department, officer, agency, institution, commission, bureau, or other organized activity of the State which receives support in whole or in part from the State shall employ private counsel other than the Attorney General as permitted by law, such employed counsel shall allocate authority between counsel and the State client in conformance with Rule 1.2 of the North Carolina Rules of Professional Conduct. In those instances where more than one counsel is providing legal representation, counsel, or service on a legal matter on behalf of a State client, the client shall designate in writing which of its legal counsel possesses final decision-making authority on behalf of the State client, and other co-counsel shall, consistent with the Rules of Professional Conduct, cooperate with such designated lead counsel. (1868-9, c. 270, s. 6; 1870-1, c. 111; 1873-4, c. 160, s. 2; 1883, c. 71; Code, ss. 3320, 3324; 1901, c. 744; Rev., s. 5332; C.S., s. 7640; 1925, c. 207, s. 3; 1961, c. 1007; 1963, c. 1009; 1967, c. 1092, s. 2; 1985, c. 479, s. 136; 2011-145, s. 22.4; 2017-57, s. 6.7(a).)

**§ 147-18. To designate "Indian Day."**

The Governor of North Carolina is hereby empowered to set aside some day which shall be called "Indian Day" on which Indian lore shall receive emphasis in the public schools of the State and among the citizens of North Carolina. (Resolutions 54, 1937, p. 957.)

**§ 147-19. To appoint a day of thanksgiving.**

The Governor is directed to set apart a day in every year, and by proclamation give notice thereof, as a day of solemn and public thanksgiving to Almighty God for past blessings and of supplication for His continued kindness and care over us as a State and a nation. (1868-9, c. 270, s. 39; Code, s. 3334; Rev., s. 5333; C.S., s. 7641.)

**§ 147-20. Repealed by Session Laws 1955, c. 867, s. 13.**

**§ 147-21. Form and contents of applications for pardon.**

Every application for pardon must be made to the Governor in writing, signed by the party convicted, or by some person in his behalf. And every such application shall contain the grounds and reasons upon which the executive pardon is asked, and shall be in every case accompanied by a certified copy of the indictment, and the verdict and judgment of the court thereon. (1869-70, c. 171; 1870-1, c. 61; Code, s. 3336; Rev., s. 5334; C.S., s. 7642.)

**§ 147-22. Repealed by Session Laws 1981, c. 309.**

**§ 147-23. Conditional pardons may be granted.**

In any case in which the Governor is authorized by the Constitution to grant a pardon he may, upon the petition of the prisoner, grant it, subject to such conditions, restrictions, and limitations as he considers proper and necessary, and he may issue his warrant to all proper officers to carry such pardon into effect in such manner as he thinks proper. (1905, c. 356; Rev., s. 5335; C.S., s. 7643.)

**§ 147-24. Governor's duties when conditions of pardon violated.**

If a prisoner who has been pardoned upon conditions to be observed and performed by him violates such conditions, or any of them, the Governor, upon receiving information of such violation, shall forthwith cause him to be arrested and detained until the case can be examined by him. The Governor shall examine the case of such prisoner, and if it appears by his own admission or by such evidence as the Governor may require that he has violated the conditions of his pardon, the Governor shall order him remanded and confined for the unexpired term of his sentence; said confinement, if the prisoner is under any other sentence of imprisonment at the time of said order, to begin upon expiration of such sentence. In computing the period of his confinement the time between the conditional pardon and subsequent arrest shall not be taken to be a part of the time of his sentence. If it appears to the Governor that he has not broken the conditions of his conditional pardon he shall be released and his conditional pardon shall remain in force. (1905, c. 356, ss. 2, 3; Rev., s. 5336; C.S., s. 7644.)

**§ 147-25. Duty of sheriff and clerk on pardon granted.**

If a prisoner is pardoned conditionally or unconditionally, or his punishment is commuted, the officer to whom the warrant for such purpose is issued shall, as soon as may be after executing it, make return thereof, signed by him, with his doing thereon, to the Governor's office, and shall file

in the office of the clerk of the court in which the offender was convicted an attested copy of the warrant and return, and the clerk shall file the same in his office and subjoin a brief abstract thereof to the record of the conviction and sentence, and at the next regular term of said court said warrant shall be entered upon the minutes of the court. (1905, c. 356, s. 4; Rev., s. 5337; C.S., s. 7645.)

**§ 147-26. To procure great seal of State; its description.**

The Governor shall procure for the State a seal, which shall be called the great seal of the State of North Carolina, and shall be two and one-quarter inches in diameter, and its design shall be a representation of the figures of Liberty and Plenty, looking toward each other, but not more than half-fronting each other and otherwise disposed as follows: Liberty, the first figure, standing, her pole with cap on it in her left hand and a scroll with the word "Constitution" inscribed thereon in her right hand. Plenty, the second figure, sitting down, her right arm half extended towards Liberty, three heads of grain in her right hand, and in her left, the small end of her horn, the mouth of which is resting at her feet, and the contents of the horn rolling out.

The background on the seal shall contain a depiction of mountains running from left to right to the middle of the seal and an ocean running from right to left to the middle of the seal. A side view of a three-masted ship shall be located on the ocean and to the right of Plenty. The date "May 20, 1775" shall appear within the seal and across the top of the seal. The date "April 12, 1776" shall appear within the seal and across the bottom of the seal. The words "esse quam videri" shall appear at the bottom around the perimeter. The words "THE GREAT SEAL of the STATE of NORTH CAROLINA" shall appear around the perimeter. No other words, figures or other embellishments shall appear on the seal.

It shall be the duty of the Governor to file in the office of Secretary of State an impression of the great seal, certified to under his hand and attested by the Secretary of State, which impression so certified the Secretary of State shall carefully preserve among the records of his office. (1868-9, c. 270, s. 35; 1883, c. 392; Code, ss. 3328, 3329; 1893, c. 145; Rev., s. 5339; C.S., s. 7646; 1971, c. 167, s. 1; 1983, c. 257, s. 1.)

**§ 147-27. Affixing great seal a second time to public papers.**

In all cases where any person may find it necessary to have the great seal of the State put again to any public paper, other than a grant for lands, he may prefer his petition to the Governor and Council, who shall, if they deem the same proper, direct the seal to be put thereto. (1868-9, c. 270, s. 38; Code, s. 3333; Rev., s. 5338; C.S., s. 7647.)

**§ 147-28. To procure seals for departments and courts.**

The Governor shall also procure a seal for each department of the State government to be used for attesting and authenticating grants, proclamations, commissions, and other public acts, in such manner as may be directed by law and the usage established in the public offices; also a seal for every court of record in the State, for the purpose of authenticating the papers and records of such court. All such seals shall be delivered to the proper officers, who shall give a receipt therefor and be accountable for their safekeeping. (1868-9, c. 270, ss. 35, 37; 1883, c. 71; Code, ss. 3328, 3332; Rev., s. 5340; C.S., s. 7648.)

**§ 147-29. Seal of Department of State described.**



The seal of the Department of State shall be two inches in diameter and shall be of the same design as the great seal of the State, with the words "State of North Carolina, Department of State," surrounding the figures. (1883, c. 238; Code, s. 3330; Rev., s. 5341; C.S., s. 7649.)

**§ 147-30. To provide new seals when necessary.**

Whenever the great seal of the State shall be lost or so worn or defaced as to render it unfit for use, the Governor shall provide a new one and when such new one is provided the former one, if it can be found, shall be destroyed in the presence of the Governor. Whenever the seal of any department of the State shall be lost or so worn or defaced as to render it unfit for use, a new seal shall be provided by the head of the department and the former one, if it can be found, shall be destroyed in the presence of the head of the department. Whenever the seal of any court of record shall be lost or so worn or defaced as to render it unfit for use, the board of county commissioners of the county in which such court is situate shall provide a new one and the old one, if it can be found, shall be destroyed in the presence of the chairman of the board of county commissioners of such county. (1868-9, c. 270, s. 36; Code, s. 3331; Rev., s. 5342; C.S., s. 7650; 1943, c. 632.)

**§ 147-31. Repealed by Session Laws 1983, c. 913, s. 48, effective July 22, 1983.**

**§ 147-31.1. Office space and expenses for Governor-elect and Lieutenant Governor-elect; and other Council of State members-elect.**

(a) The Department of Administration, upon request of the Governor-elect and Lieutenant Governor-elect, made after the general election for these respective offices, is empowered and directed to provide suitable office space and office staff for each such official for the period between the general election and inauguration.

The Department of Administration shall provide, for the fiscal years in which general election and inauguration of the Governor and Lieutenant Governor shall occur, such sums, not in excess of eighty thousand dollars (\$80,000) for the Governor-elect, and not in excess of ten thousand dollars (\$10,000) for the Lieutenant Governor-elect, as may be necessary for the salary of the staffs and the payment of office expenses of each such official during such interim.

(b) The Department of Administration, upon request of any other member-elect of the Council of State who is not an incumbent in that office, shall provide for such persons suitable office space and office staff for each such official for the period between the general election and inauguration.

The Department of Administration shall provide, for the fiscal years in which general election and inauguration of such persons occurs, ten thousand dollars (\$10,000) for the salary of the staffs and the payment of office expenses of each such official during such interim. If there are more than two such persons, such services and payments shall be made from the Contingency and Emergency Fund upon approval of the Council of State. (1965, c. 407; 1987 (Reg. Sess., 1988), c. 1086, s. 48.)

**§ 147-32. Compensation for surviving spouses of Governors.**

All surviving spouses of Governors of the State of North Carolina, who make written request to the Director of the Budget, shall be paid the sum of twelve thousand dollars (\$12,000) a year in equal monthly installments, out of the State Treasury upon warrants duly drawn thereon. This compensation shall terminate upon the subsequent remarriage of the surviving spouse. (1937, c.

416; 1947, c. 897, ss. 1, 2; 1955, c. 1314; 1977, c. 554; 1981 (Reg. Sess., 1982), c. 1282, s. 63; 1987, c. 738, s. 40.)

**§ 147-33. Compensation and expenses of Lieutenant Governor.**

The salary of the Lieutenant Governor shall be set by the General Assembly in the Current Operations Appropriations Act. In addition to this salary, the Lieutenant Governor shall be paid an annual expense allowance in the sum of eleven thousand five hundred dollars (\$11,500). In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act. (1911, c. 103; C.S., s. 3862; 1945, c. 1; 1953, c. 1, s. 1; 1963, c. 1050; 1967, c. 1170, s. 1; 1971, c. 913; 1977, c. 802, s. 42.6; 1977, 2nd Sess., c. 1136, s. 40; 1979, 2nd Sess., c. 1137, s. 32; 1983, c. 761, s. 211; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b); 2013-382, s. 9.1(c).)

Article 3A.

Emergency War Powers of Governor.

**§ 147-33.1. Short title.**

This Article may be cited as the "North Carolina Emergency War Powers Act." (1943, c. 706, s. 1; 1959, c. 337, s. 6.)

**§ 147-33.2. Emergency war powers of the Governor.**

Upon the Governor's own initiative, or on the request or recommendation of the President of the United States, the United States Army, Navy, or any other branch of the Armed Forces of the United States, the federal Director of Civilian Defense, or any other federal officer, department or agency having duties and responsibilities related to the prosecution of the war or the health, welfare, safety and protection of the civilian population, whenever in the Governor's judgment any such action is in the public interest and is necessary for the protection of the lives or property of the people of the State, or for the defense and security of the State or nation, or for the proper conduct of the war and the successful prosecution thereof, the Governor may, with the approval of the Council of State, at any time and from time to time during the existing state of war:

- (1) Formulate and execute plans for:
  - a. The inventory, mobilization, conservation, distribution or use of food, fuel, clothing and other necessities of life and health, and of land, labor, materials, industries, facilities and other resources of the State necessary or useful in the prosecution of the war;
  - b. Organization and coordination of civilian defense in the State in reasonable conformity with the program of civilian defense as promulgated from time to time by the Office of Civilian Defense of the federal government; and, further, to effectuate such plans for civilian defense in such manner as to promote and assure the security, protection

and mobilization of the civilian population of the State for the duration of the war and in the interest of State and national defense.

- (2) Order and carry out blackouts, radio silences, evacuations and all other precautionary measures against air raids or other forms of enemy action, and suppress or otherwise control any activity which may aid or assist the enemy.
- (3) Mobilize, coordinate and direct the activities of the police, fire fighting, health, street and highway repair, public utility, medical and welfare forces and services of the State, of the political subdivisions of the State, and of private agencies and corporations, and formulate and execute plans for the interchange and use of such forces and services for the mutual aid of the people of the State in cases of air raid, sabotage or other enemy action, fire, flood, famine, violence, riot, insurrection, or other catastrophe or emergency.
- (4) Prohibit, restrict, or otherwise regulate and control the flow of vehicular and pedestrian traffic, and congregation of persons in public places or buildings, lights and noises of all kinds and the maintenance, extension and operation of public utility and transportation services and facilities.
- (5) Accept, or authorize any officer or department of the State to accept, from the federal government or any federal agency or instrumentality, or from any other source, grants of funds and grants or loans of equipment, materials, supplies or other property for war or defense purposes, subject to the terms and conditions appertaining to such grants and loans.
- (6) Authorize any department or agency of the State to lease or lend to the United States Army, Navy, or any other branch of the Armed Forces of the United States, any real or personal property of the State upon such terms and conditions as the Governor may impose, or, on behalf of the State, to make a contract directly therefor.
- (7) Authorize the temporary transfer of personnel of the State for employment by the United States Army, Navy, or any other branch of the Armed Forces of the United States and fix the terms and conditions of such transfers.
- (8) At any time when the General Assembly is not in session, suspend, or modify, in whole or in part, generally or in its application to certain classes of persons, firms, corporations or circumstances, any law, rule or regulation with reference to the subjects hereinafter enumerated, when the Governor shall find and proclaim after such study, investigation or hearings as the Governor may direct, make or conduct, that the operation, enforcement or application of such law, or any part thereof, materially hinders, impedes, delays or interferes with the proper conduct of the war; said subjects being as follows:
  - a. The use of the roads, streets, and highways of the State, with particular reference to speed limits, weights and sizes of motor vehicles,

- regulations of automobile lights and signals, transportation of munitions or explosives and parking or assembling of automobiles on highways or any other public place within the State; provided that any changes in the laws referred to in this subdivision shall be first approved by the Board of Transportation and the Commissioner of Motor Vehicles of the State;
- b. Public health, insofar as suspension or modification of the laws in reference thereto may be stipulated by the United States Public Health Service or other authoritative agency of the United States government as being essential in the interest of national safety and in the successful prosecution of the war effort; provided that such suspension or modification of public health laws shall first be submitted to and approved by the Commission for Public Health;
  - c. Labor and industry; provided, however, that any suspension or modification of laws regulating labor and industry shall be only such as are certified by the Commissioner of Labor of the State as being necessary in the interest of national safety and in the furtherance of the war program; and provided further that any such changes as may result in an increase in the hours of employment over and above the limits of the existing statutory provisions shall carry provision for adequate additional compensation; and provided, further, that no changes in such laws or regulations shall be made as affecting existing contracts between labor and management in this State except with the approval of the contracting parties;
  - d. Whenever it should be certified by the Adjutant General of the State that emergency conditions require such procedure, the Governor, with the approval of the Council of State, shall have the power to call up and mobilize the State militia; to provide transportation and facilities for mobilization and full utilization of the State militia, in such emergency; and to allocate from the Contingency and Emergency Fund such amounts as may be necessary for such purposes during the period of such emergency;
  - e. Manufacture, sale, transportation, possession and use of explosives or fireworks, or articles in simulation thereof, and the sale, use and handling of firearms;
- (9) Cooperate with agencies established by or pursuant to the laws of the United States and the several states for civilian protection and the promotion of the war effort, and coordinate and direct the work of the offices and agencies of the State having duties and responsibilities directly connected with the war effort and the protection of the civilian population.
- (10) Aid in the administration and enforcement in this State of any rationing, freezing, price-fixing or similar order or regulation duly promulgated by any federal officer or agency under or pursuant to the authority of any act of Congress or of any order or proclamation of the President of the United States, by making temporarily available personnel and facilities of the

State to assist in the administration thereof and/or by adopting and promulgating in this State an order or regulation substantially embodying the provisions of such federal order or regulation, filing the same in the office of the Secretary of State, prescribing the penalties for the violation thereof, and specifying the State and local officers and agencies to be charged with the enforcement thereof.

- (11) Formulate and execute plans and adopt rules for:
  - a. The organization, recruiting, training, maintenance and operation of aircraft warning services, observation and listening posts, information and control centers and such other services and facilities as may be necessary for the prompt and accurate reception and transmission of air-raid warnings and signals;
  - b. The organization, recruiting, training, equipment, identification, conduct, powers, duties, rights, privileges and immunities of air-raid wardens, auxiliary police, auxiliary firemen and of the members of all other auxiliary defense and civilian protection forces and agencies.
- (12) Adopt, promulgate, publicize and enforce such orders, rules and regulations as may be necessary for the proper and effective exercise of the powers granted by this Article, and amend or rescind the same.
- (13) Hold and conduct hearings, administer oaths and take testimony, issue subpoenas to compel the attendance of witnesses and the production of relevant books, papers, records or documents, in connection with any investigation made by the Governor under the authority of this Article. (1943, c. 706, s. 2; 1959, c. 337, s. 6; 1973, c. 476, s. 128; c. 507, s. 5; 1999-456, s. 33(f); 2007-182, s. 2; 2011-183, s. 107.)

#### **§ 147-33.3. Orders, rules and regulations.**

All orders, rules and regulations promulgated by the Governor pursuant to this Article shall have the full force and effect of law from and after the date of the filing of a duly authenticated copy thereof in the office of the Secretary of State. All laws, ordinances, rules and regulations, insofar as they are inconsistent with the provisions of this Article or of any rule, order or regulation made pursuant to this Article, shall be suspended during the period of time and to the extent that such conflict exists. A violation of any such order, rule or regulation, unless otherwise provided therein, shall be deemed a Class 1 misdemeanor. (1943, c. 706, s. 3; 1959, c. 337, s. 6; 1993, c. 539, s. 1054; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 147-33.4. Immunity.**

Neither the State nor any political subdivision thereof, nor the agents or representatives of the State or any political subdivision thereof, under any circumstances, nor any individual, firm, partnership, corporation or other entity, or any agent thereof, in good faith complying with or attempting to comply with any order, rule or regulation made pursuant to this Article, shall be liable for the death or any injury to persons or for any damage to property as the result of any air raid, invasion, act of sabotage, or other form of enemy action, or of any action taken under this Article or such order, rule or regulation. This section shall not be construed to impair or affect the right of any person to receive any benefits or compensation to which he may otherwise be entitled

under Workers' Compensation Law, any pension law, or any other law, or any act of Congress, or any contract of insurance or indemnification. (1943, c. 706, s. 4; 1959, c. 337, s. 6; 1991, c. 636, s. 3.)

**§ 147-33.5. Federal action controlling.**

All action taken under this Article and all orders, rules and regulations made pursuant thereto in any field or with respect to any subject matter over which the United States Army or Navy or any other department or agency of the United States government has duly taken jurisdiction shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations and requests of such department or agency and shall be consistent therewith. Blackouts, radio silences and evacuations shall be carried out only in such areas, at such times, and for such periods as shall be designated by air-raid warnings or orders with respect thereto issued by the United States Army, or its duly designated agency, and only under such conditions and in such manner as shall be consistent with such warning or order, and practice blackouts shall be held only when and as authorized by the United States Army or its duly designated agency. (1943, c. 706, s. 5; 1959, c. 337, s. 6; 2011-183, s. 127(b).)

**§ 147-33.6. Construction of Article.**

This Article shall be construed liberally to effectuate its purposes. (1943, c. 706, s. 6; 1959, c. 337, s. 6.)

**§§ 147-33.7 through 147-33.11. Reserved for future codification purposes.**

Article 3B.

North Carolina Housing Commission.

**§§ 147-33.12 through 147-33.21: Repealed by Session Laws 1987, c. 841, s. 5.**

Article 3C.

Office of Juvenile Justice.

**§§ 147-33.30 through 147-33.71. Repealed by Session Laws 2000-137, s. 1(a), effective July 20, 2000.**

**§ 147-33.72: Reserved for future codification purposes.**

Article 3D.

State Information Technology Services.

Part 1. State Information Technology Management.

§§ **147-33.72A through 147-33.72F**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

§ **147-33.72G**: Repealed by Session Laws 2011-266, s. 1.9(a), effective July 1, 2011.

§ **147-33.72H**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015

§ **147-33.73**: Reserved for future codification purposes.

§ **147-33.74**: Reserved for future codification purposes.

Part 1A. Organization of Office of Information Technology Services.

§§ **147-33.75 through 147-33.77**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

§ **147-33.78**: Repealed by Session Laws 2004-129, ss. 4, 5.

§ **147-33.79**. Repealed by Session Laws 2004-129, ss. 4, 5.

Part 2. General Powers and Duties.

§§ **147-33.80 through 147-33.84**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

§ **147-33.85**: Repealed by Session Laws 2004-129, ss. 17, 18, effective July 1, 2004.

§**147-33.86**: Repealed by Session Laws 2004-129, ss. 17, 18, effective July 1, 2004.

§§ **147-33.87 through 147-33.90**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

Part 3. Telecommunications Services.

§§ **147-33.91 through 147-33.93**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

§ **147-33.94**. **Reserved for future codification purposes.**

Part 4. Procurement of Information Technology.

§§ **147-33.95 through 147-33.103**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

§ **147-33.104**: Repealed by Session Laws 2010-67, s. 1(a)-(d), effective July 1, 2010.

§ **147-33.104A**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

§ **147-33.105**: Reserved for future codification purposes.

§ **147-33.106**: Reserved for future codification purposes.

§ **147-33.107**: Reserved for future codification purposes.

§ **147-33.108**: Reserved for future codification purposes.

§ **147-33.109**: Reserved for future codification purposes.

Part 5. Security for Information Technology Services.

§§ **147-33.110 through 147-33.113**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

Part 6. Purchase of Refurbished Computer Equipment.

§§ **147-33.120 through 147-33.123**: Repealed by Session Laws 2015-241, s. 7A.2(a), effective September 18, 2015.

Article 4.

Secretary of State.

§ **147-34. Office and office hours.**

The Secretary of State shall attend at his office, in the City of Raleigh, between the hours of 10 o'clock A.M. and three o'clock P.M., on every day of the year, Sundays and legal holidays excepted. (1868-9, c. 270, s. 44; 1870-1, c. 111; Code, s. 3339; Rev., s. 5344; C.S., s. 7652.)

§ **147-35. Salary of Secretary of State.**

The salary of the Secretary of State shall be set by the General Assembly in the Current Operations Appropriations Act. In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act. (1879, c. 240, s. 6; 1881, p. 632, res.; Code, s. 3724; Rev., s. 2741; 1907, c. 994; 1919, c. 247, s. 2; C.S., s. 3863; Ex. Sess. 1920, c. 49, s. 4; 1921, c. 11, s. 1; 1931, c. 277; 1933, c. 46; 1935, c. 304; 1941, c. 1; 1947, c. 1041; 1949, c. 1278; 1953, c. 1, s. 2; 1957, c. 1; 1963, c. 1178, s. 1; 1967, c. 1130; c. 1237, s. 1; 1969, c. 1214, s. 1; 1971, c. 912, s. 1; 1973, c. 778, s. 1; 1975, 2nd Sess., c. 983, s. 14; 1977, c. 802, s. 42.7; 1983, c. 761, s. 212; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b); 2013-382, s. 9.1(c).)



**§ 147-36. Duties of Secretary of State.**

It is the duty of the Secretary of State:

- (1) To perform such duties as may then be devolved upon the Secretary by resolution of the two houses of the General Assembly or either of them.
- (2) To attend the Governor, whenever required by the Governor, for the purpose of receiving documents that have passed the great seal.
- (3) To receive and keep all conveyances and mortgages belonging to the State.
- (4) To distribute annually the statutes and the legislative journals.
- (5) To distribute the acts of Congress received at the Secretary's office in the manner prescribed for the statutes of the State.
- (6) To keep a receipt book, in which the Secretary shall take from every person to whom a grant shall be delivered, a receipt for the same; but may enclose grants by mail in a registered letter at the expense of the grantee, unless otherwise directed, first entering the same upon the receipt book.
- (7) To issue charters and all necessary certificates for the incorporation, domestication, suspension, reinstatement, cancellation and dissolution of corporations as may be required by the corporation laws of the State and maintain a record of the charters and necessary certificates issued.
- (8) To issue certificates of registration of trademarks, labels and designs as may be required by law and maintain a record of those certificates of registration.
- (9) To maintain a Division of Publications to compile data on the State's several governmental agencies and for legislative reference.
- (10) To receive, enroll and safely preserve the current edition of the State Constitution and all amendments to that edition and to transfer previous editions of the State Constitution and amendments to those editions to the Department of Natural and Cultural Resources for preservation and safekeeping in the State Archives.
- (11) To serve as a member of such boards and commissions as the Constitution and laws of the State may designate.
- (12) To administer the Securities Law of the State, regulating the issuance and sale of securities, as is now or may be directed.
- (13) To receive and keep all oaths of public officials required by law to be filed in the Secretary's office, and as Secretary of State, to administer official oaths to any public official of whom an oath is required.
- (14) To receive and maintain a journal of all appointments made to any State board, agency, commission, council or authority that is filed in the office of the Secretary of State.
- (15) To regulate the solicitation of contributions pursuant to Chapter 131F of the General Statutes.

- (16) To apply for and accept grants from the federal government and its agencies and from any foundation, corporation, association, or individual in order to effectuate the purposes of the Nonprofit Corporation Act, Chapter 55A of the General Statutes, and to further aid in the operation and development of nonprofit corporations. The Secretary shall comply with the terms, conditions, and limitations of grants applied for and accepted and shall expend grant funds pursuant to Chapter 143C of the General Statutes, The State Budget Act. (1868-9, c. 270, s. 45; 1881, c. 63; Code, s. 3340; Rev., s. 5345; C.S., s. 7654; 1941, c. 379, s. 6; 1943, cc. 480, 543; 1967, c. 691, s. 53; 1973, c. 1379, s. 1; 1995, c. 20, s. 9; 1998-212, s. 12.14(c); 1999-316, s. 1; 2006-203, s. 115; 2015-170, s. 4(a); 2015-241, s. 14.30(c).)

**§ 147-36.1. Deputy Secretary of State.**

The duly classified Deputy Secretary of State as reflected by the records of the State Department of Personnel, appointed by the Secretary of State to aid him in the discharge of his duties, shall have the authority to perform all acts and duties of the office in the absence of his chief, or in the case of his inability to act, or under his direction. In exercising such authority, certificates relating to documents and other filings, shall be issued in the name of the Secretary of State, printed, typed, stamped or facsimile signature, and signed by the Deputy Secretary of State.

Employees in the office of the Secretary of State designated as deputy or director of specific divisions in the Department, are empowered to issue certificates relating to documents and other filings within the scope of their division. In exercising such authority the certificates shall be issued in the name of the Secretary of State, printed, typed, stamped or facsimile signature, and signed by the deputy or director indicating his approved title. Provided, however, that if the volume of documents or certificates to be issued makes an embossed seal and the autograph signature of the deputy or director impractical, the documents may be certified and certificates issued under the facsimile signature and seal of the Secretary of State only. (1967, c. 1265; 1987, c. 349.)

**§ 147-37. Secretary of State; fees to be collected.**

When no other charge is provided by law, the Secretary of State shall collect such fees for copying any document or record on file in his office which in his discretion bears a reasonable relation to the quantity of copies supplied and the cost of purchasing or leasing and maintaining copying equipment. These fees may be changed from time to time, but a schedule of fees shall be available on request at all times. In addition to copying charges, the Secretary of State shall collect a fee of ten dollars (\$10.00) for certifying any document or record on file in his office or for issuing any certificate as to the facts shown by the records on file in his office, except that if two or more certificates for foreign adoption are requested concurrently, the fee for the second and subsequent certificates is five dollars (\$5.00). (R.C., c. 102, s. 13; 1870-1, c. 81, s. 3; 1881, c. 79; Code, s. 3725; Rev., s. 2742; C.S., s. 3864; 1979, c. 85, s. 2; 1991, c. 429, s. 1; 1998-212, s. 29A.9(e); 2002-126, s. 29A.32.)

**§ 147-38. Repealed by Session Laws 1979, c. 85, s. 3.**

**§ 147-39. Custodian of statutes, records, deeds, etc.**

The Secretary of State is charged with the custody of all statutes and joint resolutions of the legislature, all documents which pass under the great seal, and of all the books, records, deeds, parchments, maps, and papers now deposited in his office or which may hereafter be there deposited pursuant to law, and he shall from time to time make all necessary provisions for their arrangement and preservation. Every deed, conveyance, or other instrument whereby the State or any State agency or institution has acquired title to any real property and which is deposited with the Secretary of State shall be filed by him, and indexed according to the county or counties wherein the real property is situated and the name or names of the grantor or grantors and of the grantee; and the real property shall be briefly described in the index. (R.C., c. 104, s. 105; 1868-9, c. 270, s. 41; 1873-4, c. 129; Code, s. 3337; Rev., s. 5347; C.S., s. 7656; 1957, c. 584, s. 5.)

**§ 147-40. Repealed by Session Laws 1969, c. 1184, s. 8.**

**§ 147-41. To keep records of oyster grants.**

The Secretary of State shall keep books of records in which shall be recorded a full description of all grounds granted for oyster beds under the provisions of Chapter 119 of the Laws of 1887, and laws amendatory thereof, and shall keep a map or maps showing the position and limits of all public and private grounds. (1887, c. 119, s. 14; Rev., s. 2381; C.S., s. 7657.)

**§ 147-42. Binding original statutes, resolutions, and documents.**

The original statutes and joint resolutions passed at each session of the General Assembly the Secretary of State shall immediately thereafter cause to be bound in volumes of convenient size. Each such volume shall be lettered on the back with its title and the date of its session. (1866-7, c. 71; 1868-9, c. 270, s. 46; Code, s. 3343; Rev., s. 5348; C.S., s. 7658.)

**§ 147-43. Reports of State officers.**

The Secretary of State shall file and keep in his office one copy of each of the reports of State officers in the best binding in which any such report is issued, and the State Librarian shall likewise keep five similarly bound copies of each such report. (Rev., s. 5101; 1911, c. 211, s. 7; C.S., s. 7300.)

**§§ 147-43.1 through 147-43.3: Repealed by Session Laws 1969, c. 1184, s. 8.**

**§ 147-44. Repealed by Session Laws 1943, c. 48, s. 2.**

**§ 147-45. Distribution of copies of State publications.**

The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is determined by the Legislative Services Commission in consultation with the Principal Clerks of the House of Representatives and the Senate. These publications shall be made available in hardbound and electronic format. Each agency or institution entitled to more than one copy shall receive only one of the copies in hardbound format with the remainder in electronic format, unless that agency or institution requests additional hardbound copies from the Secretary of State by August 1 of the calendar year. The Legislative Services Commission, in consultation with the Principal Clerks of the House of Representatives

and the Senate, shall determine each year the total number of bound volumes of each publication to be printed and the total number of the electronic copies of each publication to be produced.

Any State agency, department, institution, commission, committee, board, division, bureau, officer, or official that does not receive a copy of the Session Laws may, upon written request from their respective department head to the Secretary of State, and upon the discretion of the Secretary of State as to need, be issued copies of the Session Laws on a permanent loan basis with the understanding that should said copies be needed they will be recalled. (1941, c. 379, s. 1; 1943, c. 48, s. 4; 1945, c. 534; 1949, c. 1178; 1951, c. 287; 1953, cc. 245, 266; 1955, c. 505, s. 6; cc. 989, 990; 1957, c. 269, s. 1; cc. 1061, 1400; 1959, c. 215; c. 1028, s. 3; 1965, c. 503; 1967, c. 691, s. 54; cc. 695, 777, 1038, 1073, 1200; 1969, c. 355; c. 608, s. 1; c. 801, s. 2; c. 852, ss. 1, 2; c. 1190, s. 54; c. 1285; 1973, c. 476, ss. 48, 84, 128, 138, 143, 193; c. 507, s. 5; c. 731, s. 1; c. 762; c. 798, ss. 1, 2; c. 1262, ss. 10, 38; 1975, c. 19, s. 59; c. 879, s. 46; 1975, 2nd Sess., c. 983, s. 115; 1977, c. 379, s. 1; c. 679, s. 8; c. 771, s. 4; 1979, c. 358, s. 27; 1981, c. 412, ss. 4, 5; 1981 (Reg. Sess., 1982), c. 1348, s. 2; 1983, c. 842; 1987, c. 827, s. 59; 1989, c. 727, s. 223(b); c. 751, s. 9(b); 1991 (Reg. Sess., 1992), c. 959, s. 74; 1993, c. 522, s. 18; c. 553, s. 53; 1995, c. 166, s. 2; c. 509, s. 100; 1995 (Reg. Sess., 1996), c. 603, s. 5; c. 743, s. 22; 1997-443, ss. 11A.118(a), 11A.119(a); 1998-202, s. 4(bb); 2000-137, s. 4(ff); 2001-513, s. 16(a).)

**§ 147-46. Repealed by Session Laws 1955, c. 987.**

**§ 147-46.1. Publications furnished State departments, bureaus, institutions and agencies.**

Upon request of any State department, bureau, institution or agency, and upon authorization by the Governor and Council of State, the Secretary of State shall supply to such department, bureau, institution or agency copies of any State publications then available to replace worn, damaged or lost copies and such additional sets or parts of sets as may be requested to meet the reasonable needs of such departments, bureaus, institutions or agencies, disclosed by the request.

This section shall not authorize the reprinting of any State publications which would not be ordered without reference to the provisions hereof. (1947, c. 639.)

**§ 147-47. Repealed by Session Laws 1955, c. 748.**

**§ 147-48. Sale of Laws and Journals.**

Such Laws and Journals as may be printed in excess of the number directed to be distributed, the Secretary of State may sell at such price as he deems reasonable, not exceeding cost plus ten percent (10%). All proceeds received from sales made pursuant to this section shall be paid into the State treasury. (1941, c. 379, s. 4; 1943, c. 48, s. 4; 1955, c. 978, s. 2; 1967, c. 691, s. 55; 1977, c. 802, s. 50.30.)

**§ 147-49. Disposition of damaged and unsaleable publications.**

The Secretary of State is hereby authorized and empowered to dispose of damaged and unsaleable House and Senate Journals and Session Laws of various years at a price to be determined by the Secretary of State. (1939, c. 345; 1967, c. 691, s. 56; 2001-487, s. 93.)

**§ 147-50. Publications of State officials and department heads furnished to certain institutions, agencies, etc.**

Every State official and every head of a State department, institution or agency issuing any printed report, bulletin, map, or other publication shall, on request, furnish copies of such reports, bulletins, maps or other publications to the following institutions in the number set out below:

University of North Carolina at Chapel Hill	25 copies;
University of North Carolina at Charlotte	2 copies;
University of North Carolina at Greensboro	2 copies;
North Carolina State University at Raleigh	2 copies;
East Carolina University at Greenville	2 copies;
Duke University	25 copies;
Wake Forest College	2 copies;
Davidson College	2 copies;
North Carolina Supreme Court Library	2 copies;
North Carolina Central University	5 copies;
Western Carolina University	2 copies;
Appalachian State University	2 copies;
University of North Carolina at Wilmington	2 copies;
North Carolina Agricultural and Technical State University	2 copies;
Legislative Library	2 copies;

and to governmental officials, agencies and departments and to other educational institutions, in the discretion of the issuing official and subject to the supply available, such number as may be requested: Provided that five sets of all such reports, bulletins and publications heretofore issued, insofar as the same are available and without necessitating reprinting, shall be furnished to the North Carolina Central University. The provisions in this section shall not be interpreted to include any of the appellate division reports or advance sheets distributed by the Administrative Office of the Courts. Except for reports, bulletins, and other publications issued for free distribution, this section shall not apply to the North Carolina State Museum of Natural Sciences. (1941, c. 379, s. 5; 1955, c. 505, s. 7; 1967, cc. 1038, 1065; 1969, c. 608, s. 1; c. 852, s. 3; 1973, c. 476, s. 84; c. 598; c. 731, s. 2; c. 776; 1977, c. 377; 1979, c. 591, s. 1; 1981, c. 435; 1993, c. 561, s. 116(j).)

**§ 147-50.1. Repealed by Session Laws 1987, c. 771, s. 1.**

**§ 147-51. Clerks of superior courts responsible for Appellate Division Reports; lending prohibited.**

From and after March 9, 1927, the clerks of the superior courts of the State of North Carolina are held officially responsible for the volumes of the North Carolina Appellate Division Reports furnished and to be furnished them by the State.

The said clerks of the various courts shall not lend or permit to be taken from their custody the said Reports, nor shall any person with or without the permission of the said clerks take them from their possession. (1927, c. 259; 1969, c. 1190, s. 55.)

**§ 147-52. Transferred to § 7A-14 by Session Laws 1975, c. 328.**

**§ 147-53. Superseded by Session Laws 1943, c. 716.**

**§ 147-54. Printing, distribution and sale of the North Carolina Manual.**

The Secretary of State shall have printed biennially for distribution and sale, two thousand three hundred fifty (2,350) copies of the North Carolina Manual, and shall make distribution to the State agencies, individuals, institutions and others as herein set forth.

**NORTH CAROLINA STATE GOVERNMENT:**

Members of the General Assembly .....	1 ea.
Officers of the General Assembly .....	1 ea.
Offices of the Clerk of each House of the General Assembly .....	1 ea.
Legislative Services Officer .....	1
Legislative Library .....	6
Members of the Council of State .....	2 ea.
Appointed Secretaries of Executive Departments .....	2 ea.
Personnel of the Department of the Secretary of State .....	1 ea.
Bipartisan State Board of Elections and Ethics Enforcement .....	2
Divisions of Archives and History, Director .....	1
Search Room .....	3
Publications Section .....	2
State Library .....	10
Libraries within State Agencies .....	1 ea.
Justices of the North Carolina Supreme Court .....	1 ea.
Judges of the North Carolina Court of Appeals .....	1 ea.
Judges of the North Carolina Superior Court .....	1 ea.
Supreme Court Library .....	12
Court of Appeals Library .....	2
Clerk of the Supreme Court .....	1
Clerk of the Court of Appeals .....	1
Reporter of the Supreme Court and Court of Appeals .....	1
Administrative Office of the Courts .....	5

**NORTH CAROLINA EDUCATIONAL INSTITUTIONS:**

**University of North Carolina System**

General Administration Offices .....	12
Chancellors of the Constituent Institutions .....	1 ea.
University of North Carolina – Chapel Hill Library .....	15
North Carolina State University Library .....	5
East Carolina University Library .....	5
North Carolina Central University Library .....	5
Appalachian State University Library .....	4
University of North Carolina – Charlotte Library .....	4
University of North Carolina – Greensboro Library .....	4
Western Carolina University Library .....	4
Other Constituent Institutions Libraries .....	3 ea.
North Carolina School of the Arts, redesignated effective August 1, 2008, as the "University of North Carolina School of the Arts" .....	2
University of North Carolina Chapel Hill School of Government .....	2

Community Colleges and Technical Institutes .....	2 ea.
Private Colleges and Universities	
Duke University Library .....	6
Wake Forest University .....	6
Campbell University Library .....	5
Davidson College Library .....	4
All other Libraries of Senior and Junior Colleges .....	2 ea.
Public and Private Schools containing grades 8-12.....	1 ea.
<b>COUNTY GOVERNMENT:</b>	
Clerks of Court.....	1 ea.
Registers of Deeds .....	1 ea.
Public Libraries of North Carolina .....	1 ea.
<b>FEDERAL GOVERNMENT:</b>	
President of the United States .....	1
North Carolina Members of the Presidential Cabinet.....	1 ea.
North Carolina Members of the United States Congress.....	2 ea.
Library of Congress .....	3
Resident Judges of the Federal Judiciary and United States Attorneys in North Carolina.....	1 ea.
Secretaries of State of the United States and Territories .....	1 ea.

After making the above distribution, the remainder shall be sold at the cost of publication plus tax and postage and the proceeds from such sales deposited with the State Treasurer for use by the Publications Division of the Secretary of State's Office to defray the expense of publishing the North Carolina Manual. Libraries and educational institutions not covered in the above distribution shall be entitled to a twenty percent (20%) discount on the cost of any purchase(s). (1933, c. 115, s. 2; 1977, c. 378; 1995, c. 509, s. 101; 2001-424, s. 14F.1; 2006-264, s. 29(p); 2008-192, s. 10; 2017-6, s. 3.)

**§ 147-54.1. Division of Publications; duties.**

The Secretary of State is authorized to set up a division to be designated as the Division of Publications and to appoint a director thereof who shall be known as the Director of Publications. This Division shall publish the North Carolina Manual, Directory, Index of Local Legislation and such other publications as may be useful to the members and committees of the General Assembly and other officials of the State and of the various counties and cities. Unless otherwise required by law, the Secretary may publish electronically information permitted or required by this section. The Secretary may sell these publications at such prices as the Secretary deems reasonable; the proceeds of sale shall be paid into the State treasury.

The Division shall also perform all such other duties as may be assigned by the Secretary of State. (1915, c. 202, ss. 1, 2; C.S., ss. 6147, 6148; 1939, c. 316; 1971, c. 685, s. 3; 1977, c. 802, s. 50.31; 1999-260, s. 2.)

**§ 147-54.2. Repealed by Session Laws 1979, c. 477, s. 2.**

**§ 147-54.3. Land records management program.**

(a) The Secretary of State shall administer a land records management program for the purposes (i) of advising registers of deeds, local tax officials, and local planning officials about sound management practices, and (ii) of establishing greater uniformity in local land records systems. The management program shall consist of the activities provided for in subsections (b) through (e) of this section, and other related activities essential to the effective conduct of the management program.

(b) The Secretary of State, in cooperation with the Secretary of Natural and Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall establish minimum standards and provide advice and technical assistance to local governments in implementing and maintaining minimum standards with regard to the following aspects of land records management:

- (1) Uniform indexing of land records;
- (2) Uniform recording and indexing procedures for maps, plats and condominiums; and
- (3) Security and reproduction of land records.

(b1) The Department of Secretary of State, in cooperation with the North Carolina Association of Registers of Deeds, Inc., and the Real Property Section of the North Carolina Bar Association, shall adopt, pursuant to Chapter 150B of the General Statutes, rules specifying the minimum indexing standards established pursuant to subsection (b) of this section and procedures for complying with those minimum standards in land records management. A copy of the standards adopted shall be posted in the office of the register of deeds in each county of the State.

(c) The Secretary of State shall conduct a program for the preparation of county base maps pursuant to standards prepared by the Secretary.

(c1) The Secretary of State, shall, in cooperation with the Secretary of Revenue, conduct a program for the preparation of county cadastral maps pursuant to standards prepared by the Secretary of State.

(d) Upon the joint request of any board of county commissioners and the register of deeds and subject to available resources of personnel and funds, the Secretary shall make a management study of the office of register of deeds, using assistance from the Office of State Human Resources. At the conclusion of the study, the Secretary shall make nonbinding recommendations to the board, the register of deeds, and to the General Assembly.

(d1) The Secretary of State shall make comparative salary studies periodically of all registers of deeds offices and at the conclusion of each study the Secretary of State shall present his written findings and shall make recommendations to the board of county commissioners and register of deeds of each county.

(e) The Secretary of State, in cooperation with the Secretary of Natural and Cultural Resources and in accordance with G.S. 121-5(c) and G.S. 132-8.1, shall undertake research and provide advice and technical assistance to local governments on the following aspects of land records management:

- (1) Centralized recording systems;



- (2) Filming, filing, and recording techniques and equipment;
- (3) Computerized land records systems; and
- (4) Storage and retrieval of land records.

(f) An advisory committee on land records is created to assist the Secretary in administering the land records management program. The Secretary of State shall appoint 12 members to the committee; one member shall be appointed from each of the organizations listed below from persons nominated by the organization:

- (1) The North Carolina Association of Assessing Officers;
- (2) The North Carolina Section of the American Society of Photogrammetry;
- (3) The North Carolina Chapter of the American Institute of Planners;
- (4) The North Carolina Section of the American Society of Civil Engineers;
- (5) The North Carolina Property Mappers' Association;
- (6) The North Carolina Association of Registers of Deeds;
- (7) The North Carolina Bar Association;
- (8) The North Carolina Society of Land Surveyors; and
- (9) The North Carolina Association of County Commissioners.

In addition, three members from the public at large shall be appointed. The members of the committee shall be appointed for four-year terms, except that the initial terms for members listed in positions (1) through (4) above and for two of the members-at-large shall be two years; thereafter all appointments shall be for four years. The Secretary of State shall appoint the chairman, and the committee shall meet at the call of the chairman. The Secretary of State in making the appointments shall try to achieve geographical and population balance on the advisory committee; one third of the appointments shall be persons from the most populous counties in the State containing approximately one third of the State's population, one third from the least populous counties containing approximately one third of the State's population, and one third shall be from the remaining moderately populous counties containing approximately one third of the State's population. Each organization shall nominate one nominee each from the more populous, moderately populous, and less populous counties of the State. The members of the committee shall receive per diem and subsistence and travel allowances as provided in G.S. 138-5. (1977, c. 771, s. 4; c. 932, s. 1; 1985, c. 479, s. 165(d), (e); 1987, c. 738, s. 158(a); 1989, c. 523, s. 8; c. 727, ss. 169, 218(116a); c. 751, s. 14; 1991, c. 689, ss. 181(b), 181(c); c. 697, s. 1; 1993, c. 258, s. 1; 2013-382, s. 9.1(c); 2015-241, s. 14.30(t).)

**§ 147-54.4. Certification of local government property mappers.**

- (a) Definitions. – The following definitions apply in this section:
  - (1) Department. – The Department of the Secretary of State.
  - (2) Large-scale. – A scale that uses an inch to represent no more than 400 feet.
  - (3) Local government. – A county as defined in G.S. 153A-10 and a city as defined in G.S. 160A-1.
  - (4) Property mapper. – A person who is employed by a local government and is responsible for creating and maintaining large-scale cadastral maps.

(b) Certification. – The Department shall establish a certification program for property mappers. The purpose of the program is to protect and enhance the State's investment in local government large-scale cadastral maps. To be certified as a property mapper, an applicant must meet the following minimum requirements and the additional requirements set by the Department:

- (1) Be at least 18 years old.
- (2) Hold a high school diploma or certificate of equivalency.
- (3) Achieve a passing score in courses of instruction approved by the Department covering the following topics:
  - a. The principles and techniques of property mapping.
  - b. The laws of North Carolina governing the listing, appraisal, and assessment of real property for taxation.

The Department shall establish requirements for certification as a property mapper that are in addition to these minimum requirements. The additional requirements shall ensure that an applicant who is certified as a property mapper has the minimum skills necessary to create and maintain large-scale cadastral maps. In establishing these additional requirements, the Department may consult with the advisory committee on land records created by G.S. 147-54.3(f), the North Carolina Property Mappers' Association, and other relevant professional groups. The additional requirements may include mapping experience and a passing score on an examination administered by the Department.

(c) Renewal. – A certification as a property mapper must be renewed every two years. Attendance of 24 hours of continuing education approved by the Department is a condition of renewal of a certification. The Department shall publish a list of courses acceptable for meeting this continuing education requirement.

(d) Application and Fees. – An applicant for certification as a property mapper or renewal of certification as a property mapper must file an application with the Department. The applicant must submit a fee of twenty dollars (\$20.00) with the application. Fees collected under this section shall be credited to the General Fund.

(e) Rules. – The Department may adopt rules to implement this section. Chapter 150B of the General Statutes governs the adoption of rules by the Department. (1993, c. 326, s. 1.)

**§ 147-54.5. Investor Protection and Education Trust Fund; administration; limitations on use of the Fund.**

(a) The Investor Protection and Education Trust Fund created in the Department of the Secretary of State as an expendable trust account to be used by the Secretary of State only for the purposes set forth in this section.

(b) The proceeds of the Investor Protection and Education Trust Fund shall be used by the Secretary of State to provide investor protection and education to the general public and to potential securities investors in the State through:

- (1) The use of the media, including television and radio public service announcements and printed materials; and
- (2) The sponsorship of educational seminars, whether live, recorded, or through other electronic means.

(c) The proceeds of the Investor Protection and Education Trust Fund shall not be used for:

- (1) Travel expenses of the Secretary of State or staff of the Department of the Secretary of State, unless those expenses are directly related to specific

investor protection and education activities performed in accordance with this section.

- (2) General operating expenses of the Department of the Secretary of State, or to supplement General Fund appropriations to the Department of the Secretary of State for other than investor education and protection activities.
- (3) Promoting the Secretary of State or the Department of the Secretary of State.

(d) Expenditures from the Investor Protection and Education Trust Fund shall be made in compliance with State purchasing and contracting requirements for competitive bidding in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes.

(e) Revenues derived from consent orders resulting from negotiated settlements of securities investigations by the Secretary of State shall be credited to the Fund. The State Treasurer shall invest the assets of the Fund according to law. Any interest or other investment income earned by the Investor Protection and Education Trust Fund shall remain in the Fund. The balance of the Investor Protection and Education Trust Fund at the end of each fiscal year shall not revert to the General Fund.

(f) Beginning January 1, 1997, the Department of the Secretary of State shall report annually to the General Assembly's Fiscal Research Division and to the Joint Legislative Commission on Governmental Operations on the expenditures from the Investor Protection and Education Trust Fund and on the effectiveness of investor awareness education efforts of the Department of the Secretary of State. (1996, 2nd Ex. Sess., c. 18, s. 13.)

#### **§ 147-54.6. International relations assistance.**

(a) The Secretary of State may offer direct and indirect assistance in matters relating to international relations and protocol to other governmental agencies and units of the State of North Carolina. The assistance may be provided upon request of the intended recipient when resources are available for these purposes.

(b) The Secretary of State, on behalf of the State, may accept gifts, donations, devises, or other forms of voluntary contributions, apply for grants from public and private sources, and may expend funds received under this subsection for the purpose of promoting international relations and hosting foreign dignitaries and leaders in North Carolina. All funds and gifts received pursuant to this subsection shall be subject to audit by the Office of the State Auditor and all funds shall be expended in conformity with the Executive Budget Act and shall become the property of the State. (1999-260, s. 3; 2011-284, s. 104.)

#### **§ 147-54.7. Abrogation of offensive geographical place-names.**

(a) The General Assembly finds that certain geographical place-names are offensive or insulting to the State's people, history, and heritage. These place-names should be replaced by names that reflect the State's people, history, and heritage without resorting to offensive stereotypes, names, words, or phrases.

(b) The Secretary of State, in consultation with the North Carolina Geographic Information Coordinating Council, and pursuant to federal guidelines, shall adopt procedures to effect the change of geographical place-names that are offensive or insulting. The procedures shall include a notification to the governing body of the county where the offensive or insulting place-name is

deemed to exist that the Council intends to make application to change the name. The county governing body shall have 90 days in which to respond to the Council, and no action to affect a change in the place-name shall be undertaken by the Council until it has reviewed the county's response, or the expiration of the 90-day period, whichever comes first.

(c) The procedures adopted by the Secretary pursuant to this section shall include the consideration of resolutions, if any, passed by the governing body of any county regarding the changing of a geographical place-name within the county. (2003-211, s. 1.)

§ 147-54.7A: Repealed by Session Laws 2006-201, s. 19, effective January 1, 2007.

#### Article 4A.

##### Constitutional Amendments Publication Commission.

#### § 147-54.8. Constitutional Amendments Publication Commission.

(a) There is established within the Department of the Secretary of State the Constitutional Amendments Publication Commission (hereinafter "Commission").

(b) The Commission shall consist of three members who shall serve ex officio as follows: The Secretary of State, the Attorney General, and the Legislative Services Officer. (1983, c. 844, s. 1.)

#### § 147-54.9. Officers; meetings; quorum.

(a) The Secretary of State shall be the Chairman of the Commission.

(b) A quorum shall consist of all three members.

(c) The Commission shall meet on the call of the Chairman or any two members. (1983, c. 844, s. 1.)

#### § 147-54.10. Powers.

(a) At least 75 days before an election in which a proposed amendment to the Constitution, or a revised or new Constitution, is to be voted on, the Commission shall prepare an explanation of the amendment, revision, or new Constitution in simple and commonly used language. The explanation shall include a short caption reflecting the contents, that shall not include a numerical or other reference of order, to be used on the ballot and the printed summary.

(b) The summary prepared by the Commission shall be printed by the Secretary of State, in a quantity determined by the Secretary of State. A copy shall be sent along with a news release to each county board of elections, and a copy shall be available to any registered voter or representative of the print or broadcast media making request to the Secretary of State. The Secretary of State may make copies available in such additional manner as the Secretary may determine. (1983, c. 844, s. 1; 2016-109, s. 4(b).)

#### Article 4B.

##### Business License Information Office.

**§§ 147-54.11 through 147-54.19:** Repealed by Session Laws 2004-124, s. 13.9A(a), effective July 1, 2004.

**§§ 147-54.20 through 147-54.30:** Reserved for future codification purposes.

Article 4C.

Executive Branch Lobbying.

**§§ 147-54.31 through 147-54.44:** Repealed by Session Laws 2006-201, s. 19, effective January 1, 2007.

Article 5.

Auditor.

**§ 147-55:** Repealed by Session Laws 1983, c. 913, s. 1.

**§ 147-56.** Repealed by Session Laws 1983, c. 913, s. 1, effective July 22, 1983.

**§ 147-57.** Repealed by Session Laws 1981, c. 884, s. 12.

**§ 147-58.** Repealed by Session Laws 1983, c. 913, s. 1, effective July 22, 1983.

**§§ 147-59 through 147-61.** Repealed by Session Laws 1981, c. 302.

**§ 147-62:** Recodified as § 143-3.3 by Session Laws 1983, c. 913, s. 49.

**§§ 147-63 through 147-64:** Recodified as § 143-3.4 by Session Laws 1983, c. 913, ss. 50, 51.

Article 5A.

Auditor.

**§ 147-64.1. Salary of State Auditor.**

(a) The salary of the State Auditor shall be set by the General Assembly in the Current Operations Appropriations Act.

(b) In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act. (1983, c. 761, s. 214; c. 913, s. 2; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b); 2013-382, s. 9.1(c).)

**§ 147-64.2. Legislative policy and intent.**

The General Assembly is ultimately responsible for authorizing the expenditure of public moneys, designating the sources from which moneys may be collected, and shaping the administrative structure to perform the work of government throughout the State, and is held finally accountable for how the funds are spent and what is accomplished with them. The legislature should, therefore, provide the basic direction for audits of State agencies.

In the interest of reducing audit overlap and expense at all levels of government, the General Assembly and the Auditor should promote, to the extent possible, coordinated nonduplicating audits of public programs and activities of all governmental levels throughout the State.

It is the intent of this Article that all State agencies, and entities supported, partially or entirely, by public funds be subject to audit under the policy guidance of the Auditor. Such audits shall be made to assist in furnishing the General Assembly, the Governor, the executive departments and agencies of the State, the governing bodies and executive departments of the political subdivisions of the State, and the public in general with an independent evaluation of public program performance. (1983, c. 913, s. 2.)

#### **§ 147-64.3. Legislative and management control system.**

It is the intent of this Article that the State Auditor shall perform or coordinate all audit functions for State government. As appropriate, all State agencies are encouraged to establish, maintain, and use effective systems of management control. The adequacy of these control systems will be reviewed by the Auditor. The Auditor may, at his discretion, use such reviews to limit his audit activity or to suggest guidelines, make recommendations, and provide assistance where necessary within the resources available. (1983, c. 913, s. 2.)

#### **§ 147-64.4. Definitions.**

The words and phrases used in this Article have the following meanings:

- (1) "Audit". – An independent review or examination of government organizations, programs, activities, and functions. The purpose of an audit is to help ensure full accountability and assist government officials and employees in carrying out their responsibilities. The elements of such an audit are:
  - a. Financial and compliance: to determine whether financial operations are properly conducted, whether the financial reports of an audited entity are presented fairly, and whether the entity has complied with applicable laws and regulations; and,
  - b. Economy and efficiency: to determine whether the entity is managing or utilizing its resources (such as personnel and property) in an economical and efficient manner and the causes of any inefficiencies or uneconomical practices, including inadequacies in laws and regulations, management information systems, administrative policies and procedures, or organizational structures; and,
  - c. Program results: to determine whether the desired results or benefits are being achieved, whether the objectives established by the General Assembly or other authorizing body are being met, and whether the

agency has considered alternatives which might yield desired results at lower costs.

- d. An audit may include all three elements or only one or two. It is not intended or desirable that every audit include all three. Economy and efficiency and program result audits should be selected when their use will meet the needs of expected users of audit results.
- (2) "Accounting system". – The total structure of records and procedures which discover, record, classify, and report information on the financial position and operating results of a governmental unit or any of its funds, balanced account groups, and organizational components.
- (3) "Federal agency". – Any department, agency, or instrumentality of the federal government and any federally owned or controlled corporation.
- (4) "State agency". – Any department, institution, board, commission, committee, division, bureau, officer, official or any other entity for which the State has oversight responsibility, including but not limited to, any university, mental or specialty hospital, community college, or clerk of court. (1983, c. 913, s. 2; 1987, c. 564, s. 31.)

**§ 147-64.5. Cooperation with Joint Legislative Commission on Governmental Operations and other governmental bodies.**

(a) Joint Legislative Commission on Governmental Operations. – The Auditor shall furnish copies of any and all audits only when requested by the Joint Legislative Commission on Governmental Operations. The copies shall be in written or electronic form, as requested. Accordingly, the Auditor shall, upon request by the chairmen, appear before the Commission to present findings and answer questions concerning the results of these audits. The Commission is hereby authorized to use these audit findings in its inquiries concerning the operations of State agencies and is empowered to require agency heads to advise the Commission of actions taken or to be taken on any recommendations made in the report or explain the reasons for not taking action.

(b) Requests for Auditor Assistance. – Committees of the General Assembly, the Governor, and other State officials may make written requests that the Auditor undertake, to the extent deemed practicable and within the resources provided, a specific audit or investigation; provide technical assistance and advice; and provide recommendations on management systems, finance, accounting, auditing, and other areas of management interest. The Auditor may request the advice of the Joint Legislative Commission on Governmental Operations in prioritizing these requests and in determining whether the requests are practicable and can be undertaken within the resources provided.

(c) Cooperation with Other Governmental Bodies. – The Auditor shall cooperate, act, and function with other audit or evaluation organizations in the State, with appropriate councils or committees of other states, with governing bodies of the political subdivisions of the State, and with federal agencies in an effort to maximize the extent of intergovernmental audit coordination and thereby avoid unnecessary duplication and expense of audit effort. Nothing in this Article is intended nor shall it be construed as giving

the Auditor control over the internal auditors of any agency. (1983, c. 913, s. 2; 1997-443, s. 25; 2001-424, s. 9.1(b).)

**§ 147-64.6. Duties and responsibilities.**

(a) It is the policy of the General Assembly to provide for the auditing of State agencies by the impartial, independent State Auditor.

(b) The duties of the Auditor are independently to examine into and make findings of fact on whether State agencies:

- (1) Have established adequate operating and administrative procedures and practices; systems of accounting, reporting and auditing; and other necessary elements of legislative or management control.
- (2) Are providing financial and other reports which disclose fairly, consistently, fully, and promptly all information needed to show the nature and scope of programs and activities and have established bases for evaluating the results of such programs and operations.
- (3) Are promptly collecting, depositing, and properly accounting for all revenues and receipts arising from their activities.
- (4) Are conducting programs and activities and expending funds made available in a faithful, efficient, and economical manner in compliance with and in furtherance of applicable laws and regulations of the State, and, if applicable, federal law and regulation.
- (5) Are determining that the authorized activities or programs effectively serve the intent and purpose of the General Assembly and, if applicable, federal law and regulation.

(c) The Auditor shall be responsible for the following acts and activities:

- (1) Audits made or caused to be made by the Auditor shall be conducted in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants, the United States General Accounting Office, or other professionally recognized accounting standards-setting bodies.
- (2) Financial and compliance audits may be made at the discretion of the Auditor without advance notice to the organization being audited. Audits of economy and efficiency and program results shall be discussed in advance with the prospective auditee unless an unannounced visit is essential to the audit.
- (3) The Auditor, on the Auditor's own initiative and as often as the Auditor deems necessary, or as requested by the Governor or the General Assembly, shall, to the extent deemed practicable and consistent with the Auditor's overall responsibility as contained in this act, make or cause to be made audits of all or any part of the activities of the State agencies.
- (4) The Auditor, at the Auditor's own discretion, may, in selecting audit areas and in evaluating current audit activity, consider and utilize, in whole or in part, the relevant audit coverage and applicable reports of the audit



staffs of the various State agencies, independent contractors, and federal agencies. The Auditor shall coordinate, to the extent deemed practicable, the auditing conducted within the State to meet the needs of all governmental bodies.

- (5) The Auditor is authorized to contract with federal audit agencies, or any governmental agency, on a cost reimbursable basis, for the Auditor to perform audits of federal grants and programs administered by the State Departments and institutions in accordance with agreements negotiated between the Auditor and the contracting federal audit agencies or any governmental agency. In instances where the grantee State agency shall subgrant these federal funds to local governments, regional councils of government and other local groups or private or semiprivate institutions or agencies, the Auditor shall have the authority to examine the books and records of these subgrantees to the extent necessary to determine eligibility and proper use in accordance with State and federal laws and regulations.

The Auditor shall charge and collect from the contracting federal audit agencies, or any governmental agencies, the actual cost of all the audits of the grants and programs contracted by him to do. Amounts collected under these arrangements shall be deposited in the State Treasury and be budgeted in the Department of State Auditor and shall be available to hire sufficient personnel to perform these contracted audits and to pay for related travel, supplies and other necessary expenses.

- (6) The Auditor is authorized and directed in the Auditor's reports of audits or reports of special investigations to make any comments, suggestions, or recommendations the Auditor deems appropriate concerning any aspect of such agency's activities and operations.
- (7) The Auditor may charge and collect from each examining and licensing board the actual cost of each audit of such board. Costs collected under this subdivision shall be based on the actual expense incurred by the Auditor's office in making such audit and the affected agency shall be entitled to an itemized statement of such costs. Amounts collected under this subdivision shall be deposited into the general fund as nontax revenue.
- (8) The Auditor shall examine as often as may be deemed necessary the accounts kept by the Treasurer, and if the Auditor discovers any irregularity or deficiency therein, unless the same be rectified or explained to his satisfaction, report the same forthwith in writing to the General Assembly, with copy of such report to the Governor and Attorney General. In addition to regular audits, the Auditor shall check the treasury records at the time a Treasurer assumes office (not to succeed himself or herself), and therein charge the Treasurer with the balance in

- the treasury, and shall check the Treasurer's records at the time the Treasurer leaves office to determine that the accounts are in order.
- (9) The Auditor may examine the accounts and records of any bank or financial institution relating to transactions with the State Treasurer, or with any State agency, or the Auditor may require banks doing business with the State to furnish the Auditor information relating to transactions with the State or State agencies.
  - (10) The Auditor may, as often as the Auditor deems advisable, conduct a detailed review of the bookkeeping and accounting systems in use in the various State agencies which are supported partially or entirely from State funds. Such examinations will be for the purpose of evaluating the adequacy of systems in use by these agencies and institutions. In instances where the Auditor determines that existing systems are outmoded, inefficient, or otherwise inadequate, the Auditor shall recommend changes to the State Controller. The State Controller shall prescribe and supervise the installation of such changes, as provided in G.S. 143B-426.39(2).
  - (11) The Auditor shall, through appropriate tests, satisfy himself or herself concerning the propriety of the data presented in the Comprehensive Annual Financial Report and shall express the appropriate auditor's opinion in accordance with generally accepted auditing standards.
  - (12) The Auditor shall provide a report to the Governor and Attorney General, and other appropriate officials, of such facts as are in the Auditor's possession which pertain to the apparent violation of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee.
  - (13) At the conclusion of an audit, the Auditor or the Auditor's designated representative shall discuss the audit with the official whose office is subject to audit and submit necessary underlying facts developed for all findings and recommendations which may be included in the audit report. On audits of economy and efficiency and program results, the auditee's written response shall be included in the final report if received within 30 days from receipt of the draft report.
  - (14) The Auditor shall notify the General Assembly, the Governor, the Chief Executive Officer of each agency audited, and other persons as the Auditor deems appropriate that an audit report has been published, its subject and title, and the locations, including State libraries, at which the report is available. The Auditor shall then distribute copies of the report only to those who request a report. The copies shall be in written or electronic form, as requested. He shall also file a copy of the audit report in the Auditor's office, which will be a permanent public record. In addition, the Auditor may publish on his or her Web site any reports from audits of State agencies not directly conducted by the Auditor. Nothing

in this subsection shall be construed as authorizing or permitting the publication of information whose disclosure is otherwise prohibited by law.

- (15) It is not the intent of the audit function, nor shall it be so construed, to infringe upon or deprive the General Assembly and the executive or judicial branches of State government of any rights, powers, or duties vested in or imposed upon them by statute or the Constitution.
- (16) The Auditor shall be responsible for receiving reports of allegations of the improper governmental activities as provided in G.S. 147-64.6B. The Auditor shall adopt policies and procedures necessary to provide for the investigation or referral of these allegations.
- (17) Repealed by Session Laws 2009-136, s. 2, effective June 19, 2009.
- (18) Repealed by Session Laws 2010-31, s. 6.15(b), effective July 1, 2010.
- (19) Whenever the Auditor believes that information received or collected by the Auditor may be evidence of a violation of any of the provisions of Subchapter II of Chapter 163A of the General Statutes, or Article 14 of Chapter 120 of the General Statutes, the Auditor shall report that information to the Bipartisan State Board of Elections and Ethics Enforcement and the Secretary of State as appropriate. The Auditor shall be bound by interpretations issued by the Bipartisan State Board of Elections and Ethics Enforcement as to whether or not any information reported by the Auditor under this subdivision involves or may involve a violation of Subchapter II of Chapter 163A of the General Statutes, or Article 14 of Chapter 120 of the General Statutes. Nothing in this subdivision shall be construed to limit the Auditor's authority under subdivision (1) of this subsection.
- (20) Whenever the Auditor believes that information received or collected by the Auditor may be evidence of criminal misconduct, the Auditor shall report that information to either the State Bureau of Investigation or the District Attorney for the county where the alleged misconduct occurred. Nothing in this subdivision shall be construed to limit the Auditor's authority under subdivision (1) of this subsection.
- (21) If an audit undertaken by the Auditor results in a finding that a private person or entity has received public funds as a result of fraud, misrepresentation, or other deceptive acts or practices while doing business with the State or a political subdivision thereof, the Auditor shall submit a detailed written report of the finding, and any additional necessary supporting documentation, to the State Purchasing Officer or the appropriate political subdivision official, as applicable. A report submitted under this subsection may include a recommendation that the private person or entity be debarred from doing business with the State or a political subdivision thereof.

(d) Reports and Work Papers. – The Auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the Auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of the Auditor's office shall be retained according to an agreement between the Auditor and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, and notwithstanding the provisions of G.S. 126-24, pertinent work papers and other supportive material related to issued audit reports may be, at the discretion of the Auditor and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal government who desire access to and inspection of such records in connection with some matter officially before them, including criminal investigations.

Except as provided in this section, or upon an order issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is necessary to a proper administration of justice, audit work papers and related supportive material shall be kept confidential, including any interpretations, advisory opinions, or other information or materials furnished to or by the Bipartisan State Board of Elections and Ethics Enforcement under this section. (1983, c. 913, s. 2; 1985 (Reg. Sess., 1986), c. 1024, ss. 24, 25; 1987, c. 738, s. 62; 1989, c. 236, s. 2; 1999-188, s. 2; 2001-142, s. 2; 2001-424, ss. 9.1(a), 15.2(c); 2002-126, s. 27.2(b); 2002-159, s. 48; 2004-129, s. 46; 2008-215, ss. 1(a), 2, 3; 2009-136, s. 2; 2010-31, s. 6.15(b); 2010-194, s. 27; 2014-100, ss. 25.2, 25.3; 2015-241, s. 25.1(b); 2015-268, s. 7.4; 2017-6, s. 3.)

**§ 147-64.6A:** Repealed by Session Laws 2012-142, s. 8.4, effective July 1, 2012.

**§ 147-64.6B. Reports of improper governmental activities.**

(a) The Auditor shall provide various means, including a telephone hotline, electronic mail, and Internet access to receive reports of allegations of improper governmental activities. The Auditor shall periodically publicize the hotline telephone number, electronic mail address, Internet Web site address, and any other means by which the Auditor may receive reports of allegations of improper governmental activities. Individuals who make a report under this section may choose to remain anonymous until the individual affirmatively consents to having his or her identity disclosed.

(b) The Auditor shall investigate reports of allegations of improper governmental activities of State agencies and State employees within the scope of authority set forth in G.S. 147-64.6, including misappropriation, mismanagement, or waste of State resources, fraud, violations of State or federal law, rule or regulation by State agencies or State employees administering State or federal programs, and substantial and specific danger to the public health and safety. When the allegation involves issues of substantial and specific danger to the public health and safety, the Auditor shall notify the appropriate State agency immediately. When the Auditor believes that an allegation of improper governmental activity is outside the authority set forth in G.S. 147-64.6, the Auditor shall refer the allegation to the appropriate State agency responsible for the enforcement or administration

of the matter for investigation. When the Auditor believes that an allegation of improper governmental activity involves matters set forth in subdivisions (1), (2), or (3) of this subsection, those matters shall be referred as follows:

- (1) Allegations of criminal misconduct to either the State Bureau of Investigation or the District Attorney for the county where the alleged misconduct occurred.
- (2) Allegations of violations of Subchapter II of Chapter 163A and Article 14 of Chapter 120 of the General Statutes to the Bipartisan State Board of Elections and Ethics Enforcement.
- (3) Allegations of violations of Subchapter III of Chapter 163A of the General Statutes to the Bipartisan State Board of Elections and Ethics Enforcement.

(c) All records maintained by the Auditor of reports of unsubstantiated allegations of improper governmental activities shall be destroyed within four years from the date the unsubstantiated allegation was received. (2008-215, s. 1(b); 2017-6, s. 3.)

**§ 147-64.6C. Cost of audit report published.**

Each audit report shall itemize the number of staff hours used in conducting the audit and in preparation of the audit report and the total cost of conducting the audit and preparing the audit report. (2012-142, s. 17.3.)

**§ 147-64.6D. Cost of CPA audit report published.**

Each audit report prepared for a State agency by a Certified Public Accountant shall itemize the number of hours used in conducting the audit and in preparation of the audit report and the total cost of conducting the audit and preparing the audit report. (2012-142, s. 17.4.)

**§ 147-64.7. Authority.**

(a) Access to Persons and Records. –

- (1) The Auditor and the Auditor's authorized representatives shall have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any State agency. The review of State tax returns shall be limited to matters of official business and the Auditor's report shall not violate the confidentiality provisions of tax laws. Notwithstanding confidentiality provisions of tax laws, the Auditor may use and disclose information related to overdue tax debts in support of the Auditor's statutory mission.
- (2) The Auditor and the Auditor's duly authorized representatives shall have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation which is in the possession of any individual, private corporation, institution, association, board, or other organization which pertain to:
  - a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.

- b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State. In order to determine that payments to providers of social and medical services are legal and proper, the providers of such services will give the Auditor, or the Auditor's authorized representatives, access to the records of recipients who receive such services.
  - (3) The Auditor shall, for the purpose of examination and audit authorized by this act, have the authority, and will be provided ready access, to examine and inspect all property, equipment, and facilities in the possession of any State agency or any individual, private corporation, institution, association, board, or other organization which were furnished or otherwise provided through grant, contract, or any other type of funding by the State of North Carolina, or the federal government.
  - (4) All contracts or grants entered into by State agencies or political subdivisions shall include, as a necessary part, a clause providing access as intended by this section.
  - (5) The Auditor and his authorized agents are authorized to examine all books and accounts of any individual, firm, or corporation only insofar as they relate to transactions with any agency of the State.
- (b) Experts; Contracted Audits. –
- (1) The Auditor may obtain the services of independent public accountants, qualified management consultants, or other professional persons and experts as he deems necessary or desirable to carry out the duties and functions assigned under the act.
  - (2) No State agency may enter into any contract for auditing services which may impact on the State's comprehensive annual financial report without consultation with, and the prior written approval of, the Auditor, except in instances where audits are called for by the Governor under G.S. 143C-2-1 and he shall so notify the Auditor. The Auditor shall prescribe policy and establish guidelines containing appropriate criteria for selection and use of independent public accountants, qualified management consultants, or other professional persons by State agencies and governing bodies to perform all or part of the audit function.
- (c) Authority to Administer Oaths, Subpoena Witnesses and Records, and Take Depositions. –
- (1) For the purposes of this Article the Auditor or his authorized representative shall have the power to subpoena witnesses, to take testimony under oath, to cause the deposition of witnesses (residing within or without the State) to be taken in a manner prescribed by law, and to assemble records and documents, by subpoena or otherwise. The subpoena power granted by this section may be exercised only at the specific written direction of the Auditor or his chief deputy.
  - (2) In case any person shall refuse to obey a subpoena, the Auditor shall invoke the aid of any North Carolina court within the jurisdiction of which the investigation is carried on or where such person may be, in requiring the attendance and testimony of witnesses and the production of books, papers,

correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Auditor or officers designated by the Auditor, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. (1983, c. 913, s. 2; 1999-188, s. 1; 2006-203, s. 116; 2007-484, s. 34.5.)

**§ 147-64.7A. Obstruction of audit.**

Any person who shall willfully make or cause to be made to the State Auditor or his designated representatives any false, misleading, or unfounded report for the purpose of interfering with the performance of any audit, special review, or investigation, or to hinder or obstruct the State Auditor or the State Auditor's designated representatives in the performance of their duties, shall be guilty of a Class 2 misdemeanor. (1997-526, s. 1.)

**§ 147-64.8. Independence.**

The Auditor shall maintain independence in the performance of his authorized duties. Except as otherwise provided by law, neither the General Assembly nor the Governor nor any department or agency of the executive or judicial branches of State government shall have the authority to limit the scope, direction, or report of an audit undertaken by the Auditor. No State regulatory agency shall by any fiscal or administrative requirements attempt to limit the scope, direction, or report of an audit undertaken by the Auditor. (1983, c. 913, s. 2.)

**§ 147-64.9. Rules and regulations.**

The Auditor shall make and enforce such reasonable rules and regulations as are necessary for the operation of his office. The Auditor shall install an adequate accounting system for his office and shall keep or cause to be kept a complete, accurate, and adequate record of all fiscal transactions of his office. (1983, c. 913, s. 2.)

**§ 147-64.10. Powers of appointment.**

The Auditor may, subject to the provisions of the North Carolina Human Resources Act, appoint all employees necessary to perform the duties and functions assigned to him by the provisions of this Article.

Except where otherwise provided in this Article, all powers and duties vested in the Auditor may be delegated by him to deputies, assistants, employees, or other auditors, consultants, professionals, and experts, whose services are obtained in accordance with the provisions of this act; but the Auditor shall retain responsibility for the powers and duties so delegated. (1983, c. 913, s. 2; 2013-382, s. 9.1(c).)

**§ 147-64.11. Review of office.**

The Auditor may, on his own initiative and as often as he deems necessary, or as requested by the General Assembly, cause to be made a quality review audit of the

operations of his office. Such a "peer review" shall be conducted in accordance with standards prescribed by the accounting profession. Upon the recommendation of the Joint Legislative Commission on Governmental Operations may contract with an independent public accountant, qualified management consultant, or other professional person to conduct a financial and compliance, economy and efficiency, and program result audit of the State Auditor. (1983, c. 913, s. 2; 2006-203, s. 117.)

**§ 147-64.12. Conflict of interest.**

(a) To preserve the independence and objectivity of the audit function, the Auditor and his employees may not, unless otherwise expressly authorized by statute, serve in any capacity on an administrative board, commission, or agency of government of a political subdivision of the State or any other organization that, under the provisions of this act, they have the responsibility or authority to audit. Nor shall they have a material, direct or indirect financial, or other economic interest in the transactions of any State agency.

(b) The Auditor shall not conduct an audit on a program or activity for which he had management responsibility or in which he has been employed during the preceding two years. The General Assembly shall otherwise provide for the necessary audit of programs and activities within the meaning of this subsection.

If the Auditor's hotline receives a report of allegations of improper governmental activities in a program or activity that the Auditor is prohibited by this subsection from auditing, the Hotline Manager shall transmit the report to the Legislative Services Officer or his designee. The report shall retain the same confidentiality after transmittal to the General Assembly that it had in the possession of the Auditor. (1983, c. 913, s. 2; 1993, c. 152, s. 1; 1996, 2nd Ex. Sess., c. 18, s. 8(n).)

**§ 147-64.13. Construction.**

This Article shall be construed liberally in the aid of its declared purpose. It is the intent of this Article that the establishment of the Office of the Auditor and the duties, powers, qualifications, and purposes herein specified shall take precedence over any conflicting part or application of any other law. (1983, c. 913, s. 2.)

**§ 147-64.14. Severability.**

If any provision of this Article or the application thereof to any person, State agency, political subdivision, or circumstance is held invalid, such invalidation shall not affect other provisions or applications of this Article which can be given effect without the invalid provision of application, and to this end the provisions of this Article are declared severable. (1983, c. 913, s. 2.)

Article 6.

Treasurer.

**§ 147-65. Salary of State Treasurer.**



The salary of the State Treasurer shall be as established in the Current Operations Appropriations Act. In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act. (Code, s. 3723; 1891, c. 505; Rev., s. 2739; 1907, c. 830, s. 3; c. 994, s. 2; 1917, c. 161; 1919, c. 233; c. 247, s. 3; C.S., s. 3868; Ex. Sess. 1920, c. 49, s. 2; 1921, c. 11, s. 1; 1935, c. 249; 1941, c. 1; 1947, c. 1041; 1949, c. 1278; 1953, c. 1, s. 2; 1957, c. 1; 1963, c. 1178, s. 1; 1967, c. 1130; c. 1237, s. 1; 1969, c. 1214, s. 1; 1971, c. 912, s. 1; 1973, c. 778, s. 1; 1975, 2nd Sess., c. 983, s. 16; 1977, c. 802, s. 42.9; 1983, c. 761, s. 215; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b); 2013-382, s. 9.1(c).)

**§ 147-66. Office and office hours.**

The Treasurer shall keep his or her office at the City of Raleigh, and shall attend there between the hours of 10 o'clock A.M. and three o'clock P.M., Saturdays, Sundays, periods of travel, and legal holidays excepted. The Treasurer shall be allowed such office room as may be necessary. (1868-9, c. 270, ss. 80, 81; Code, s. 3362; Rev., s. 5369; C.S., s. 7679; 2016-55, s. 1.1.)

**§ 147-67. Repealed by Session Laws 1981, c. 884, s. 14.**

**§ 147-68. To receive and disburse moneys; to make reports.**

(a) It is the duty of the Treasurer to receive all moneys which shall from time to time be paid into the treasury of this State; and to pay all warrants legally drawn on the Treasurer.

(b) No moneys shall be paid out of the treasury except on warrant unless there is a legislative appropriation or authority to pay the same.

(c) It shall be the responsibility of the Treasurer to determine that all warrants presented to him for payment are valid and legally drawn on the Treasurer.

(d) Recodified as G.S. 147-69.12(c) by Session Laws 2016-55, s. 4.1(b), effective July 1, 2016, and applicable to all reporting periods beginning on or after that date.

(d1) Repealed by Session Laws 2016-55, s. 4.1(d), effective July 1, 2016, and applicable to all reporting periods beginning on or after that date.

(d2) After consulting with the Select Committee on Information Technology and the Joint Legislative Commission on Governmental Operations and after consultation with and approval of the Information Resources Management Commission, the Department of State Treasurer may spend departmental receipts for the 2000-2001 fiscal year to continue improvement of the Department's investment banking operations system, retirement payroll systems, and other information technology infrastructure needs. The Department of State Treasurer shall report by January 1, 2001, and annually thereafter to the following regarding the amount and use of the departmental receipts: the Joint Legislative Commission on Governmental Operations, the Chairs of the General Government Appropriations Subcommittees of both the House of Representatives and the Senate, and the Joint Legislative Committee on Information Technology.

(e) The State Treasurer, in carrying out the responsibilities of this section, shall be independent of any fiscal control exercise by the Director of the Budget or the Department of Administration and shall be responsible to the General Assembly and the people of North Carolina for the efficient and faithful exercise of the responsibilities of his office. The State Treasurer, for all other purposes, is subject to Chapter 143C of the General Statutes. (1868-9, c. 270, s. 71; Code, s. 3356; Rev., s. 5370; C.S., s. 7682; 1955, c. 577; 1957, c. 269, s. 1; 1981 (Reg. Sess., 1982), c. 1282, s. 65; 1983, c. 913, s. 52; 2000-67, s. 24A; 2003-284, s. 28.2(a); 2004-129, s. 46A; 2006-203, s. 118; 2007-323, s. 13.2(b); 2016-55, ss. 4.1(b), (d).)

#### **§ 147-68.1. Banking operations.**

The cost of administration, management, and operations of the banking operations of the Department of State Treasurer shall be apportioned equitably among the funds and programs using these services, and the costs so apportioned shall be deposited with the State Treasurer as a general fund nontax revenue. The cost of administration, management and operations of the banking operations of the Department of State Treasurer shall be covered by an appropriation to the State Treasurer for this purpose in the Current Operations Appropriations Act. (1983 (Reg. Sess., 1984), c. 1034, s. 118.)

#### **§ 147-68.2. Confidentiality of warrants issued by the State.**

Information contained in records held by the State about outstanding, unpaid warrants issued by the State are confidential and not available for public inspection to the extent that the Treasurer determines that information would be sufficient to counterfeit a warrant. (2017-129, s. 6.)

#### **§ 147-69. Deposits of State funds in banks and savings and loan associations regulated.**

Banks and savings and loan associations having State deposits shall furnish to the Auditor of the State, upon the Auditor's request, a statement of the moneys which have been received and paid by them on account of the treasury. The Treasurer shall keep in the Treasurer's office a full account of all moneys deposited in and drawn from all banks and savings and loan associations in which the Treasurer may deposit or cause to be deposited any of the public funds, and these accounts shall be open to the inspection of the Auditor. The Treasurer shall sign all checks, and no depository bank or savings and loan association shall be authorized to pay checks not bearing the Treasurer's official signature. The Treasurer is authorized to use a facsimile signature machine or device in affixing the Treasurer's signature to warrants, checks or any other instrument the Treasurer is required by law to sign. The Commissioner of Banks, the bank examiners, and the savings and loan examiners, when so required by the State Treasurer, shall keep the State Treasurer fully informed at all times as to the condition of all these depository banks and savings and loan associations, so as to fully protect the State from loss. The State Treasurer shall, before making deposits in any bank or savings and loan association, require ample security from the bank or savings and loan association for these deposits. (1905, c. 520; Rev., s. 5371;

1915, c. 168; 1917, c. 159; C.S., s. 7684; 1931, c. 127, s. 1; c. 243, s. 5; 1933, c. 175, s. 1; 1945, c. 644; 1949, c. 1183; 1967, c. 398, s. 2; 1977, c. 401, s. 1; 1983, c. 158, s. 4; 1987, c. 751, s. 1; 1989, c. 76, s. 27; 2001-193, s. 16; 2004-203, s. 11.)

**§ 147-69.1. Investments authorized for General Fund and Highway Funds assets.**

(a) The Governor and Council of State, with the advice and assistance of the State Treasurer, shall adopt such rules and regulations as shall be necessary and appropriate to implement the provisions of this section.

(b) This section applies to funds held by the State Treasurer to the credit of:

- (1) The General Fund;
- (2) The Highway Fund and Highway Trust Fund.

(c) **(Effective until January 31, 2017)** It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States.
- (2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, Fannie Mae, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association.
- (3) Repurchase Agreements with respect to one or more of the following:
  - a. Securities issued or guaranteed by the United States government or its agencies.
  - b. Securities eligible for investment by this section executed by a bank or trust company or by primary or other reporting dealers to the Federal Reserve Bank of New York.
  - c. Securities eligible for investment by this section executed by a registered broker-dealer that is subject to the rules and regulations of the U.S. Securities and Exchange Commission and is a member in good standing of the Financial Industry Regulatory Authority.
- (4) Obligations of the State of North Carolina.
- (5) Certificates of deposit and other deposit accounts of financial institutions under any of the following conditions:
  - a. With financial institutions with a physical presence in the State for the purpose of receiving commercial or retail deposits; provided that any principal amount of such deposit in excess of the amount insured by the federal government or any agency thereof, be fully secured by surety bonds, or be fully collateralized; provided further that the rate of return

or investment yield may not be less than that available in the market on United States government or agency obligations of comparable maturity.

b. With financial institutions with a physical presence inside or outside the State, in accordance with all of the following conditions:

1. The funds are initially deposited through a bank or savings and loan association in the State that is an official depository and that is selected by the State Treasurer, provided that the rate of return or investment yield shall not be less than that available in the market on United States government or agency obligations of comparable maturity.
2. The selected bank or savings and loan association arranges for the redeposit of the funds in deposit accounts of the State in one or more federally insured banks or savings and loan associations wherever located, provided that no State funds shall be deposited in a bank or savings and loan association that at the time holds other deposits from the State.
3. The full amount of principal and any accrued interest of each deposit account are covered by federal deposit insurance.
4. The selected bank or savings and loan association acts as custodian for the State with respect to the deposit in the State's account.
5. On the same date that the State funds are redeposited, the selected bank or savings and loan association receives an amount of federally insured deposits from customers of other financial institutions wherever located equal to or greater than the amount of the funds invested by the State through the selected bank or savings and loan association pursuant to this sub-subdivision.

- (6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.
- (7) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation.
- (8) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.
- (9) Asset-backed securities (whether considered debt or equity) provided they bear the highest rating of at least one nationally recognized rating

service and do not bear a rating below the highest rating by any nationally recognized rating service which rates the particular securities.

- (10) Corporate bonds and notes provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest by any nationally recognized rating service which rates the particular obligation.

(c) **(Effective January 31, 2017)** It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States.
- (2) Obligations of the Federal Farm Credit Bank, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, Fannie Mae, the Government National Mortgage Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.
- (3) Repurchase Agreements with respect to one or more of the following:
  - a. Securities issued or guaranteed by the United States government or its agencies.
  - b. Securities eligible for investment by this section executed by a bank or trust company or by primary or other reporting dealers to the Federal Reserve Bank of New York.
  - c. Securities eligible for investment by this section executed by a registered broker-dealer that is subject to the rules and regulations of the U.S. Securities and Exchange Commission and is a member in good standing of the Financial Industry Regulatory Authority.
- (4) Obligations of the State of North Carolina.
- (5) Certificates of deposit and other deposit accounts of financial institutions under any of the following conditions:
  - a. With financial institutions with a physical presence in the State for the purpose of receiving commercial or retail deposits; provided that any principal amount of such deposit in excess of the amount insured by the federal government or any agency thereof, be fully secured by surety bonds, or be fully collateralized; provided further that the rate of return or investment yield may not be less than that available in the market on United States government or agency obligations of comparable maturity.
  - b. With financial institutions with a physical presence inside or outside the State, in accordance with all of the following conditions:
    1. The funds are initially deposited through a bank or savings and loan association in the State that is an official depository and that is selected by the State Treasurer, provided that the rate of return or investment yield shall not be less than that available in the

market on United States government or agency obligations of comparable maturity.

2. The selected bank or savings and loan association arranges for the redeposit of the funds in deposit accounts of the State in one or more federally insured banks or savings and loan associations wherever located, provided that no State funds shall be deposited in a bank or savings and loan association that at the time holds other deposits from the State.
  3. The full amount of principal and any accrued interest of each deposit account are covered by federal deposit insurance.
  4. The selected bank or savings and loan association acts as custodian for the State with respect to the deposit in the State's account.
  5. On the same date that the State funds are redeposited, the selected bank or savings and loan association receives an amount of federally insured deposits from customers of other financial institutions wherever located equal to or greater than the amount of the funds invested by the State through the selected bank or savings and loan association pursuant to this sub-subdivision.
- (6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.
  - (7) Prime quality commercial paper that, when acquired, bears the highest rating, such as a minimum of "P1," "A1," or "F1," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission, and does not bear a rating below the highest by any nationally recognized rating service which rates the particular obligation.
  - (8) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that when bills or drafts are acquired, the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations that bear the highest rating, such as a minimum of "P1," "A1," or "F1," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission, and do not bear a rating below the highest by any nationally recognized rating service which rates the particular obligations.
  - (9) Asset-backed securities (whether considered debt or equity) provided, when acquired, the securities bear the highest rating, such as "AAA" or "Aaa," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission, and do not bear a rating below the highest rating by any nationally recognized rating service which rates the particular securities.

- (10) Corporate bonds and notes provided they, when acquired, bear the highest rating, such as "AAA" or "Aaa," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission, and do not bear a rating below the highest by any nationally recognized rating service which rates the particular obligation.

(d) Unless otherwise provided by law, the interest or income received and accruing from all deposits or investments of such cash balances shall be paid into the State's General Fund, except that all interest or income received and accruing on the monthly balance of the Highway Fund and Highway Trust Fund shall be paid into the State Highway Fund and Highway Trust Fund. The cash balances of the several funds may be combined for deposit or investment purposes; and when such combined deposits or investments are made, the interest or income received and accruing from all deposits or investments shall be prorated among the funds in conformity with applicable law and the rules and regulations adopted by the Governor and Council of State.

(e) Repealed by Session Laws 2016-55, s. 4.1(c), effective July 1, 2016, and applicable to all reporting periods beginning on or after that date.

(f) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

(g) Repealed by Session Laws 2001-444, s. 1, effective October 1, 2001. (1943, c. 2; 1949, c. 213; 1957, c. 1401; 1961, c. 833, s. 2.2; 1967, c. 398, s. 1969, c. 125; 1975, c. 482; 1979, c. 467, s. 1; c. 717, s. 1; 1981, c. 801, ss. 1, 2; 1985, c. 313, s. 3; 1987, c. 751, ss. 2-4; 1987 (Reg. Sess., 1988), c. 882, s. 5; 1989, c. 76, s. 28; c. 751, s. 7(43); 1989 (Reg. Sess., 1990), c. 813, s. 10; 1991 (Reg. Sess., 1992), c. 959, s. 75; 1993, c. 105, s. 2; 1999-251, s. 1; 2001-444, s. 1; 2001-487, s. 14(m); 2005-394, s. 1; 2013-305, s. 3; 2015-241, s. 21.2(c); 2015-268, s. 7.5; 2016-55, ss. 1.2, 4.1(c).)

#### **§ 147-69.2. Investments authorized for special funds held by State Treasurer.**

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

- (1) The Teachers' and State Employees' Retirement System of North Carolina.
- (2) The Consolidated Judicial Retirement System of North Carolina.
- (3) The State Health Plan for Teachers and State Employees.
- (4) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (5) The Disability Salary Continuation Income Plan of North Carolina.
- (6) The North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.
- (7) The North Carolina Local Governmental Employees' Retirement System.
- (8) The Legislative Retirement System of North Carolina.
- (9) The Escheat Fund.
- (10) The Legislative Retirement Fund.
- (11) The State Education Assistance Authority.
- (12) The State Property Fire Insurance Fund.
- (13) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.

- (14) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (15) The Public School Insurance Fund.
- (16) The Liability Insurance Trust Fund.
- (16a) The University of North Carolina Hospitals at Chapel Hill funds, except appropriated funds, deposited with the State Treasurer pursuant to G.S. 116-37.2.
- (17) Trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1.
- (17a) North Carolina Veterans Home Trust Fund.
- (17b) North Carolina National Guard Pension Fund.
- (17c) Retiree Health Benefit Fund.
- (17d) The Election Fund.
- (17e) The North Carolina State Lottery Fund.
- (17f) Funds deposited with the State Treasurer by public hospitals pursuant to G.S. 159-39(g).
- (17g) Funds deposited with the State Treasurer by Local Government Other Post-Employment Benefits Trusts pursuant to G.S. 159-30.1.
- (17h) The Local Government Law Enforcement Special Separation Allowance Fund.
- (17i) The North Carolina Conservation Easement Endowment Fund.
- (17j) The Conservation Grant Fund.
- (17k) The Wildlife Endowment Fund.
- (18) Any other special fund created by or pursuant to law for purposes other than meeting appropriations made pursuant to the Executive Budget Act.
- (19) The Swain County Settlement Trust Fund.
- (20) Institutional funds of the colleges of the North Carolina Community College System.
- (21) The Disability Income Plan of North Carolina.

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on these funds. The State Treasurer may invest the funds as provided in this subsection in the manner authorized by subsection (e) of this section. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then that investment shall continue to be authorized by this subsection, and none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications. For purposes of computing market values on which percentage limitations on investments in this subsection are based, all investments shall be valued as of the last date of the most recent fiscal quarter. Notwithstanding anything in this section to the contrary, the State Treasurer shall categorize investment management arrangements according to the primary investment type or primary strategy utilized under the arrangement authorized under subsection (e) of this



section. No investment management arrangement may be categorized in more than one of the subdivisions of this section. The State Treasurer shall select from among the following investments subject to the following limitations and requirements:

- (1) Investments authorized by G.S. 147-69.1(c)(1)-(7).
- (2) General obligations of other states of the United States.
- (3) General obligations of cities, counties and special districts in North Carolina.
- (4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or outside the United States, including obligations that are convertible into equity securities, if, when acquired, the obligations are within one of the four highest rating categories regardless of gradations, such as ratings beginning with "AAA," "AA," "A," or either "BBB" or "Baa," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission.
- (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- (6) Asset-backed securities (whether considered debt or equity), if, when acquired, the obligations are within one of the four highest ratings categories regardless of gradations, such as ratings beginning with "AAA," "AA," "A," or either "BBB" or "Baa," of at least one nationally recognized rating service designated by the U.S. Securities and Exchange Commission.
- (6a) In addition to the limitations and requirements with respect to the investments of the Retirement Systems set forth in this subsection, the State Treasurer shall select investments of the assets of the Retirement Systems such that investments made pursuant to subdivisions (b)(1) through (6) of this section shall at all times equal or exceed twenty percent (20%) of the market value of all invested assets of the Retirement Systems.
- (6b) Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8), they may be invested, within or outside the United States, in obligations, debt securities, and asset-backed securities, whether considered debt or equity, including obligations and securities convertible into other securities, that do not meet the requirements of any of subdivisions (b)(1) through (6) of this section nor subdivision (b)(7) of this section. The amount invested under this subdivision shall not exceed seven and one-half percent (7.5%) of the market value of all invested assets of the Retirement Systems.
- (7) Retirement Systems' assets referred to in subdivision (8) of this subsection may be invested in strategies managed primarily for the purpose of owning real estate or related debt financing, excluding asset-backed financing and timberlands, located within or outside the

United States. The amount invested under this subdivision shall not exceed ten percent (10%) of the market value of all invested assets of the Retirement Systems.

(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firefighters' and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, the Registers of Deeds' Supplemental Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), they may be invested in a strategy composed primarily of equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of the exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States as long as the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision are subject to the following limitations:

- a. Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
- a1. The aggregate amount of the investments cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.
- b. The aggregate amount of the investment invested through investment companies described in sub-subdivision (e)(4)b. of this section shall not exceed eight and one-half percent (8.5%) of the market value of all invested assets of the Retirement Systems, except that the market value of group trusts and individual, common, or collective trust funds of banks and trust companies shall not be applied against this limit.
- c. Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.

(9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested in (i) a strategy composed primarily of private equity, or corporate buyout transactions, within or outside the United States or (ii) an arrangement authorized under subsection (e) of this section with the primary purpose to engage in other strategies not expressly authorized by any other subdivision of this subsection. The amount invested under this subdivision shall not exceed eight and three-quarters percent (8.75%) of the market value of all invested assets of the Retirement Systems.

(9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, they may be invested, within or outside the United States, in obligations, debt securities, asset-backed securities, whether considered debt or equity, and other investments that are acquired by the Treasurer for the primary purpose of providing protection against risks associated with inflation, along with timberland, natural

resources, commodities, infrastructure, transportation, agriculture, and other tangible and intangible real assets. The amount invested under this subdivision shall not exceed seven and one-half percent (7.5%) of the market value of all invested assets of the Retirement Systems.

- (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.
- (10a) With respect to Retirement Systems' assets, as defined in subdivision (8) of this subsection, the market value of any of subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this subsection shall not exceed ten percent (10%) of the market value of all invested assets of the Retirement Systems; and the aggregate market value of all assets invested pursuant to subdivisions (6c) and (7), sub-subdivision b. of subdivision (8), and subdivisions (9) and (9a) of this subsection shall not exceed thirty-five percent (35%) of the market value of all invested assets of the Retirement Systems.
- (11) Repealed by Session Laws 2013-360, s. 6.3(c), effective July 1, 2013.
- (12) It is the intent of the General Assembly that the Escheat Fund provide a perpetual and sustainable source of funding for the purposes authorized by the State Constitution. Accordingly, the following provisions apply:
  - a. With respect to assets of the Escheat Fund, in addition to those investments authorized by subdivisions (1) through (6) of this subsection, up to ten percent (10%) of the assets may be invested in the investments authorized under subdivisions (6c) through (9a) of this subsection, notwithstanding the percentage limitations imposed on the Retirement Systems' investments under those subdivisions, and provided that the State Treasurer may invest the assets as provided in subsection (e) of this section.
  - b. Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.
  - c. The State Treasurer shall invest, in addition to those investments authorized by sub-subdivision a. of this subdivision, ten percent (10%) of the net assets of the Escheat Fund as authorized under G.S. 147-69.2A.

(b1) The State Treasurer shall appoint an Investment Advisory Committee, which shall consist of seven members: the State Treasurer, who shall be chairman ex officio; two members selected from among the members of the boards of trustees of the Retirement Systems; and four members selected from the general public. All appointed members must have experience in areas relevant to the administration of a large, diversified investment program, including, but not limited to, investment management, securities law, real estate development, or absolute return strategies. The State Treasurer shall also appoint a Secretary of the Investment Advisory Committee who need not be a member of the committee. Members of the committee shall receive for their services the same per diem and allowances granted to members of the State boards and commissions generally. The committee shall have advisory powers only and membership shall not be deemed a public office within the meaning of Article VI, Section 9 of the Constitution of North Carolina or G.S. 128-1.1.

(b2) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17f) of this section in any of the investments authorized under subdivisions (b)(1) through (6), subdivision (b)(6c), and subdivision (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess reasonable fees, not to exceed 15 basis points per annum, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection by a hospital shall remain the funds of that hospital, and interest or other investment income earned thereon shall be prorated and credited to the contributing hospital on the basis of the amounts thereof contributed, figured according to sound accounting principles. Fees assessed by the State Treasurer may be used to defray the cost of administering investments pursuant to this subsection and expenditures authorized under this section.

(b3) The State Treasurer may invest funds deposited pursuant to subdivision (a)(16a) of this section in any of the investments authorized under subdivisions (1) through (6), subdivision (6c) and subdivision (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess reasonable fees, not to exceed 15 basis points per annum, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection by the University of North Carolina Hospitals at Chapel Hill shall remain the funds of the University of North Carolina Hospitals at Chapel Hill, and interest or other investment income earned thereon shall be prorated and credited to the University of North Carolina Hospitals at Chapel Hill on the basis of the amounts thereof contributed, figured according to sound accounting principles. Fees assessed by the State Treasurer may be used to defray the cost of administering investments pursuant to this subsection and expenditures authorized under this section.

(b4) In addition to the investments authorized under subdivisions (b)(1) through (6) of this section, the State Treasurer may invest funds deposited pursuant to subdivision (17g) of subsection (a) of this section in any of the investments authorized under subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. Funds deposited pursuant to this subsection by a Local Government Other Post-Employment Benefits Trust and interest or other investment income earned from those funds shall be prorated and credited to the contributing trust on the basis of the amounts contributed, figured according to sound accounting principles. For investments under subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess reasonable fees of up to 15 basis points per annum as a condition of participation pursuant to this subsection. Fees assessed by the State Treasurer may be used to defray the costs of administering the Fund and expenditures authorized under this section.

(b5) In addition to the investments authorized under subdivisions (b)(1) through (6) of this section, the State Treasurer may invest funds deposited in the Local Government Law Enforcement Special Separation Allowance Fund in any of the investments authorized

under subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. For investments from that Fund made under subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess reasonable fees of up to 15 basis points per annum as a condition of making the investment. The fee may be used to defray the costs of administering the Fund and expenditures authorized under this section.

(c) Repealed by Session Laws 1995, c. 501, s. 2.

(d) The State Treasurer may invest funds deposited pursuant to subdivisions (17i), (17j), and (17k) of subsection (a) of this section in any of the investments authorized under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of participation pursuant to this subsection. Fees assessed by the State Treasurer may be used to defray the costs of administering the funds and expenditures authorized under this section. Funds deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation Easement Endowment Fund, the Conservation Grant Fund, or the Wildlife Endowment Fund, as applicable, and interest or other investment income earned thereon shall be prorated and credited to the North Carolina Conservation Easement Endowment Fund, the Conservation Grant Fund, or the Wildlife Endowment Fund on the basis of the amounts contributed to the respective Funds, figured according to sound accounting principles.

(e) Investments made pursuant to this section may be made as internally managed investments by the State Treasurer or may be made through third-party investment management arrangements, under the following conditions:

- (1) Internally managed portfolios shall be subject to industry standard portfolio guidelines developed with periodic consultation by the Investment Advisory Committee.
- (2) In assessing whether to invest directly or to utilize indirect third-party investment management arrangements, the State Treasurer shall consider all material factors he or she considers relevant to the decision consistent with the Treasurer's fiduciary duties under G.S. 147-69.7, including financial, operational, and investment expertise and resources, alignment of interests and investor protections, transparency and repeatability of investment process, risk controls, and cost-effectiveness.
- (3) For any third-party investment management arrangements, the investment manager must have total assets under management of at least one hundred million dollars (\$100,000,000) at the inception of the investment management arrangement with the State Treasurer.
- (4) Third-party investment management arrangements may be with persons and legal entities located within or outside the United States, including through any of the following:

- a. Contractual arrangements in which the investment manager has delegated discretion and authority to invest assets.
  - b. Investment companies as defined under United States generally accepted accounting principles as promulgated by the Financial Accounting Standards Board, including without limitation entities registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; limited partnerships; limited liability companies or other limited liability investment vehicles; and insurance contracts that provide for participation in individual or pooled separate accounts of insurance companies.  
Any limited liability investment vehicles organized by the State Treasurer shall be deemed investment companies for the purposes of this subsection.
- (5) Investment companies shall provide annual audited financial statements to the State Treasurer, unless the State Treasurer waives the requirement after conducting a cost-benefit analysis.
  - (6) In connection with any investment otherwise authorized under this section, the State Treasurer may enter into an indemnification agreement provided that, under any agreement, the liability of the State Treasurer will be limited to the amount of the State Treasurer's contractual investment. (1979, c. 467, s. 2; 1983, c. 702, ss. 1-9; 1987, c. 446, s. 1; c. 751, s. 5; 1987 (Reg. Sess., 1988), c. 1070; 1989, c. 770, s. 54; 1989 (Reg. Sess., 1990), c. 813, s. 11; c. 848, s. 5; 1991, c. 542, s. 16; c. 636, s. 3; c. 749, s. 8; 1993 (Reg. Sess., 1994), c. 777, s. 4(i); 1995, c. 346, s. 2; c. 501, s. 2; 1997-456, s. 27; 1999-237, s. 27.16; 1999-251, s. 2; 2000-160, s. 2; 2001-444, ss. 2, 3; 2003-12, s. 2; 2004-124, s. 30.22(b); 2005-144, s. 7; 2005-201, s. 2; 2005-252, s. 1; 2005-276, s. 28.17; 2005-344, s. 10; 2005-417, s. 2; 2007-323, s. 27.7; 2007-384, ss. 2, 3, 7, 8; 2008-13, s. 2; 2008-107, ss. 12.9(b), (c), 12.13; 2009-98, s. 1; 2009-283, s. 2; 2009-451, s. 25.2(a); 2010-175, ss. 3, 4; 2011-145, ss. 6.10(a), 8.20(c); 2011-211, s. 1; 2011-340, s. 4(a), (b); 2012-130, s. 10; 2012-142, s. 6.4; 2012-178, s. 6; 2013-284, s. 1(d); 2013-360, s. 6.3(c); 2013-398, s. 1; 2015-164, s. 3(a); 2015-241, ss. 6.3(a), 14.2; 2016-55, s. 1.3; 2017-57, ss. 13A.2(b), (c); 2017-102, s. 28.1(a); 2017-125, s. 6.)

**§ 147-69.2A. Investments; special funds held by the State Treasurer.**

(a) Firm to Administer Special Fund. – Following a public procurement process, a designee of the Governor, a designee of the State Treasurer, a designee of the Speaker of the House of Representatives, and a designee of the President Pro Tempore of the Senate shall jointly and unanimously select a third-party professional investment management firm, subject to the rules and regulations of the U.S. Securities and Exchange Commission, to administer a special fund created to invest assets described in G.S. 147-69.2(b)(12)c. and select investment opportunities appropriate for receiving allocations from the Fund on

the basis of potential return on investment and the risks attendant thereto. The State Treasurer shall assign professional and clerical staff to assist in the oversight of the Fund. All costs for the third-party investment management firm and the professional and clerical staff shall be borne by the Fund pursuant to G.S. 147-69.3(f). The State Treasurer shall discharge his or her duties with respect to the Fund as a fiduciary consistent with G.S. 147-69.7.

(b) Organization and Reporting. – All documents of the Governor or the State Treasurer concerning the Fund are public records governed by Chapter 132 of the General Statutes and any applicable provisions of the General Statutes protecting confidential information.

The State Treasurer and the Governor shall jointly develop and adopt an investment policy statement for the Fund.

The State Treasurer and Governor shall jointly adopt a common policy to prevent conflicts of interests such that (i) the designees of the State Treasurer and Governor who selected the third-party investment management firm, (ii) the staff of the State Treasurer overseeing the Fund, and (iii) the third-party investment management firm's employees selecting or overseeing Fund investments do not provide services for compensation (as an employee, consultant, or otherwise), within two years after the end of their service to the Fund, to any entity in which an investment from the Fund was made.

By October 1, 2015, and at least semiannually thereafter, the State Treasurer shall submit a report to the Governor, the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on investments made from the Fund and any return on investment. This report shall be made for the Fund in lieu of the reports required by G.S. 147-69.8 and G.S. 147-69.12(b).

(c) Types of Investments. – Assets of the Fund may be invested in those types of investments authorized for the North Carolina Retirement Systems by G.S. 147-69.2(b), notwithstanding the percentage limitations imposed on the Retirement Systems' investments under those subdivisions.

(d) Report on Escheat Fund Financial Status. – The State Treasurer shall engage a third-party professional consultant to conduct an assessment and projection of the financial status of the Escheat Fund. The associated costs for the services may be directly charged to the Escheat Fund. The State Treasurer shall communicate the assessment of the consultant in an annual report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairs of the respective appropriations and appropriate substantive committees of each chamber. The annual report shall evaluate claims by owners upon the Escheat Fund, current and projected investment returns, and projected contributions to the Escheat Fund, current and projected legislative appropriations, and authorized expenses. In the report, the State Treasurer shall assess the status of utilizing the Escheat Fund as an endowment fund and shall recommend an annual amount available for the funding of scholarships, loans, and grants from the Fund. The annual report shall be presented no later than December 31 of each year. (2015-241, s. 6.3(b); 2016-55, ss. 1.4(a), (b), 4.3; 2017-129, s. 10.)

**§ 147-69.3. (Effective until January 31, 2017) Administration of State Treasurer's investment programs.**

(a) The State Treasurer shall establish, maintain, administer, manage, and operate within the Department of State Treasurer one or more investment programs for the deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S. 147-69.2.

(b) Any official, board, commission, other public authority, local government, school administrative unit, local ABC board, or community college of the State having custody of any funds not required by law to be deposited with and invested by the State Treasurer may deposit all or any portion of those funds with the State Treasurer for investment in one of the investment programs established pursuant to this section, subject to any provisions of law with respect to eligible investments, provided that any occupational licensing board as defined in G.S. 93B-1 may participate in one of the investment programs established pursuant to this section regardless of whether or not the funds were required by law to be deposited with and invested by the State Treasurer. In the absence of specific statutory provisions to the contrary, any of those funds may be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon request from any depositor eligible under this subsection, the State Treasurer may authorize moneys invested pursuant to this subsection to be withdrawn by warrant on the State Treasurer.

(c) The State Treasurer's investment programs shall be so managed that in the judgment of the State Treasurer funds may be readily converted into cash when needed.

(d) Except as provided by G.S. 147-69.1(d), the total return earned on investments shall accrue pro rata to the fund whose assets are invested according to the formula prescribed by the State Treasurer with the approval of the Governor and Council of State.

(e) The State Treasurer has full powers as a fiduciary to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities or investments in which any of the programs created pursuant to this section have been invested, and may reinvest the proceeds from the sale of those securities or investments and any other investable assets of the program.

(f) The cost of administration, management, and operation of investment programs established pursuant to this section shall be apportioned equitably among the programs in such manner as may be prescribed by the State Treasurer, such costs to be paid from each program, and to the extent not otherwise chargeable directly to the income or assets of the specific investment program or pooled investment vehicle, shall be deposited with the State Treasurer as a General Fund nontax revenue. The cost of administration, management, and operation of investment programs established pursuant to this section and not directly paid from the income or assets of such program shall be covered by an appropriation to the State Treasurer for this purpose in the Current Operations Appropriations Act.

(g) The State Treasurer is authorized to retain the services of independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs created pursuant to this section.

(h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on the financial condition of each investment program created pursuant to this section. A copy



of each report shall be submitted within 30 days following the end of the fiscal year to the official, institution, board, commission or other agency whose funds are invested, the State Auditor, and the chairs of the Finance Committees of the House of Representatives and the Senate.

(i) The State Treasurer shall report at least twice a year to the General Assembly, through the Finance Committees of the House of Representatives and the Senate, on the investment programs created under this section. The Treasurer shall present the reports to a joint meeting of the Finance Committees. The chairs of the Finance Committees may receive the reports and call the meetings. The Finance Committees may meet during the interim as necessary to hear the reports from the State Treasurer. The State Treasurer's report and presentation to the Finance Committees shall include all of the following:

- (1) A full and complete statement of all moneys invested by virtue of the provisions of G.S. 147-69.1 and G.S. 147-69.2.
- (2) The nature and character of the investments.
- (3) The revenues derived from the investments.
- (4) The costs of administering, managing, and operating the investment programs, including the recapture of any investment commissions.
- (5) A statement of the investment policies for the revenues invested.
- (6) Any other information that may be helpful in understanding the State Treasurer's investment policies and investment results.
- (7) Any other information requested by the Finance Committees.

(i1) The State Treasurer shall report the incentive bonus paid to the Chief Investment Officer to the Joint Legislative Commission on Governmental Operations by October 1 of each year.

(i2) In order to promote achievement of long-term investment objectives and to retain key public employees with investment functions, the State Treasurer is authorized to establish market-oriented compensation plans, including salaries and performance-related bonuses, for employees possessing specialized skills or knowledge necessary for the proper administration of investment programs, who shall be exempt from the classification and compensation rules established by the Office of State Human Resources. The design and administration of those compensation plans shall be based on compensation studies conducted by a nationally recognized firm specializing in public fund investment compensation. The compensation and other associated employee benefits shall be apportioned directly from the investment program. The Treasurer shall report the salaries and bonuses paid to the Joint Legislative Oversight Committee on General Government annually.

(j) Subject to the provisions of G.S. 147-69.1(d), the State Treasurer shall adopt any rules necessary to carry out the provisions of this section. (1979, c. 467, s. 3; 1981, c. 445, ss. 4, 5; 1983, c. 515, s. 1; c. 702, s. 10; 1983 (Reg. Sess., 1984), c. 1034, ss. 116, 117; 1987, c. 751, ss. 6-8; 2001-444, s. 4; 2002-126, s. 6.12; 2005-276, s. 27.3; 2006-203, s. 119; 2008-132, s. 5; 2014-100, s. 33.2(a).)

**§ 147-69.3. (Effective January 31, 2017) Administration of State Treasurer's investment programs.**

(a) The State Treasurer shall establish, maintain, administer, manage, and operate within the Department of State Treasurer one or more investment programs for the deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S. 147-69.2. Different Retirement Systems and other funds held by the State Treasurer may be invested collectively or separately in the State Treasurer's discretion consistent with the fiduciary duties stated in G.S. 147-69.7.

(b) Any official, board, commission, other public authority, local government, school administrative unit, local ABC board, or community college of the State having custody of any funds not required by law to be deposited with and invested by the State Treasurer may deposit all or any portion of those funds with the State Treasurer for investment in one of the investment programs established pursuant to this section, subject to any provisions of law with respect to eligible investments, provided that any occupational licensing board as defined in G.S. 93B-1 may participate in one of the investment programs established pursuant to this section regardless of whether or not the funds were required by law to be deposited with and invested by the State Treasurer. In the absence of specific statutory provisions to the contrary, any of those funds may be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon request from any depositor eligible under this subsection, the State Treasurer may authorize moneys invested pursuant to this subsection to be withdrawn by warrant on the State Treasurer.

(c) The State Treasurer's investment programs shall be so managed that in the judgment of the State Treasurer funds may be readily converted into cash when needed.

(d) Except as provided by G.S. 147-69.1(d), the total return earned on investments shall accrue pro rata to the fund whose assets are invested according to the formula prescribed by the State Treasurer with the approval of the Governor and Council of State.

(e) The State Treasurer has full powers as a fiduciary to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities or investments in which any of the programs created pursuant to this section have been invested, and may reinvest the proceeds from the sale of those securities or investments and any other investable assets of the program.

(f) The cost of administration, management, and operation of investment programs established pursuant to this section shall be apportioned equitably among the programs in such manner as may be prescribed by the State Treasurer, such costs to be paid from each program, and to the extent not otherwise chargeable directly to the income or assets of the specific investment program or pooled investment vehicle, shall be deposited with the State Treasurer as a General Fund nontax revenue. The cost of administration, management, and operation of investment programs established pursuant to this section and not directly paid from the income or assets of such program shall be covered by an appropriation to the State Treasurer for this purpose in the Current Operations Appropriations Act.

(g) The State Treasurer is authorized to retain the services of independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians,

custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs created pursuant to this section.

(h), (i) Repealed by Session Laws 2016-55, s. 2.1, effective January 31, 2017.

(i1) The State Treasurer shall report the incentive bonus paid to the Chief Investment Officer to the Joint Legislative Commission on Governmental Operations by October 1 of each year.

(i2) In order to promote achievement of long-term investment objectives and to retain key public employees with investment functions, the State Treasurer is authorized to establish, consistent with the State Treasurer's fiduciary duties, market-oriented compensation plans, including salaries and performance-related bonuses, for employees possessing specialized skills or knowledge necessary for the proper administration of investment programs, who shall be exempt from the classification and compensation rules established by the Office of State Human Resources. The design and administration of those compensation plans shall be based on compensation studies conducted by a nationally recognized firm specializing in public fund investment compensation. The compensation and other associated employee benefits shall be apportioned directly from the investment program. The Treasurer shall report the salaries and bonuses paid to the Joint Legislative Oversight Committee on General Government annually.

(j) Subject to the provisions of G.S. 147-69.1(d), the State Treasurer shall adopt any rules necessary to carry out the provisions of this section. (1979, c. 467, s. 3; 1981, c. 445, ss. 4, 5; 1983, c. 515, s. 1; c. 702, s. 10; 1983 (Reg. Sess., 1984), c. 1034, ss. 116, 117; 1987, c. 751, ss. 6-8; 2001-444, s. 4; 2002-126, s. 6.12; 2005-276, s. 27.3; 2006-203, s. 119; 2008-132, s. 5; 2014-100, s. 33.2(a); 2016-55, s. 2.1.)

### **§ 147-69.3A. Liability insurance for State Treasurer.**

(a) The State Treasurer may purchase commercial insurance of any kind to cover all risks or potential liability of the State Treasurer, boards in the Department of the State Treasurer, members of boards in the Department of the State Treasurer, and employees and agents of the State Treasurer, including the risks and potential liability related to investments managed by the State Treasurer.

(b) Board members and employees of boards in the Department of the State Treasurer shall be considered State employees for purposes of Articles 31 and 31A of Chapter 143 of the General Statutes. To the extent that the State Treasurer purchases commercial liability insurance coverage in excess of one hundred fifty thousand dollars (\$150,000) per claim for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-299.4 shall not apply. To the extent that the State Treasurer purchases commercial insurance coverage for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-300.6(a) shall not apply.

(c) The purchase of insurance by the State Treasurer under this section shall not be construed to waive sovereign immunity or any other defense available to the State Treasurer, boards in the Department of the State Treasurer, members of boards in the Department of the State Treasurer, or employees or agents of the State Treasurer in an

action or contested matter in any court, agency, or tribunal. The purchase of insurance by the State Treasurer shall not be construed to alter or expand the limitations on claims or payments established in G.S. 143-299.2 or limit the right of the State Treasurer, board members, employees, or agents to defense by the State as provided by G.S. 143-300.3. (2011-300, s. 1.)

§ 147-69.4: Repealed by Session Laws 2010-175, s. 5, effective July 1, 2010.

**§ 147-69.5. Local Government Law Enforcement Special Separation Allowance Fund.**

The Local Government Law Enforcement Special Separation Allowance Fund is established as a fund in the Office of the State Treasurer under the management of the Treasurer. The Fund consists of contributions made by entities authorized to make contributions to the Fund and interest and other investment income earned by the Fund. Contributions to the Fund are irrevocable. Assets of the Fund may be used only to provide law enforcement special separation allowance benefits to individuals who are former employees of a unit of local government that contributes to the Fund and are entitled to law enforcement special separation allowance payable by the unit. The assets of the Fund are not subject to the claims of creditors of an entity that contributes to the Fund. (2007-384, s. 6.)

**§ 147-69.6. Swain County Settlement Trust Fund.**

(a) The Swain County Settlement Trust Fund is established as a special fund in the Office of the State Treasurer under the management of the Treasurer. The Fund shall consist of the proceeds of any payments made by the United States in settlement of the 1943 agreement between Swain County and the United States Department of Interior, such other contributions as Swain County or other entities may choose to make to the Fund, and the interest and other investment income earned by the Fund. Contributions to the Fund are irrevocable. Assets in the Fund may be disbursed only to Swain County.

(b) On such schedule as the State Treasurer may determine, in consultation with the Board of Commissioners of Swain County, the State Treasurer shall disburse to Swain County amounts requested by the Swain County Board of Commissioners pursuant to a majority vote of that body, provided that disbursements to Swain County under this subsection in any fiscal year shall not exceed the total interest and investment income earned by the Fund in that fiscal year. At the start of each fiscal year, the State Treasurer shall issue a nonbinding opinion and recommendation to the Swain County Board of Commissioners suggesting an appropriate amount of interest and investment income to be reinvested in the Fund to ensure that the principal investment grows to keep pace with inflation.

(c) No portion of the principal balance of the Fund may be disbursed to Swain County absent a request by the Swain County Board of Commissioners accompanied by a certification by the Swain County Board of Elections that two-thirds of the registered voters

of Swain County voted in favor of the disbursement and subsequent expenditure of the amount requested in a referendum conducted under subsection (f) of this section.

(d) Funds disbursed to Swain County under subsections (b) or (c) of this section shall be managed by the county in accordance with the requirements of the Local Government Budget and Fiscal Control Act as amended from time to time.

(e) No part of the principal of the Swain County Settlement Trust Fund or of any interest or other income earned on that principal may be paid to or received by any agent or attorney on account of services rendered in connection with negotiating the settlement agreement between Swain County and the United States Department of Interior or obtaining the monetary settlement from the United States.

(f) The Board of Commissioners of Swain County may direct the Swain County Board of Elections to conduct an advisory referendum on the question of whether any portion of the principal of the Fund should be disbursed to and expended by the county for a particular purpose. The election shall be held in accordance with the procedures of G.S. 163A-1592. The question to be presented on the ballot shall disclose the specific purpose proposed for expenditure of the principal investment of the Trust Fund and the amount proposed for expenditure.

(g) The Swain County Settlement Trust Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(h) The Swain County Settlement Trust Fund and the income therefrom shall not take the place of or be counted against any other State appropriations or program providing funds or disbursements to Swain County. (2008-13, s. 3; 2013-381, s. 10.22; 2017-6, s. 3.)

**§ 147-69.7. (Effective until January 31, 2017) Discharge of duties to Retirement Systems.**

(a) The Treasurer shall discharge his or her duties with respect to the Retirement Systems enumerated in G.S. 147-69.2(b)(8) as follows:

- (1) Solely in the interest of the participants and beneficiaries.
- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (4) Impartially, taking into account any differing interests of participants and beneficiaries.
- (5) Incurring only costs that are appropriate and reasonable.
- (6) In accordance with a good-faith interpretation of the law governing the Retirement Systems.

(b) In investing and managing assets of the Retirement Systems pursuant to subsection (a) of this section, the Treasurer:

- (1) Shall consider the following circumstances:

- a. General economic conditions.
  - b. The possible effect of inflation or deflation.
  - c. The role that each investment or course of action plays within the overall portfolio of the Retirement Systems.
  - d. The expected total return from income and the appreciation of capital.
  - e. Needs for liquidity, regularity of income, and preservation or appreciation of capital.
  - f. The adequacy of funding for the Retirement Systems based on reasonable actuarial factors.
- (2) Shall diversify the investments of the Retirement Systems unless the Treasurer reasonably determines that, because of special circumstances, it is clearly prudent not to do so.
  - (3) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of the Retirement Systems.
  - (4) May invest in any kind of property or type of investment consistent with the provisions of Article 6 of Chapter 146 of the General Statutes.
  - (5) May consider benefits created by an investment in addition to investment return only if the Treasurer determines that the investment providing these collateral benefits would be prudent even without collateral benefits.

(c) Compliance by the Treasurer with this section must be determined in light of the facts and circumstances existing at the time of the Treasurer's decision or action and not by hindsight.

(d) The Treasurer's investment and management decisions must be evaluated not in isolation but in the context of the portfolio of the Retirement Systems as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the Retirement Systems. (2009-283, s. 3; 2013-284, s. 1(e); 2013-398, s. 2; 2013-410, s. 27.5.)

**§ 147-69.7. (Effective January 31, 2017) Discharge of duties to funds.**

(a) The State Treasurer shall discharge his or her duties with respect to each fund or investment program held by the State Treasurer, including each of the funds, enumerated in G.S. 147-69.2 as follows:

- (1) Solely in the interest of the intended beneficiaries of the fund, if any.
- (2) For the exclusive purpose of carrying out the purpose of the fund, including providing benefits to participants and beneficiaries, and paying reasonable expenses of administering the fund.
- (3) With the care, skill, and caution that a prudent investor would use after considering the purposes, distribution requirements, and other circumstances then prevailing.
- (4) Impartially, taking into account any differing interests of participants and beneficiaries.
- (5) Incurring only costs that are appropriate and reasonable.

- (6) In accordance with a good-faith interpretation of the provisions of G.S. 147-69.2 and any other applicable law governing the fund.
- (b) In investing and managing assets of the fund pursuant to subsection (a) of this section, the State Treasurer:
- (1) Shall consider the following circumstances:
    - a. General economic conditions.
    - b. The possible effect of inflation or deflation.
    - c. The role that each investment or course of action plays within the overall portfolio of the fund.
    - d. The expected total return from income and the appreciation of capital.
    - e. Needs for liquidity, regularity of income, and preservation or appreciation of capital.
    - f. With respect to the Retirement Systems defined in G.S. 147-69.2(d) and any other pension plans, the adequacy of funding for the Retirement Systems based on reasonable actuarial factors.
    - g. The purpose of the fund, if established.
  - (2) Shall diversify the investments of the fund unless the State Treasurer reasonably determines that, because of special circumstances, including applicable investment restrictions, it is clearly prudent not to do so.
  - (3) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of the funds.
  - (4) Shall invest only in those investments authorized by law consistent with the provisions of Article 6 of Chapter 146 of the General Statutes.
  - (5) May consider benefits created by an investment in addition to investment return only if the State Treasurer determines that the investment providing these collateral benefits would be prudent even without collateral benefits.
- (c) Compliance by the State Treasurer with this section must be determined in light of the facts and circumstances existing at the time of the Treasurer's decision or action and not by hindsight.
- (d) The State Treasurer's investment and management decisions must be evaluated not in isolation but in the context of the portfolio of the fund as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the fund.
- (e) Notwithstanding any of the foregoing, the State Treasurer shall have no duty to assist or advise any official, board, commission, local government, other public authority, school administrative unit, local ABC board, community college of the State, or other person, trust, agency, institution, or entity in connection with any of the following decisions and directions with respect to any funds to be deposited with and invested by the State Treasurer:
- (1) The voluntary decision to deposit or withdraw funds in accordance with applicable law in one or more of the State Treasurer's investment programs.

- (2) The voluntary direction as to the allocation of deposited funds in accordance with applicable law among the State Treasurer's investment programs.
- (3) Any other decision or direction by which the depositor exercises control over assets deposited or to be deposited with the State Treasurer in accordance with applicable law. (2009-283, s. 3; 2013-284, s. 1(e); 2013-398, s. 2; 2013-410, s. 27.5; 2016-55, s. 2.2.)

**§ 147-69.8. Annual report on new investment authority.**

Whenever the General Assembly broadens the investment authority of the State Treasurer as to the General Fund, the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle funds, the State Treasurer shall annually report in detail to the General Assembly the investments made under such new authority, including the returns on those investments, earnings, changes to value, and gains and losses in disposition of such investments. The report shall be made no later than the first six months of each calendar year, covering performance in the prior fiscal year. As to each type of new investment authority, the report shall be made for at least four years. To the extent the information required by this section is also required in the reports under G.S. 147-69.12, the State Treasurer may combine reports or make cross-reference to those reports. (2009-283, s. 4; 2013-284, s. 1(f); 2016-55, s. 4.2.)

**§ 147-69.9. (Effective January 31, 2017) Third-party audit of State Treasurer's investments.**

(a) In addition to all other audits and reports required by the law, the State Treasurer shall prepare and issue, at the end of each fiscal year beginning with the 2015-2016 fiscal year, a set of consolidated stand-alone financial statements regarding investments authorized in G.S. 147-69.1 and G.S. 147-69.2. These financial statements shall be audited by a commercial independent third-party audit firm selected and engaged by the State Treasurer. The audit firm's report and the financial statement shall be provided to the Joint Legislative Commission on Governmental Operations, the House of Representative Appropriations Committee, the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division within six months after the closing of the reporting period.

(b) The management discussion and analysis section of the report accompanying the financial statements shall include a discussion of the investment programs' risk and returns compared to benchmarks, total management fees and incentives paid, and comparison to peer cost benchmarks. (2016-55, s. 3.)

**§ 147-69.10. (Effective January 31, 2017) Investment policies and performance reviews of Retirement Systems investment programs.**

(a) On at least a biennial basis, the State Treasurer shall present an investment policy statement to the Investment Advisory Committee for the Committee's consultation. The



investment policy statement must include descriptions of investment objectives and strategy, roles and responsibilities, permissible asset classes, asset allocation targets and ranges, risk management and compliance guidelines, and evaluation criteria necessary to measure investment performance.

(b) At least once every four years, the State Treasurer shall engage a commercial independent expert firm, pursuant to G.S. 147-69.3(g), to evaluate the governance, operations, and investment practices of the State Treasurer in order to develop recommendations for improvement. The State Treasurer must consult with the Investment Advisory Committee to develop the scope of the evaluation. The report of the independent expert firm shall be provided to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Committee, the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division within 30 days of receipt. (2016-55, s. 3.)

**§ 147-69.11. (Effective January 31, 2017) Ethics policies.**

To ensure that the State Treasurer's investment programs operate under a strong governance framework with rigorous internal controls and a high degree of operational transparency and are managed with the highest ethical and professional standards and in the most efficient and effective manner possible, the State Treasurer, after consultation with the Investment Advisory Committee, is authorized and required to adopt policies and procedures on the following topics:

- (1) Requiring that the Department of State Treasurer's Investment Management Division adopt a code of ethics.
- (2) Requiring all employees of the Department who have responsibility for matters related to investments to be provided with training with respect to the discharge of their duties and responsibilities to the funds.
- (3) Governing gifts to employees of the Department who have responsibility for matters related to investments.
- (4) Imposing limitations on external investment managers' use of placement agents and other persons that appear before the Department to ensure that these persons play only a proper role in investment opportunities.
- (5) As a component of the investment due diligence, negotiations, and contracting process, requiring an independent assessment of whether circumstances exist that create a material risk that professional judgement or actions regarding a potential investment arrangement's recommendation, approval, or execution have been or will be unduly influenced by a direct or indirect personal interest. (2016-55, s. 3.)

**§ 147-69.12. Reporting on the State Treasurer's investment programs.**

(a) No later than the tenth day of February, May, August, and November of each year, the State Treasurer shall report on all investments for which the State Treasurer is in any way responsible. The State Treasurer's quarterly report shall include each of the following:

- (1) A specific listing of all direct and indirect placement fees, asset fees, performance fees, and any other money management fees incurred by the State in the management of the Retirement Systems defined in G.S. 147-69.2(b)(8). In the event that the market value of any of subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of G.S. 147-69.2 increases during a fiscal year by an amount greater than three percent (3%) of the market value of all invested assets of the Retirement Systems as of the prior fiscal year end, then the quarterly report provided shall describe how that increase complies with the duties described in G.S. 147-69.7 and the consequent expected impact on the risk profile of the Retirement Systems' assets.
- (2) A specific listing of all investments made with certified green managers and companies and funds that support sustainable practices, including the names of the companies, managers, and funds, the amount invested, and the State's return on investment.
- (3) For bank balances:
  - a. The State's total bank balance with the State Treasurer, including the amount of cash on hand and money on deposit.
  - b. For each bank or other qualified depository utilized by the State Treasurer to hold cash balances, (i) the name of each depository and (ii) current quarter-end cash balances.
- (4) For the State Treasurer's cash management programs:
  - a. Total assets.
  - b. Duration of investments.
  - c. Rate of return, including a comparison to an appropriate benchmark, if available.
- (5) For the Retirement Systems, as defined in G.S. 147-69.2(b)(8), reported separately for each asset class authorized by G.S. 147-69.2(b):
  - a. Total assets.
  - b. Rate of return, including a comparison to an appropriate benchmark, if available.
  - c. Percentage of the total assets that are invested in the asset class and the limitation, if any, on the percentage under G.S. 147-69.2(b).
- (6) For each investment program created under G.S. 147-69.3:
  - a. The financial condition of each investment program.
  - b. A full and complete statement of all moneys invested by virtue of the provisions of G.S. 147-69.1 and G.S. 147-69.2.
  - c. The nature and character of the investments.
  - d. The revenues derived from the investments, net of fees and expenses.
  - e. The costs of administering, managing, and operating the investment programs, including the recapture of any investment commissions.
  - f. The location on the State Treasurer's Web site where the public may find a statement of the investment policies for the revenues invested.

- g. Any other information that may be helpful in understanding the State Treasurer's investment policies, investment practices, and investment results.
  - h. Any other information requested by the House of Representatives and Senate Finance Committees.
  - i. The location on the State Treasurer's Web site where the public may find a list of new commitments to external investment managers.
  - j. The location on the State Treasurer's Web site where the public may find information on the use of placement agents by investment managers.
- (7) For all other investments with or on behalf of the State or any of its agencies or institutions:
- a. The particular agency or institution, fund, rate of return, and duration of the investment.
  - b. The amount of deposit on all noninterest bearing accounts.

(b) No later than the date set by G.S. 147-69.9 for the submission of consolidated stand-alone financial statements, the State Treasurer shall report annually on the fees and performance of all externally and internally managed investments for the Retirement Systems defined in G.S. 147-69.2(b)(8). Externally managed investments shall be reported on the basis of each investment vehicle or investment manager, as applicable. Internally managed investments shall be reported on a portfolio-by-portfolio basis. The State Treasurer's annual report shall include all of the following, as applicable, reported separately for each investment:

- (1) The name, commitment amount, statutory classification, and inception year.
- (2) Either a statement that the investment is managed internally by the staff of the State Treasurer or the names of the external investment manager and the investment vehicle for that investment.
- (3) Value of the investment.
- (4) Dollar amount of the management fees and incentive fees.
- (5) For investment-grade fixed income or public equity investments, the periodic net annualized time-weighted rate of return for that fiscal year and since inception, reported net of fees.
- (6) For all investments other than investment-grade fixed income or public equity investments, all of the following:
  - a. The net annualized internal rate of return and investment multiple since inception, reported net of fees.
  - b. The total cash contributions or other investments made by the State Treasurer.
  - c. The total distribution received by the State Treasurer with respect to that investment since inception, reported net of fees.
- (7) For any fund of funds investment vehicles, the aggregate management fees and incentive fees for the underlying investment managers or investment vehicles used by the external investment manager.

(8) If any placement agent fees relating to the investment were directly or indirectly borne by the State Treasurer or Retirement Systems, a list of the amount and type of those fees.

(c) The Treasurer shall report to the Governor annually and to the General Assembly at the beginning of each biennial session the exact balance in the treasury to the credit of the State, with a summary of the receipts and payments of the treasury during the preceding fiscal year, and so far as practicable an account of the same down to the termination of the current calendar year.

(d) The reports required by this section shall be delivered to the Joint Legislative Commission on Government Operations, chairs of the House of Representatives and Senate Appropriations Committees, chairs of the House of Representative and Senate Finance Committees, Fiscal Research Division, Governor, Council of State, and State Auditor. The reports shall also be made available for public review, including by posting on the State Treasurer's Web site.

A copy of a report on any State Treasurer investment program shall be sent to the official, institution, board, commission, or other agency investing in that program.

(e) Repealed by Session Laws 2017-125, s. 8, effective July 20, 2017. (2016-55, ss. 4.1(a), (b); 2017-102, s. 28.1(b); 2017-125, s. 8.)

**§ 147-70. To make short-term notes in emergencies.**

Subject to the approval of the Governor and Council of State, the State Treasurer is authorized to make short-term notes for temporary emergencies, but such notes must only be made to provide for appropriations already made by the General Assembly. (1915, c. 168, s. 3; C.S., s. 7685.)

**§ 147-71. May demand and sue for money and property of State.**

The Treasurer is authorized to demand, sue for, collect and receive all money and property of the State not held by some person under authority of law. (1866, c. 46; Code, s. 3359; Rev., s. 5375; C.S., s. 7688.)

**§ 147-72. Ex officio treasurer of State institutions; duties as such.**

The Treasurer shall be ex officio the treasurer of the Department of Agriculture and Consumer Services, of the North Carolina State College of Agriculture and Engineering, of the North Carolina School for the Deaf and Dumb at Morganton, of the North Carolina Institution for the Deaf and Dumb and the Blind at Raleigh, for the State hospitals (for the insane) at Raleigh, Morganton and Goldsboro and for the State's prison. He may appoint deputies to act for him at Morganton and Goldsboro, and may pay such deputies reasonable compensation. He shall keep all accounts of the institutions, and shall pay out all moneys, upon the warrant of the respective chief officers or superintendents, countersigned by two members of the board of directors, managers, or trustees. He shall report to the respective boards at such times as they may call on him, showing the amount received on account of the institution, amount paid out, and amount on hand. He shall perform his duties as treasurer of these several institutions under such regulation as shall be prescribed in each

case by their respective boards of managers, trustees or directors, with the approval of the Governor; and shall be responsible on his official bond for the faithful discharge of his duties as treasurer of each of the several institutions. As treasurer of such institutions he shall, annually, after the examination, verification, and cancellation of his vouchers, deposit the same with the respective institutions, and the superintendents thereof shall be responsible for their safekeeping. (1879, c. 240, s. 2; 1881, c. 128; c. 211, s. 9; 1883, c. 156, s. 12; c. 405; Code, ss. 2235, 2251, 3723; 1895, c. 434; 1899, c. 1, s. 11; Rev., s. 5376; 1919, c. 314, s. 6; C.S., s. 7689; 1947, c. 781; 1997-261, s. 109.)

**§ 147-73. Office of treasurer of each State institution abolished.**

The office of treasurer of each of the several State institutions of which the State Treasurer is ex officio treasurer is hereby abolished. (1929, c. 337, s. 3.)

**§ 147-74. Office of State Treasurer declared office of deposit and disbursement.**

The office of the State Treasurer is declared to be an office of deposit and disbursement and only such records and accounts as may be necessary to disclose the accountability of the State Treasurer shall be kept. The purpose of this section is to prevent duplication in account and record keeping and such accounts as may be necessary shall be prescribed by the Director of the Budget under the terms of the Executive Budget Act. (1929, c. 337, s. 2.)

**§ 147-75. (Effective until January 31, 2017) Deputy to act for Treasurer.**

The Treasurer may authorize a deputy to perform any duties pertaining to the office. The Treasurer may authorize a deputy to affix the Treasurer's signature to any check, warrant or any other instrument the Treasurer is required to sign by use of the facsimile signature machine or device during the Treasurer's absence or disability. The Treasurer shall be responsible for the conduct of his deputies. (1868-9, c. 270, s. 76; Code, s. 3358; Rev., s. 5377; C.S., s. 7690; 1977, c. 401, s. 2.)

**§ 147-75. (Effective January 31, 2017) Deputy to act for Treasurer.**

The Treasurer may authorize a deputy to perform any duties pertaining to the office. The Treasurer may authorize a deputy to affix the Treasurer's signature to any check, warrant or any other instrument the Treasurer is required to sign. The Treasurer shall be responsible for the conduct of his or her deputies. (1868-9, c. 270, s. 76; Code, s. 3358; Rev., s. 5377; C.S., s. 7690; 1977, c. 401, s. 2; 2016-55, s. 1.5.)

**§ 147-76. Liability for false entries in his books.**

If the Treasurer of the State shall wittingly or falsely make, or cause to be made, any false entry or charge in any book by him as Treasurer, or shall wittingly or falsely form, or procure to be formed, any statement of the treasury, to be by him laid before the Governor, the General Assembly, or any committee thereof, or to be by him used in any settlement which he is required to make with intent, in any of said instances, to defraud the State or any person, such Treasurer shall be guilty of a Class 1 misdemeanor. (R.C., c. 34, s. 68;

Code, s. 1119; Rev., s. 3606; C.S., s. 7691; 1983, c. 913, s. 53; 1993, c. 539, s. 1055; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 147-77. Daily deposit of funds to credit of Treasurer.**

All funds belonging to the State of North Carolina, in the hands of any head of any department of the State which collects revenue for the State in any form whatsoever, and every institution, agency, officer, employee, or representative of the State or any agency, department, division or commission thereof, except officers and the clerks of the Supreme Court and Court of Appeals, collecting or receiving any funds or money belonging to the State of North Carolina, shall daily deposit the same in some bank, or trust company, selected or designated by the State Treasurer, in the name of the State Treasurer, at noon, or as near thereto as may be, and shall report the same daily to the Treasurer. The State Treasurer may authorize exemptions from the provisions of this section so long as funds are deposited and reported pursuant to the provisions of this section at least once a week and, in addition, so long as funds are deposited and reported pursuant to the provisions of this section whenever as much as five thousand dollars (\$5,000) has been collected and received. Each State agency that has custody of funds less than five thousand dollars (\$5,000) shall provide adequate safekeeping of such funds. The Treasurer may refund the amount of any bad checks which have been returned to the department by the Treasurer when the same have not been collected after 30 days' trial. (1925, c. 128, s. 1; 1945, c. 159; 1969, c. 44, s. 77; 1985, c. 708; 2015-164, s. 3(b).)

**§ 147-78. Treasurer to select depositories.**

The State Treasurer is hereby authorized and empowered to select and designate, wherever necessary, in this State some bank or banks, savings and loan association or associations, or trust company as an official depository of the State. (1925, c. 128, s. 2; 1979, c. 637, s. 4; 1983, c. 158, s. 5.)

**§ 147-78.1. (Effective until January 31, 2017) Good faith deposits; use of master trust.**

Notwithstanding any other provision of law, the State Treasurer is authorized to select a bank or trust company as master trustee to hold cash or securities to be pledged to the State when deposited with him pursuant to statute or at the request of another State agency. Securities may be held by the master trustee in any form that, in fact, perfects the security interest of the State in the securities. The State Treasurer shall by rule or regulation establish the manner in which the master trust shall operate. The master trustee may charge reasonable fees for services rendered to each person who deposits the cash or securities with the State. (1985, c. 496, s. 1.)

**§ 147-78.1. (Effective January 31, 2017) Good faith deposits; use of master trust.**

Notwithstanding any other provision of law, the State Treasurer is authorized to select a bank or trust company as master trustee to hold cash or securities to be pledged to the State when deposited with the State Treasurer pursuant to statute or at the request of another State agency. Securities may be held by the master trustee in any form that, in fact, perfects

the security interest of the State in the securities. The State Treasurer shall contractually establish the manner in which the master trust shall operate. The master trustee may charge reasonable fees for services rendered to each person who deposits the cash or securities with the State. (1985, c. 496, s. 1; 2016-55, s. 1.6.)

**§ 147-79. Deposits to be secured; reports of depositories.**

(a) The amount of funds deposited by the State Treasurer in an official depository shall be adequately secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home Loan Bank, or investment securities of such nature, in such amounts, and in such manner, as may be prescribed by rule or regulation of the State Treasurer with the approval of the Governor and Council of State. No security is required for the protection of funds remitted to and received by a bank or trust company designated by the State Treasurer under G.S. 142-1 and acting as paying agent for the payment of the principal of or interest on bonds or notes of the State.

(b) Each official depository having deposits required to be secured by subsection (a) of this section may be required to report to the State Treasurer on January 1 and July 1 of each year (or such other dates as he may prescribe) a list of all surety bonds or investment securities securing such deposits. If the State Treasurer finds at any time that any funds of the State are not properly secured, he shall so notify the depository. Upon such notification, the depository shall comply with the applicable law or regulations forthwith.

(c) Violation of the provisions of this section shall be a Class 1 misdemeanor. (1933, c. 461, ss. 1, 11/2; 1979, c. 637, s. 3; 1993, c. 539, s. 1056; 1994, Ex. Sess., c. 24, s. 14(c); 2016-108, s. 4.)

**§ 147-80. Deposit in other banks unlawful; liability.**

It shall be unlawful for any funds of the State to be deposited by any person, institution, or department or agency in any place or bank or trust company, other than those so selected and designated as official depositories of the State of North Carolina by the State Treasurer, and any person so offending or aiding and abetting in such offense shall be guilty of a Class 1 misdemeanor and any person so offending or aiding and abetting in such offense shall also immediately become civilly liable to the State of North Carolina in the amount of the money or funds unlawfully deposited, and, at the instance of the State Treasurer, or at the instance of the Governor, the Attorney General shall forthwith institute the civil action in the name of the State of North Carolina against such person or persons, either in the courts of Wake County, according to their respective jurisdiction, or in the county in which said unlawful deposit has been made, according to the selection made by the officer requesting the institution of such action, for the purpose of recovering the amount of the money so unlawfully deposited, with interest thereon at six percent (6%) per annum, and for the cost of said action, and the court in which said action is tried may also tax, as a part of the cost in said action, to the use of the State of North Carolina, a sum sufficient to reimburse the State of North Carolina for all expense incidental to or connected with the preparation and prosecution of such action. (1925, c. 128, s. 3; 1993, c. 539, s. 1057; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 147-81. Number of depositories; contract.**

The State Treasurer is authorized and empowered to select as many depositories in one place and in the State as may appear to him to be necessary and convenient for the various officers, representatives and employees of the State, to comply with the purposes of G.S. 147-77, 147-78, 147-80, 147-81, 147-82, 147-83 and 147-84, and may make such contracts with said depositories for the payment of interest on average daily or monthly balances as may appear advantageous to the State in the opinion of such Treasurer and the Governor. (1925, c. 128, s. 4.)

**§ 147-82. Accounts of funds kept separate.**

In order to preserve and keep them separate, all funds that are now required by law to be kept separate or to be separately administered, both by State departments, institutions, commissions, and other agencies or divisions of the State which collect or receive funds belonging to the State, or funds handled or maintained as trust funds in any form by such department, division or institution shall be evidenced in daily reports by distribution sheets, which shall reflect and show an exact copy of the accounts, showing the distribution of said money kept by such collecting departments, institutions and agencies, and the same shall be entered in the records of the office of the State Treasurer, so as to keep and maintain in the office where the same is first collected or received the same account thereof, and of the distribution thereof, the same records and accounts as are kept in the office of the State Treasurer relating thereto. (1925, c. 128, s. 5.)

**§ 147-83. Receipts from federal government and gifts not affected.**

General Statutes 147-77, 147-78, 147-80, 147-81, 147-82, 147-83 and 147-84 shall not be held or construed to affect or interfere with the receipts and disbursements of any funds received by any institution or department of this State from the federal government or any gift or donation to any institution or department of the State or commission or agency thereof when either in the act of Congress, relating to such funds received from the federal government, or in the instrument evidencing the said private donation or gift, a contrary disposition or handling is prescribed or required, and the said sections shall not apply to any moneys paid to any department, institution or agency, or undertaking of the State of North Carolina, as a part of any legislative appropriation, or allotment from any contingent fund, as provided by law, after the same has been paid out of the State treasury. (1925, c. 128, s. 6.)

**§ 147-84. Refund of excess payments.**

Whenever taxes or other receipts of any kind are or have been by clerical error, misinterpretation of the law, or otherwise, collected and paid into the State treasury in excess of the amount found legally due the State, said excess amount shall be refunded to the person entitled thereto. (1925, c. 128, s. 7; 1983, c. 913, s. 54.)

**§ 147-85. Fiscal year.**



The fiscal year of the State government shall annually close on the thirtieth day of June. (1868-9, c. 270, s. 77; 1883, c. 60; Code, s. 3360; 1885, c. 334; 1905, c. 430; Rev., s. 5378; C.S., s. 7692; 1921, c. 229; Ex. Sess. 1921, c. 7; 1925, c. 89, s. 21; 1983, c. 913, s. 55.)

**§ 147-86. Additional clerical assistance authorized; compensation and duties.**

The State Treasurer, by and with the consent and advice of the Governor and Council of State, is authorized to employ an additional clerk in the Treasury Department, whose compensation and duties shall be fixed by the State Treasurer, by and with the consent and advice of the Governor and Council of State. The compensation of such additional clerk as may be employed pursuant to this section shall be paid as other officers and clerks are paid. (1923, c. 172; C.S., s. 7693 (a).)

**§ 147-86.1. Pool account for local government unemployment compensation.**

(a) The State Treasurer is authorized to establish a pool account, in accordance with rules of the Division of Employment Security (DES), in cooperation with any one or more units of local government, for the purpose of reimbursing the DES for unemployment benefits paid by the DES and chargeable to each local unit of government participating in the pool account. In the pool account established pursuant to this section, the funds contributed by a unit of local government shall remain the funds of the particular unit, and interest or other investment income earned by the pool account shall be prorated and credited to the various contributing local units on the basis of the amounts thereof contributed, figured according to an average periodic balance or some other sound accounting principle.

(b) The State Treasurer shall pay to the Division of Employment Security, within 25 days from receipt of a list thereof, all unemployment benefits charged by the DES to each unit of local government participating in the pool account from the funds in the pool account belonging to each such unit, to the extent that said funds are sufficient to do so.

(c) Notwithstanding the participation by a unit of local government in the pool account authorized by this section, such unit shall remain liable to the Division of Employment Security for any benefits duly charged by the Division to the unit which are not paid by the State Treasurer from funds in the pool account belonging to the unit. Notwithstanding its participation in the pool account, each unit of local government shall continue to maintain an individual account with the DES.

(d) The Director of the Budget shall be authorized to transfer from the interest earned on the pool account, to the State Treasurer's departmental budget, such funds as may be necessary to defray the Treasurer's cost of administering the pool account. (1977, c. 1124; 1983, c. 717, s. 89; 2011-401, s. 3.23.)

**§ 147-86.2. Information Technology fees; dispute resolution panel.**

The State Treasurer or the State Treasurer's designee, in conjunction with the State Controller and the State Budget Officer or their designees, shall handle the resolution of fee disputes between the Department of Information Technology and the State agencies

receiving information technology services from the Department. (2009-136, s. 3; 2015-241, s. 7A.3.)

**§ 147-86.3. Reserved for future codification purposes.**

**§ 147-86.4. Reserved for future codification purposes.**

**§ 147-86.5. Reserved for future codification purposes.**

**§ 147-86.6. Reserved for future codification purposes.**

**§ 147-86.7. Reserved for future codification purposes.**

**§ 147-86.8. Reserved for future codification purposes.**

**§ 147-86.9. Reserved for future codification purposes.**

#### Article 6A.

#### Cash Management.

**§ 147-86.10. Statement of policy.**

It is the policy of the State of North Carolina that all agencies, institutions, departments, bureaus, boards, commissions, and officers of the State, whether or not subject to the State Budget Act, Chapter 143C of the General Statutes, shall devise techniques and procedures for the receipt, deposit, and disbursement of moneys coming into their control and custody which are designed to maximize interest-bearing investment of cash, and to minimize idle and nonproductive cash balances. This policy shall apply to the General Court of Justice as defined in Article IV of the North Carolina Constitution, the public school administrative units, and the community colleges with respect to the receipt, deposit, and disbursement of moneys required by law to be deposited with the State Treasurer and with respect to moneys made available to them for expenditure by warrants drawn on the State Treasurer. This policy shall include the acceptance of electronic payments in accordance with G.S. 147-86.22 to the maximum extent possible consistent with sound business practices. (1985, c. 709, s. 1; 1999-434, s. 2; 2006-203, s. 120.)

**§ 147-86.11. Cash management for the State.**

(a) Uniform Plan. – The State Controller, with the advice and assistance of the State Treasurer, the State Budget Officer, and the State Auditor, shall develop, implement and amend as necessary a uniform statewide plan to carry out the cash management policy for all State agencies. The State Auditor shall report annually to the General Assembly on the implementation of the plan as shown in the audits completed during the prior fiscal year. The State Treasurer shall recommend periodically to the General Assembly any implementing legislation necessary or desirable in the furtherance of the State policy. When used in this section, "State agency" means any agency, institution, bureau, board,

commission or officer of the State; however, except as provided in G.S. 147-86.12, 147-86.13, 147-86.14, and 147-86.22, this Article does not apply to the agencies, institutions, bureaus, boards, commissions and officers of the General Court of Justice as defined in Article IV of the North Carolina Constitution or to the local school administrative units and community colleges and their officers and employees.

(b) Duties of Auditor. – The State Auditor pursuant to authority under G.S. 147-64.6 shall monitor agency compliance with this Article, and make any comments, suggestions, and recommendations the Auditor deems advisable to the agencies.

(c) Treasurer's Report. – The State Treasurer shall publish a quarterly report on all funds in the control or custody of the State Treasurer showing cash balances on hand, investments of cash balances and a comparative analysis of earnings and investment performances.

(d) Earnings on Trust Funds. – The statewide cash management plan shall provide that any net earnings on invested funds, whose beneficial owner is not the State or a local governmental unit, shall be paid to the beneficial owners of the funds. "Net earnings" are the amounts remaining after allowance for the cost of administration, management, and operation of the invested funds.

(e) Elements of Plan. – For moneys received or to be received, the statewide cash management plan shall provide at a minimum that:

- (1) Except as otherwise provided by law, moneys received by employees of State agencies in the normal course of their employment shall be deposited as follows:
  - a. Moneys received in trust for specific beneficiaries for which the employee-custodian has a duty to invest shall be deposited with the State Treasurer under the provisions of G.S. 147-69.3.
  - b. All other moneys received shall be deposited with the State Treasurer pursuant to G.S. 147-77 and G.S. 147-69.1.
- (2) Moneys received shall be deposited daily in the form and amounts received, except as otherwise provided by statute.
- (3) Moneys due to a State agency by another governmental agency or by private persons shall be promptly billed, collected and deposited.
- (4) Unpaid billings due to a State agency other than amounts owed by patients to the University of North Carolina Health Care System, East Carolina University's Division of Health Sciences, customers of the North Carolina Turnpike Authority, or the North Carolina Department of Transportation shall be turned over to the Attorney General for collection no more than 90 days after the due date of the billing, except that a State agency need not turn over to the Attorney General unpaid billings of less than five hundred dollars (\$500.00), or (for institutions where applicable) amounts owed by all patients which are less than the federally established deductible applicable to Part A of the Medicare program, and instead may handle these unpaid bills pursuant to agency debt collection procedures.

- (4a) The University of North Carolina Health Care System and East Carolina University's Division of Health Sciences may turn over to the Attorney General for collection accounts owed by patients.
  - (4b) The North Carolina Turnpike Authority and the North Carolina Department of Transportation may turn over to the Attorney General for collection amounts owed to the North Carolina Turnpike Authority or the North Carolina Department of Transportation.
  - (5) Moneys received in the form of warrants drawn on the State Treasurer shall be deposited by the State agency directly with the State Treasurer and not through the banking system, unless otherwise approved by the State Treasurer.
  - (6) State agencies shall accept payment by electronic payment in accordance with G.S. 147-86.22 to the maximum extent possible consistent with sound business practices.
  - (7) The State Controller may use cash reserved to the Savings Reserve and cash from other funds, including special funds, that is not needed temporarily to meet the cash flow needs of the General Fund, but only to the extent that this authority can be used without jeopardizing the ability of reserves or funds, including special funds, to meet their ongoing obligations. Any cash transferred from reserves or funds, including special funds, shall be fully restored by the end of the fiscal year in which the funds were transferred, and interest shall be paid on all cash transferred to the General Fund pursuant to this subdivision from interest-bearing accounts.
- (f) Disbursement Requirements. – For the disbursement of money, the statewide cash management plan shall provide at a minimum that:
- (1) Moneys deposited with the State Treasurer remain on deposit with the State Treasurer until final disbursement to the ultimate payee.
  - (2) The order in which appropriations and other available resources are expended shall be subject to the provisions of Chapter 143C of the General Statutes regardless of whether the State agency disbursing or expending the moneys is subject to the State Budget Act.
  - (3) Federal and other reimbursements of expenditures paid from State funds shall be paid immediately to the source of the State funds.
  - (4) Billings to the State for goods received or services rendered shall be paid neither early nor late but on the discount date or the due date to the extent practicable.
  - (5) Disbursement cycles for each agency shall be established to the extent practicable so that the overall efficiency of the warrant disbursement system is maximized while maintaining prompt payment of bills due.
- (g) Interest Maximized. – The interest earnings of the General Fund and Highway Fund shall be maximized to the extent practicable. To this end:

- (1) Interest earnings shall not be allocated to an account by the State Treasurer unless all of the moneys in the account are expressly eligible by law for receiving interest allocations.
- (2) State officers and employees who received moneys in trust or for investment shall be solely responsible for properly segregating such funds for investment in the manner prescribed by law. The officer or employee charged with the responsibility for these moneys shall be under a duty to segregate the funds in a timely manner. No investment income shall be allocated by the State Treasurer to trust or other investment accounts until properly segregated into investment accounts as provided by law and the rules of the State Treasurer.

(h) **New Technologies.** – The statewide cash management plan shall consider new technologies and procedures whenever the technologies and procedures are economically beneficial to the State as a whole. Where the new technologies and procedures may be implemented without additional legislation, the technologies and procedures shall be implemented in the plan.

(i) **Penalty.** – A willful or continued failure of an employee paid from State funds or employed by a State agency to follow the statewide cash management plan is sufficient cause for immediate dismissal of the employee. (1985, c. 709, s. 1; 1985 (Reg. Sess., 1986), c. 1024, s. 26; 1987, c. 564, s. 32; c. 738, s. 59(a)(1); 1991, c. 95, s. 1; c. 542, s. 15; 1999-434, s. 4; 2006-203, s. 121; 2007-306, s. 3; 2012-194, s. 68(b); 2014-100, s. 6.14; 2014-115, s. 58; 2015-241, s. 5.5; 2017-5, s. 6.)

#### **§ 147-86.12. Cash management for school administration units.**

All school administrative units and their officers and employees are subject to the provision of G.S. 147-86.11 with respect to moneys required by law to be deposited with the State Treasurer and with respect to moneys made available to the school administrative unit for expenditure by warrants drawn on the State Treasurer. (1985, c. 709, s. 1.)

#### **§ 147-86.13. Cash management for community colleges.**

All community colleges and their officers and employees are subject to the provisions of G.S. 147-86.11 with respect to moneys required by law to be deposited with the State Treasurer and with respect to moneys made available to them for expenditure by warrants drawn on the State Treasurer. (1985, c. 709, s. 1; 1987, c. 564, s. 9.)

#### **§ 147-86.14. Cash management for the General Court of Justice.**

All agencies, institutions, bureaus, boards, commissions, and officers of the General Court of Justice as defined in Article IV of the Constitution are subject to the provisions of G.S. 147-86.11 with respect to moneys required by law to be deposited with the State Treasurer and with respect to moneys made available to them for expenditure by warrants drawn on the State Treasurer; provided, that the provisions of G.S. 147-86.11 shall not apply to any funds deposited with a clerk of superior court unless the beneficial owner of the funds is either the State or a local governmental unit of the State. (1985, c. 709, s. 1.)

**§ 147-86.15. Cash management of the Highway Fund and the Highway Trust Fund.**

The State Treasurer may combine the balances of the Highway Fund and the Highway Trust Fund for cash management purposes. The State Treasurer may make short-term loans between the Funds to accomplish the purposes of this section. (2001-424, s. 27.23(b).)

**§§ 147-86.16 through 147-86.19. Reserved for future codification purposes.**

Article 6B.

Statewide Accounts Receivable Program.

**§ 147-86.20. Definitions.**

The following definitions apply in this Article:

- (1) Account receivable. – An asset of the State reflecting a debt that is owed to the State and has not been received by the State agency servicing the debt. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, taxes, and tuition as well as penalties, interest, and other costs authorized by law. The term does not include court costs or fees assessed in actions before the General Court of Justice or counsel fees and other expenses of representing indigents under Article 36 of Chapter 7A of the General Statutes.
- (2) Debtor. – A person who owes an account receivable.
- (2a) Electronic payment. – Payment by charge card, credit card, debit card, or by electronic funds transfer as defined in this subsection.
- (3) Past Due. – An account receivable is past due if the State has not received payment of it by the payment due date.
- (4) Person. – An individual, a fiduciary, a firm, a partnership, an association, a corporation, a unit of government, or another group acting as a unit.
- (5) State Agency. – Defined in G.S. 147-64.4(4). The term does not include, however, a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, or the General Court of Justice.
- (6) Write-off. – To remove an account receivable from a State agency's accounts receivable records. (1993, c. 512, s. 1; 1999-434, s. 1; 2010-31, s. 31.8(a).)

**§ 147-86.21. State agencies to collect accounts receivable in accordance with statewide policies.**

A State agency to which an account receivable is owed is responsible for collecting the account receivable. In fulfilling this responsibility, a State agency shall establish internal policies and procedures for the management and collection of accounts receivable and shall submit its internal policies and procedures to the State Controller for review.

The State Controller shall examine the policies and procedures submitted by a State agency to determine whether they are consistent with statewide policies and procedures adopted by the State Controller. The statewide policies and procedures shall ensure that a State agency takes all cost-effective and appropriate actions to collect accounts receivable owed to it. If the State Controller determines that a State agency's policies and procedures are not consistent with the statewide policies and procedures, the State Controller shall discuss the inconsistencies with the State agency to determine whether special circumstances, such as a requirement of federal law, justify the inconsistencies. If the State Controller, after consulting with the Office of the Attorney General, finds that no special circumstances justify the inconsistencies, the State Controller shall notify the State agency and the State agency shall conform its policies and procedures to the statewide policies and procedures. If the State Controller finds that special circumstances justify the inconsistencies, the State agency's internal policies and procedures shall reflect the special circumstances. (1993, c. 512, s. 1.)

**§ 147-86.22. Statewide accounts receivable program.**

(a) Program. – The State Controller shall implement a statewide accounts receivable program. As part of this program, the State Controller shall do all of the following:

- (1) Monitor the State's accounts receivable collection efforts.
- (2) Coordinate information, systems, and procedures between State agencies to maximize the collection of past-due accounts receivable.
- (3) Adopt policies and procedures for the management and collection of accounts receivable by State agencies.
- (4) Establish procedures for writing off accounts receivable.

(b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a local school administrative unit, an area mental health, developmental disabilities, and substance abuse authority, and the Administrative Office of the Courts, and to debts payable to or through the office of a clerk of superior court or a magistrate, as well as to debts owed to other State agencies as defined in G.S. 147-86.20.

The State Controller shall establish policies that allow accounts receivable to be payable under certain conditions by electronic payment. These policies shall be established with the concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or through the office of a clerk of superior court or a magistrate shall be established with the concurrence of the Administrative Officer of the Courts. The Administrative Officer of the Courts may also establish policies otherwise authorized by law that apply to these debts as long as those policies are not inconsistent with the Controller's policies.

A condition of payment by electronic payment is receipt by the appropriate State agency of the full amount of the account receivable owed to the State agency. A debtor who pays by electronic payment may be required to pay any fee or charge associated with the use of electronic payment. Fees associated with processing electronic payments may be paid out of the General Fund and Highway Fund if the payment of the fee by the State is

economically beneficial to the State and the payment of the fee by the State has been approved by the State Controller and State Treasurer.

The State Controller and State Treasurer shall consult with the Joint Legislative Commission on Governmental Operations before establishing policies that allow accounts receivable to be payable by electronic payment and before authorizing fees associated with electronic payment to be paid out of the General Fund and Highway Fund. A State agency must also consult with the Joint Legislative Commission on Governmental Operations before implementing any program to accept payment under the policies established pursuant to this subsection.

A payment of an account receivable that is made by electronic payment and is not honored by the issuer of the card or the financial institution offering electronic funds transfer does not relieve the debtor of the obligation to pay the account receivable.

(c) **Collection Techniques.** – The State Controller, in conjunction with the Office of the Attorney General, shall establish policies and procedures to govern techniques for collection of accounts receivable. These techniques may include use of credit reporting bureaus, judicial remedies authorized by law, and administrative setoff by a reduction of a tax refund pursuant to the Setoff Debt Collection Act, Chapter 105A of the General Statutes, or a reduction of another payment, other than payroll, due from the State to a person to reduce or eliminate an account receivable that the person owes the State.

The State Controller shall negotiate a contract with a third party to perform an audit and collection process of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors. The third party shall be compensated only from funds recovered as a result of the audit. Savings realized in excess of costs shall be transferred from the agency to the Office of State Budget and Management and placed in a special reserve account for future direction by the General Assembly. Any disputed savings shall be settled by the State Controller. This paragraph does not apply to the purchase of medical services by State agencies or payments used to reimburse or otherwise pay for health care services. (1993, c. 512, s. 1; 1998-212, s. 26.1; 1999-434, s. 3; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2010-31, s. 31.8(b).)

### **§ 147-86.23. Interest and penalties.**

A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a past-due account receivable from the date the account receivable was due until it is paid. A State agency shall add to a past-due account receivable a late payment penalty of no more than ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty for good cause shown. If another statute requires the payment of interest or a penalty on a past-due account receivable, this section does not apply to that past-due account receivable. This section does not apply to money owed to the University of North Carolina Health Care System or to East Carolina University's Division of Health Sciences for health care services, to the North Carolina Turnpike Authority for money owed to the Authority for tolls, or to the North Carolina State Health Plan for past-due



account receivables related to premiums and claims payments. (1993, c. 512, s. 1; 2007-306, s. 4; 2007-491, s. 44(1)a; 2012-78, s. 14; 2012-194, s. 68(c); 2013-324, s. 6.)

**§ 147-86.24. Debtor information and skip tracing.**

A State agency shall collect from clients and debtors minimum identifying information as prescribed by the State Controller. A State agency shall use all available debtor information to skip trace debtors as prescribed by the State Controller.

The State Controller shall establish procedures to give the State Controller access to information that is in the custody of a State agency and could assist another State agency in the collection of accounts receivable owed to that State agency. A State agency that has this information shall cooperate with the State Controller in giving the State Controller access to the information. If the information is contained in an electronic database, the State agency shall provide the State Controller on-line electronic access upon request. A State agency is not required to give the State Controller access to information when a State or federal law prohibits the disclosure of the information. (1993, c. 512, s. 1.)

**§ 147-86.25. Setoff debt collection.**

The State Controller shall implement a statewide setoff debt collection program to provide for collection of the following accounts receivable by setoff against payments the State owes to debtors, other than payments of tax refunds and payroll:

- (1) Accounts receivable submitted to the Department of Revenue by a claimant agency under the Setoff Debt Collection Act, Chapter 105A of the General Statutes.
- (2) An overdue tax debt, as defined in G.S. 105-243.1. (1993, c. 512, s. 1; 2010-31, s. 31.8(c).)

**§ 147-86.26. Reporting requirements.**

A State agency shall provide the State Controller a complete report of the agency's accounts receivable at least quarterly or more frequently as required by the State Controller. The State Controller shall use the information provided by a State agency and any additional information available to compile a summary report of the agency. The State Controller shall provide copies of these summary reports annually to the Governor, the Joint Legislative Commission on Governmental Operations, and each State agency. Each summary report shall include the following:

- (1) The type of accounts receivable owed to the State agency.
- (2) An aging of the accounts receivable.
- (3) Any attempted collection activity and any costs incurred in the collection process.
- (4) Any accounts receivable that have been written off.
- (5) Information required by subdivisions (1) through (4) for the previous three years.
- (6) Identification of a State agency that is not complying with this Article or Chapter 105A of the General Statutes.

- (7) Any additional information the State Controller considers useful. (1993, c. 512, s. 1.)

**§ 147-86.27. Rules.**

A State agency may adopt rules to implement this Article. (1993, c. 512, s. 1.)

**§ 147-86.28. Reserved for future codification purposes.**

**§ 147-86.29. Reserved for future codification purposes.**

Article 6C.

Health and Wellness Trust Fund.

**§ 147-86.30:** Repealed by Session Laws 2011-145, s. 6.11(a), effective August 14, 2011.

**§ 147-86.31:** Repealed by Session Laws 2011-145, s. 6.11(a), effective August 14, 2011.

**§ 147-86.32:** Repealed by Session Laws 2011-145, s. 6.11(a), effective August 14, 2011.

**§ 147-86.33:** Repealed by Session Laws 2011-145, s. 6.11(a), effective August 14, 2011.

**§ 147-86.34:** Repealed by Session Laws 2011-145, s. 6.11(a), effective August 14, 2011.

**§ 147-86.35:** Repealed by Session Laws 2011-145, s. 6.11(a), effective August 14, 2011.

**§ 147-86.36:** Repealed by Session Laws 2011-145, s. 6.11(a), effective August 14, 2011.

Article 6D.

Sudan (Darfur) Divestment Act.

**§ 147-86.41. Legislative findings.**

- (1) On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide."
- (2) On September 9, 2004, Secretary of State Colin L. Powell told the U.S. Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility."
- (3) On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, "At this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide."

- (4) On December 7, 2004, the U.S. Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves."
- (5) Also on December 7, 2004, Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter."
- (6) On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan."
- (7) On September 26, 2006, the U.S. House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the [Darfur] crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad."
- (8) The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities genocide.
- (9) The Federal Government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).
- (10) According to a former chair of the U.S. Securities and Exchange Commission, "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company."
- (11) Since 1993, the U.S. Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.
- (12) A 2006 U.S. House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment."
- (13) In response to the financial risk posed by investments in companies doing business with a terrorist-sponsoring state, the Securities and Exchange

Commission established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies.

- (14) The current Sudan divestment movement encompasses nearly 100 universities, cities, states, and private pension plans.
- (15) Companies facing such widespread divestment present further material risk to remaining investors.
- (16) It is a fundamental responsibility of the State of North Carolina to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors.
- (17) It is the prerogative and desire of the State of North Carolina in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital-providing capacity with entities that provide significant practical support for genocide, including certain non-United States companies presently doing business in Sudan.
- (18) It is the judgment of the General Assembly that this article should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the Federal Government.
- (19) It is the judgment of this General Assembly that mandatory divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously. A Congressional and Presidential declaration of genocide satisfies this high threshold. (2007-486, s. 1.)

#### **§ 147-86.42. Definitions.**

As used in this article, the following definitions apply:

- (1) Repealed by Session Laws 2017-193, s. 2.1, effective October 1, 2017.
- (2) "Business operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.
- (3) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.
- (4) "Complicit" means taking actions during any preceding 20-month period which have directly supported or promoted the genocidal campaign in Darfur, including, but not limited to, preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force

for Darfur, actively working to deny, cover up, or alter the record on human rights abuses in Darfur, or other similar actions.

- (5) Repealed by Session Laws 2017-193, s. 2.1, effective October 1, 2017.
- (5a) "Investment" means a commitment or contribution of funds or property, whatever the source, or a loan or other extension of credit. It does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.
- (6) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan), and does not include the regional government of southern Sudan.
- (7), (8) Repealed by Session Laws 2017-193, s. 2.1, effective October 1, 2017.
- (9) "Marginalized populations of Sudan" include, but are not limited to, the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's North-South civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.
- (10) "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including, but not limited to, radar systems or military-grade transport vehicles; or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.
- (11) "Mineral extraction activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including by providing supplies or services in support of such activities.
- (12) "Oil-related activities" include, but are not limited to, owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered Oil-Related Activities.

- (13) "Power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation (NEC) of Sudan or other similar Government of Sudan entity whose purpose is to facilitate power generation and delivery, including, but not limited to, establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.
- (14) "Public fund" means any funds held by the State Treasurer to the credit of:
- a. The Teachers' and State Employees' Retirement System.
  - b. The Consolidated Judicial Retirement System.
  - c. The Firemen's and Rescue Workers' Pension Fund.
  - d. The Local Governmental Employees' Retirement System.
  - e. The Legislative Retirement System.
  - f. The Legislative Retirement Fund.
  - g. The North Carolina National Guard Pension Fund.
- (14a) "Restricted business operations" means business operations that have resulted in a company becoming a restricted company.
- (15) "Restricted company" means any company that meets the criteria in sub-subdivisions a., b., or c. below:
- a. The company has business operations that involve contracts with and/or provision of supplies or services to the Government of Sudan, to companies in which the Government of Sudan has any direct or indirect equity share, Government of Sudan-commissioned consortiums or projects, or to companies involved in Government of Sudan-commissioned consortiums or projects and at least one of the following conditions is satisfied:
    1. More than ten percent (10%) of the company's revenues or assets linked to Sudan involve oil-related activities or mineral extraction activities less than seventy-five percent (75%) of the company's revenues or assets linked to Sudan involve contracts with and/or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action.
    2. More than ten percent (10%) of the company's revenues or assets linked to Sudan involve power production activities; less than seventy-five percent (75%) of the company's power production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action.
  - b. The company is complicit in the Darfur genocide.

- c. The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

Notwithstanding anything herein to the contrary, a social development company which is not complicit in the Darfur genocide shall not be considered a restricted company.

- (16) "Social development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral extraction activities, or power production activities.
- (17) "Substantial action" means adopting, publicizing, and implementing a detailed plan to cease restricted business operations within one year and to refrain from any such new business operations; undertaking significant humanitarian efforts on behalf of one or more marginalized populations of Sudan; or through engagement with the Government of Sudan, materially improving conditions for the genocidally victimized population in Darfur. (2007-486, s. 2; 2015-241, s. 21.2(a); 2015-268, s. 7.5; 2017-193, s. 2.1.)

#### **§ 147-86.43. Identification of companies.**

(a) Within 90 days of August 30, 2007, the public fund shall develop and make publicly available a list of companies it determines to be engaged in restricted business activities. In the development of this list, the public fund shall use any other state lists of restricted companies pursuant to similar laws and any federal information or guidance on companies engaged in restricted business activities, and any other credible information provided by nonprofit organizations, research firms, and governmental entities. The public fund shall make every effort to avoid erroneously, including a company on the list. Before finalizing an initial or update list, the public fund must do all of the following before a company is included on the list:

- (1) Provide 90 days written notice of the public fund's intent to include the company on the list. The notices shall inform the company that inclusion on the list would make the company ineligible for State investment, may

result in the company becoming subject to divestment by the North Carolina Retirement Systems, and may affect the company's ability to conduct business with the State and its subdivisions. The notice shall specify that the company may be removed from the list if the company ceases engagement in the restricted business activities.

- (2) The public fund shall provide a company with an opportunity to comment in writing that it is not engaged in restricted activities in Sudan. If the company demonstrates to the public fund that the company is not engaged in restricted activities, the company shall not be included on the list.
- (3) Repealed by Session Laws 2017-193, s. 2.2, effective October 1, 2017.
- (b) Repealed by Session Laws 2017-193, s. 2.2, effective October 1, 2017.
- (c) The public fund shall update the list on an annual basis based on evolving information from, among other sources, those listed in subsection (a) of this section. (2007-486, s. 3; 2017-193, s. 2.2.)

#### **§ 147-86.44. Required actions.**

- (a) through (c) Repealed by Session Laws 2017-193, s. 2.3, effective October 1, 2017.
- (d) Investments Prohibited. – At no time shall the public fund invest with companies on the list created pursuant to G.S. 147-86.43.
- (d1) Existing Investments. – Any existing investment with a company that is identified on a list created pursuant to G.S. 147-86.43 as a company engaging in restricted business activities must be divested within 180 days of the adoption of the list.
- (e) Exemption. – No company which the United States Government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan shall be subject to divestment or investment prohibition pursuant to subsections (c) and (d) of this section.
- (e1) Nothing in this Article shall require the North Carolina Retirement Systems or the State Treasurer to take action unless it is determined by the State Treasurer, in good faith, that the action is consistent with the fiduciary responsibilities of the Retirement Systems and the State Treasurer.
- (f) Repealed by Session Laws 2017-193, s. 2.3, effective October 1, 2017. (2007-486, s. 4; 2015-241, s. 21.2(b); 2015-268, s. 7.5; 2017-193, s. 2.3.)

#### **§ 147-86.45. Reporting.**

The public fund shall report to the Joint Legislative Commission on Governmental Operations annually on October 1 on information regarding investments sold, redeemed, divested, or withdrawn in compliance with this Article. (2007-486, s. 5; 2017-193, s. 2.4.)

#### **§ 147-86.46. Expiration of this article.**

This article expires upon the occurrence of any of the following:

- (1) The Congress or President of the United States declaring that the Darfur genocide has been halted for at least 12 months.



- (2) The United States revoking all sanctions imposed against the Government of Sudan.
- (3) The Congress or President of the United States declaring that the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.
- (4) The Congress or President of the United States, through legislation or executive order, declaring that mandatory divestment of the type provided for in this article interferes with the conduct of United States foreign policy. (2007-486, s. 6.)

§ 147-86.47: Repealed by Session Laws 2017-193, s. 2.5, effective October 1, 2017.

§ 147-86.48: Repealed by Session Laws 2017-193, s. 2.5, effective October 1, 2017.

**§ 147-86.49. Enforcement.**

The Attorney General is charged with enforcing the provisions of this article and, through any lawful designee, may bring such actions in court as are necessary to do so. (2007-486, s. 9.)

Article 6E.

Iran Divestment Act.

**§ 147-86.55. Article title.**

This Article may be cited as the "Iran Divestment Act of 2015. (2015-118, s. 1.)

**§ 147-86.56. Findings.**

The General Assembly finds that:

- (1) Congress and the President have determined that the illicit nuclear activities of the Government of Iran, combined with its development of unconventional weapons and ballistic missiles and its support of international terrorism, represent a serious threat to the security of the United States, Israel, and other United States allies in Europe, the Middle East, and around the world.
- (2) The International Atomic Energy Agency has repeatedly called attention to Iran's unlawful nuclear activities, and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the Government of Iran to cease those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons.
- (3) On July 1, 2010, President Barack Obama signed into law H.R. 2194, the "Comprehensive Iran Sanctions, Accountability, and Divestment Act of

- 2010" (Public Law 111-195), which expressly authorizes states and local governments to prevent investment in, including prohibiting entry into or renewing contracts with, companies operating in Iran's energy sector with investments that have the result of directly or indirectly supporting the efforts of the Government of Iran to achieve nuclear weapons capability.
- (4) The serious and urgent nature of the threat from Iran demands that states, local governments, and private institutions work together with the federal government and American allies to do everything possible diplomatically, politically, and economically to prevent Iran from acquiring nuclear weapons capability.
  - (5) Respect for human rights in Iran has steadily deteriorated as demonstrated by transparently fraudulent elections and the brutal repression and murder, arbitrary arrests, and show trials of peaceful dissidents.
  - (6) The concerns of the State regarding Iran are strictly the result of the actions of the Government of Iran and should not be construed as enmity towards the Iranian people.
  - (7) In order to effectively address the need for this State to respond to the policies of Iran in a uniform fashion, prohibiting contracts with companies engaged in investment activities in the energy sector of Iran must be accomplished on a statewide basis.
  - (8) It is the intent of the General Assembly to fully implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195). (2015-118, s. 1; 2017-193, s. 3.1.)

#### **§ 147-86.57. Definitions.**

As used in this Article:

- (1) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations.
- (1a) "Energy sector of Iran" means activities to develop petroleum or natural gas resources or nuclear power in Iran.
- (2) "Financial institution" means the term as used in Section 14 of the Iran Sanctions Act of 1996, as amended (Public Law 104-172; 50 U.S.C. 1701 § note).
- (3) "Investment" means a commitment or contribution of funds or property, whatever the source, a loan or other extension of credit, and the entry into or renewal of a contract for goods or services. It does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.

- (4) "Investment activities in Iran" means a company engages in investment activities in Iran if:
  - a. The company provides goods or services of twenty million dollars (\$20,000,000) or more within any 12-month period in the energy sector of Iran, including a company that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
  - b. The company is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another company, for 45 days or more, if (i) the financial institution knows, or reasonably should know, that company will use the credit to provide goods or services in the energy sector in Iran, and (ii) the company receiving credit is identified on a list created pursuant to G.S. 147-86.60 as a company engaging in investment activities in Iran as described in this section.
- (5) "Iran" includes the Government of Iran and any agency or instrumentality of Iran.
- (6) "Person" means any of the following:
  - a. A natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group.
  - b. Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. § 262r(c)(3)).
  - c. Any successor, parent entity owning more than 20%, or majority-owned subunit or subsidiary of any entity described in sub-subdivisions (a) and (b) of this subdivision.
- (7) "State agency" means any board, commission, department, executive department, officer, institution, and any political subdivision of the State. (2015-118, s. 1; 2017-193, s. 3.2.)

**§ 147-86.58. Prohibitions on State investment.**

No more than 30 days after October 1, 2015, the State Treasurer shall adopt a policy prohibiting the North Carolina Retirement Systems or the Department of the State Treasurer from investing funds with a company engaging in investment activities in Iran. At a minimum, the policy shall provide:

- (1) List of restricted companies. – Within 120 days of adoption of the policy, the State Treasurer shall develop and make publically available, a list of companies it determines engage in investment activities in Iran. The State Treasurer shall use any other state lists of restricted companies pursuant to similar laws and any federal information or guidance on companies engaged in investment activities in Iran and any other credible information provided by nonprofit organizations, research firms, governmental entities, and generally public information. The State Treasurer shall make every effort to avoid erroneously including a

company on the list. The State Treasurer shall update the list annually. Before finalizing an initial list or an updated list, the State Treasurer must do all of the following before a company is included on the list:

- a. Provide 90 days' written notice of the State Treasurer's intent to include the company on the list. The notice shall inform the company that inclusion on the list would make the company ineligible for State investment and may affect the company's ability to conduct other business with the State and its subdivisions. The notice shall specify that the company may be removed from the list if it ceases its investment activities in Iran.
  - b. The State Treasurer shall provide a company with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the company demonstrates to the State Treasurer that the company is not engaged in investment activities in Iran, the company shall not be included on the list.
- (2) Investments prohibited. – Neither the North Carolina Retirement Systems nor the State Treasurer may invest funds with a company that is identified on a list created pursuant to subdivision (1) of this section as a company engaging in investment activities in Iran.
  - (3) Existing investments. – Any existing investment with a company that is identified on a list created pursuant to subdivision (1) of this section as a company engaging in investment activities in Iran must be divested within 180 days of being placed on the list created pursuant to subdivision (1) of this section.
  - (4) Fiduciary duties. – Nothing in the policy or in this Article shall require the North Carolina Retirement Systems or the State Treasurer to take action unless it is determined by the State Treasurer, in good faith, that the action is consistent with the fiduciary responsibilities of the Retirement Systems and the State Treasurer.
  - (5) Exceptions. – Notwithstanding the policy, an investment may be made in a company engaged in investment activities in Iran if:
    - a. The company is eligible to contract with the State under the exception in G.S. 147-86.61.
    - b. The State Treasurer makes a good-faith determination, on a case-by-case basis, that the investments are necessary to perform its functions. (2015-118, s. 1; 2017-193, s. 3.3.)

**§ 147-86.59:** Repealed by Session Laws 2017-193, s. 3.4, effective October 1, 2017.

**§ 147-86.60. Restrictions on contracts with the State or subdivisions of the State.**

(a) A company that is identified on a list created by the State Treasurer pursuant to G.S. 147-86.58 as a company engaging in investment activities in Iran is ineligible to contract with the State or any political subdivision of the State.

(b) Any contract entered into with a company that is ineligible to contract with the State or any political subdivision of the State is void ab initio.

(c) Existing contracts with companies made ineligible to contract with the State or any political subdivision of the State under this Article shall be allowed to expire in accordance with the terms of the contract. (2015-118, s. 1; 2017-193, s. 3.5.)

**§ 147-86.61. Exceptions.**

(a) G.S. 147-86.60 does not apply to contracts valued at one thousand dollars (\$1,000) or less.

(b) Companies engaged in substantial positive action. – Notwithstanding any other provision of this Article, a company engaged in investment activities in Iran may not be placed on the list developed pursuant to G.S. 147-86.58(1) if the State Treasurer determines, using U.S. government statements and any other credible information available to the public, that the company's investment activities in Iran were made before October 1, 2015, the investment activities in Iran have not been expanded or renewed after October 1, 2015, and the company has adopted, publicized, and is implementing a detailed plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran. The State Treasurer shall develop and make publically available a "Substantial Positive Action Exception List" of these companies. The State Treasurer shall update the list annually. Once a person has not engaged in investment activities in Iran within the previous five years, the State Treasurer shall remove that person from the list created pursuant to G.S. 147-86.58.

(c) Necessary commodities or services. – Notwithstanding any other provision of this Article, a company engaged in investment activities in Iran may contract with the State or a political subdivision of the State, on a case-by-case basis, if the State agency or political subdivision makes a good-faith determination that the commodities or services are necessary to perform its functions and that, absent such an exemption, the State agency would be unable to obtain the commodities or services for which the contract is offered. The determination shall be entered into the procurement record. (2015-118, s. 1; 2017-193, s. 3.6.)

**§ 147-86.62. Report; application.**

The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations annually by October 1 on information regarding investments sold, redeemed, divested, or withdrawn in compliance with this Article. (2015-118, s. 1; 2017-193, s. 3.7.)

**§ 147-86.63. No private right of action.**

(a) This Article does not create or authorize a private right of action to enforce the provisions of the Article.

(b) A company may challenge being included on the lists established in this Article using the procedures in Article 3 of Chapter 150B of the General Statutes, except that no company may file a contested case more than once every 365 days, and no attorneys' fees may be awarded under G.S. 150B-33(b)(11). (2015-118, s. 1; 2017-193, s. 3.8.)

§ 147-86.64: Reserved for future codification purposes.

§ 147-86.65: Reserved for future codification purposes.

§ 147-86.66: Reserved for future codification purposes.

§ 147-86.67: Reserved for future codification purposes.

§ 147-86.68: Reserved for future codification purposes.

§ 147-86.69: Reserved for future codification purposes.

## Article 6F.

### Achieving a Better Life Experience Program Trust.

#### § 147-86.70. Policy and definitions.

(a) Policy. – The General Assembly of North Carolina hereby finds and declares that encouraging and assisting individuals and families in saving private funds for the purpose of supporting individuals with disabilities, as authorized in the federal Achieving a Better Life Experience (ABLE) Act, to maintain health, independence, and a better quality of life is fully consistent with and furthers the long-established policy of the State to provide tools that strengthen opportunities for personal economic development and long-term financial planning.

(b) Definitions. – The following definitions apply in this section:

- (1) ABLE account. – An account established and owned by an eligible individual and maintained under this Article. A parent, guardian, or agent under a power of attorney may act on behalf of an account owner.
- (2) Account owner. – The person who enters into an ABLE savings agreement pursuant to the provisions of this Article. The account owner must be the designated beneficiary.
- (3) Board. – The ABLE Program Board of Trustees established in G.S. 147-86.72.
- (4) Repealed by Session Laws 2016-56, s. 9(c), effective June 30, 2016.
- (5) Designated beneficiary. – The eligible individual who established and owns an ABLE account.
- (6) Disability certification. – Defined in 26 U.S.C. § 529A(e)(2).
- (7) Eligible individual. – Defined in 26 U.S.C. § 529A(e)(1).
- (8) Federal ABLE Act. – Division B of the Tax Increase Prevention Act of 2014, P.L. 113-295, the Achieving a Better Life Experience Act of 2014.
- (9) Member of the family. – A brother, sister, stepbrother, or stepsister.

- (10) Qualified disability expense. – Defined in 26 U.S.C. § 529A(e)(5). (2015-203, s. 1; 2016-56, s. 9(c); 2017-212, s. 3.2(a).)

**§ 147-86.71. ABLE Program.**

(a) Achieving a Better Life Experience (ABLE) Program Trust. – There is established an ABLE Program Trust to be administered by the ABLE Program Board of Trustees established in G.S. 147-86.72 to enable contributors to save funds to meet the costs of the qualified disability expenses of eligible individuals.

(b) Accounts. – The following provisions apply to an ABLE account:

- (1) An account owner or contributor may establish an account by making an initial contribution to the ABLE Program Trust, signing an application form approved by the Board or its designee, and naming the designated beneficiary. If the contributor is not the account owner, the account owner or the account owner's parent, guardian, trustee, or agent shall also sign the application form.
- (2) Any person may make contributions to an account after the account is opened.
- (3) Contributions to an account shall be made only in U.S. Dollars.
- (4) Contributions to an account shall not exceed maximum contribution limits applicable to program accounts in accordance with the federal ABLE Act.
- (5) An account owner may change the designated beneficiary of an account to an eligible individual who is a member of the family of the former designated beneficiary. At the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account if the transferee account was created pursuant to this section or in accordance with the federal ABLE Act.

(c) Contributions. – The Board is authorized to accept, hold, invest, and disburse contributions, and interest earned on such contributions, from contributors as trustees of the ABLE Program Trust. The Board shall hold all contributions to the ABLE Program Trust, and any earnings thereon, in the ABLE Program Trust and shall invest the contributions in accordance with this section. The assets of the ABLE Program Trust shall at all times be preserved, invested, and expended for the purpose of providing benefits to designated beneficiaries and paying reasonable expenses of administering the ABLE Program Trust and investing the assets of the ABLE Program Trust. Nothing in this Article shall be construed to prohibit the Board from accepting, holding, and investing contributions from contributors who reside outside of North Carolina. Neither the contributions to the ABLE Program Trust, nor the earnings thereon, shall be considered State monies, assets of the State, or State revenue for any purpose. An account or a legal or beneficial interest in an account is not subject to attachment, levy, or execution by a creditor of the designated beneficiary.

(d) Limitations. – The Board, in administering the ABLÉ Program Trust, shall ensure each of the following:

- (1) A rollover from an ABLÉ account shall constitute a qualified rollover if the rollover distribution is in accordance with the federal ABLÉ Act.
- (2) A person may make contributions for a taxable year for the benefit of an individual who is an eligible individual for the taxable year to an ABLÉ account that is established to meet the qualified disability expenses of the designated beneficiary of the account.
- (3) A designated beneficiary is limited to one ABLÉ account.
- (4) Repealed by Session Laws 2016-56, s. 9(d), effective June 30, 2016.
- (5) Except as permitted under the federal ABLÉ Act, a person does not direct the investment of any contributions to or earnings from the Achieving a Better Life Experience Program more than two times each year.
- (6) An account or a legal or beneficial interest in an account is not assignable, pledged, or otherwise used to secure or obtain a loan or other advancement.
- (7) Separate records and accounting are maintained for each ABLÉ account.
- (8) Reports are made no less frequently than annually to each ABLÉ account owner.
- (9) A parent, trustee, or guardian appointed as a signatory of an ABLÉ account does not have or acquire any beneficial interest in the account and administers the account for the benefit of the designated beneficiary. (2015-203, s. 1; 2016-56, ss. 9(a), (d); 2017-212, s. 3.2(b).)

**§ 147-86.72. ABLÉ Program Board of Trustees.**

(a) Board. – There is established a Board of Trustees to provide oversight of the general administration and proper operation of the ABLÉ Program and to determine the appropriate investment strategy for the ABLÉ Program Trust. The Board of Trustees shall consist of the following six members:

- (1) The State Treasurer, ex officio, or the State Treasurer's designee, as chair.
- (2) The Commissioner of Banks, ex officio, or the Commissioner of Banks' designee.
- (3) The Secretary of the North Carolina Department of Health and Human Services, ex officio, or the Secretary's designee.
- (4) A person appointed by the Governor having experience in investments and finance.
- (5) A person appointed by the President Pro Tempore of the Senate having experience in advocacy for the disabled.
- (6) A person appointed by the Speaker of the House of Representatives that is an immediate family member of an eligible individual or a guardian of an eligible individual.

(b) Terms. – The members of the Board, except those members serving in an ex officio capacity, shall be appointed for terms of three years and shall serve until their



successors are appointed and qualified. Vacancies are filled in the same manner as the original appointment. No appointed member of the Board may serve longer than any of the following:

- (1) Two consecutive three-year terms.
  - (2) Three consecutive terms of any length, in the event that one or more of the terms is for less than three years in duration or the member serves a partial term as a result of filling a vacancy.
  - (3) Eight consecutive years, regardless of term lengths.
- (c) Duties. – The Board of Trustees is authorized to:
- (1) Delegate the authority to the State Treasurer to develop and perform all functions necessary and desirable to (i) administer the ABLE Program Trust in such a manner as to meet and comply with the requirements of the federal ABLE Act and federal regulations under the Act, (ii) implement the investment strategy of the Board, and (iii) provide other services as the Board shall deem necessary to facilitate participation in the ABLE Program Trust.
  - (2) Notwithstanding provisions of Article 3 of Chapter 143 of the General Statutes, engage the services of consultants on a contract basis for rendering professional and technical assistance and advice.
  - (3) Notwithstanding the provisions of Article 3 of Chapter 143 of the General Statutes, retain the services of auditors, attorneys, investment counseling firms, custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs that the Board administers pursuant to this Article.
  - (4) Develop marketing plans and promotional material.
  - (5) Establish the methods by which the funds held in accounts shall be dispersed.
  - (6) Establish the method by which funds shall be allocated to pay for administrative costs.
  - (7) Do all things necessary and proper to carry out the purposes of this act.

(d) Investments. – The Board shall determine and document in an investment policy statement an appropriate investment strategy for the ABLE Program Trust containing one or more forms of investment or strategies for investment from which account owners may select. The Board shall authorize the State Treasurer to be responsible for engaging and discharging investment managers and service providers, including contracting and contract monitoring, to implement the investment strategy established by the Board. All amounts maintained in an account shall be invested according to the account owner's election of one or more of the strategies approved by the Board. Each strategy may include a combination of fixed income assets and preferred or common stocks issued by any company incorporated, or otherwise located within or outside the United States, or other appropriate investment instruments to achieve long-term return through a combination of capital appreciation and current income. If the Board approves multiple forms of investment as investment strategy options, transfers of an account owner's accumulated funds shall be

permitted among the various approved forms of investments, subject to reasonable restrictions approved by the Board.

(e) Discharge of Duties by the Board. – The assets of the ABLE Program Trust shall be held in trust for the designated beneficiaries. The assets of the ABLE Program Trust shall at all times be preserved, invested, and expended for the exclusive purpose of providing benefits to designated beneficiaries and paying reasonable expenses of administering the ABLE Program Trust and investing the assets of the ABLE Program Trust. Compliance by the Board with this section must be determined in light of the facts and circumstances existing at the time of the Board's decision or action and not by hindsight. The Board shall discharge its duties with respect to the ABLE Program Trust as follows:

- (1) Solely in the interest of the designated beneficiaries.
- (2) With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (3) Impartially, taking into account any differing interests of designated beneficiaries.
- (4) Incurring only costs that are appropriate and reasonable.
- (5) In accordance with a good-faith interpretation of the law governing the ABLE Program Trust.

(f) Immunity. – A person serving on the ABLE Board of Trustees shall be immune individually from civil liability for monetary damages, and exempt to the extent covered by insurance, for any act or failure to act arising out of that service except where any of the following apply:

- (1) The person was not acting within the scope of that person's official duties.
- (2) The person was not acting in good faith.
- (3) The person committed gross negligence or willful or wanton misconduct that resulted in the damages or injury.
- (4) The person derived an improper personal financial benefit, either directly or indirectly, from the transaction.

(g) Report. – The Board shall submit an annual evaluation of the ABLE Program and prepare and submit an annual report of such evaluation to the Joint Legislative Oversight Committee on Health and Human Services.

(h) Other States Contracting for North Carolina to Provide Program. – With consent of the State Treasurer, the Board may enter into agreements with other states to either (i) allow North Carolina residents to participate in a plan operated by a contracting state with a qualified ABLE program or (ii) allow residents of other states to participate in the qualified North Carolina ABLE Program Trust.

(i) Arrangements for North Carolina Program to Be Provided in Partnership With Other States. – Notwithstanding any other provision of this Article, in addition to or in lieu of establishing a North Carolina ABLE Program and ABLE Program Trust, the Board may do either of the following:

- (1) Enter into an agreement with one or more states, or a consortium of states, that has a qualified ABLE program for the provision of all services necessary to allow residents of North Carolina to participate in the qualified ABLE program of the other state, states, or consortium.
- (2) Facilitate or otherwise provide access to allow residents of North Carolina to participate in qualified ABLE programs operated by another state, states, or consortium.

The Board shall take action only after due diligence that includes a fiduciary analysis that indicates the qualified ABLE program offered by the other state, states, or consortium will (i) meet all the requirements of this Article and (ii) be more efficient and cost-effective than an ABLE program provided directly by the Board. If the Board enters into an arrangement authorized by this subsection, the Board shall meet on a semiannual basis to evaluate the effectiveness of the services being provided. (2015-203, s. 1; 2016-56, s. 9(b); 2017-125, ss. 5(a), 5(b).)

#### **§ 147-86.73. Administration of ABLE Program.**

(a) Administration. – The Board may delegate to the State Treasurer the authority to develop and perform all functions necessary and desirable to (i) administer the ABLE Program Trust in such a manner as to meet and comply with the requirements of the federal ABLE Act and federal regulations under the Act, (ii) implement the investment strategy established by the Board, and (iii) provide such other services as the State Treasurer shall deem necessary to facilitate participation in the ABLE Program Trust. The State Treasurer is further authorized to obtain the services of such investment managers, investment advisors, service providers, or program managers as may be necessary for the proper administration, marketing, and investment of the ABLE Program Trust.

(b) Disclaimer. – Nothing in this section shall be construed to create any obligation of the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit of any parent, other interested party, or designated beneficiary the rate of return or other return for any contribution to the ABLE Program Trust and the payment of interest or other return on any contribution to the ABLE Trust Fund.

(c) Fees and Costs. – The State Treasurer may establish application, account, and administration fees in an amount not to exceed the amount necessary to offset the costs of the program. The following costs may be paid directly from the ABLE Program Trust:

- (1) The costs of administration, management, investment, and operation of the ABLE Program Trust.
- (2) The costs of all actions authorized by the Board.
- (3) The costs of all actions delegated to the State Treasurer and the State Treasurer's staff by the Board under this section. Such costs shall be allocated among the designated beneficiaries in such manner as may be prescribed by the Board. The Board shall no less than annually approve a budget and allocation of costs.

(d) Means-Tested Programs. – Notwithstanding any other provision of law, an ABLE account shall not be considered a resource for purposes of means-tested State benefits. Distributions for qualified disability expenses shall not be considered income for any State benefits eligibility program that limits eligibility based on income.

(e) Claim for Medical Assistance Benefits. – To the extent provided in subsection 26 U.S.C. § 529A(f) upon the death of a designated beneficiary, the State shall have a claim for payment from the beneficiary's account in an amount equal to the total medical assistance paid for the designated beneficiary after the establishment of the account. The State may file its claim for repayment from the account with the State Treasurer within 60 days of receiving notice from the State Treasurer of the death of the designated beneficiary. Any remaining funds in the beneficiary's account shall be distributed as provided in the account agreement or distributed to the beneficiary's estate if no other designation is made.

(f) Notice of the Death of a Designated Beneficiary. – Within 30 days of the date the State Treasurer receives notice of the death of a designated beneficiary, the State Treasurer shall provide notice of the designated beneficiary's death to the Department of Health and Human Services, Division of Medical Assistance.

(g) Repealed by Session Laws 2016-94, s. 12H.2(b), effective July 14, 2016.

(g1) Notice for Designated Beneficiary Receiving Medicaid. – The ABLE Account application package approved in accordance with G.S. 147-86.71(b)(1) shall include notice of the State's right under subsection (e) of this section to file a claim for payment from a designated beneficiary's ABLE account following the death of a beneficiary who received medical assistance benefits.

(h) Account Information. – The information related to individual ABLE accounts are not public records as defined in Chapter 132 of the General Statutes.

(i) The Department of Health and Human Services shall provide information and assistance to the Department of State Treasurer and shall enter into a data-sharing agreement with the Department of State Treasurer for the purpose of the ongoing implementation of this act. The Department of State Treasurer shall consult with other departments as needed. (2015-203, ss. 1, 2; 2016-94, ss. 12H.2(a), (b); 2017-129, s. 11.)

§ 147-86.74: Reserved for future codification purposes.

§ 147-86.75: Reserved for future codification purposes.

§ 147-86.76: Reserved for future codification purposes.

§ 147-86.77: Reserved for future codification purposes.

§ 147-86.78: Reserved for future codification purposes.

§ 147-86.79: Reserved for future codification purposes.

Article 6G.

Divestment From Companies Boycotting Israel.

**§ 147-86.80. Definitions.**

The following definitions apply in this Article:

- (1) Boycott Israel or boycott of Israel. – Engaging in refusals to deal, terminating business activities, or taking actions that are intended to penalize, inflict economic harm, or otherwise limit commercial relations specifically with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories. This term does not apply to decisions made for ordinary business purposes or for actions with an economic impact of less than twenty million dollars (\$20,000,000) in a 12-month period.
- (2) Company. – Any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations.
- (3) Investment. – This term has the same meaning as G.S. 147-86.57(3).
- (4) Restricted company. – A company that appears on the list of companies that are engaged in a boycott of Israel developed by the State Treasurer under G.S. 147-86.81(a)(1).
- (5) State agency. – Any board, commission, department, executive department, officer, institution, and any political subdivision of the State. (2017-193, s. 1.1.)

**§ 147-86.81. Prohibitions on State investment.**

(a) No more than 30 days after October 1, 2017, the State Treasurer shall adopt a policy prohibiting the North Carolina Retirement Systems or the Department of State Treasurer from investing in any company engaged in a boycott of Israel. At a minimum, the policy shall provide for the following:

- (1) List of restricted companies. – Within 120 days of adoption of the policy, the State Treasurer shall develop and make publicly available a list of companies it determines to be engaged in a boycott of Israel. In the development of this list, the State Treasurer shall use any other state lists of restricted companies pursuant to similar laws and any federal information or guidance on companies that boycott Israel and any other credible information provided by nonprofit organizations, research firms, and governmental entities, and generally publicly available information. The State Treasurer shall make every effort to avoid erroneously including a company on the list. Before finalizing an initial or updated

list, the State Treasurer must do all of the following before a company is included on the list:

- a. Provide 90 days' written notice of the State Treasurer's intent to include the company on the list. The notice shall inform the company that inclusion on the list would make the company ineligible for State investment, may result in the company becoming subject to divestment by the North Carolina Retirement Systems, and may affect the company's ability to conduct business with the State and its subdivisions. The notice shall specify that the company may be removed from the list if the company ceases its engagement in a boycott of Israel.
  - b. The State Treasurer shall provide a company with an opportunity to comment in writing that the company is not engaged in a boycott of Israel or has ceased its boycott of Israel. If the company demonstrates to the State Treasurer that the company has not been engaged in a boycott of Israel, the company shall not be placed on the list. If a company had been engaged in a boycott of Israel but has ceased the boycott, it must submit a written certification to the State Treasurer that the company will not reengage in a boycott of Israel for the duration of any business with the State. The State Treasurer shall keep all written certifications from restricted and previously restricted companies.
- (2) Identification of investments. – Upon completion of the initial list of restricted companies created pursuant to subdivision (1) of this subsection, the State Treasurer shall identify any restricted companies in which the North Carolina Retirement Systems has investments.
  - (3) Review of restricted companies list. – The State Treasurer shall review the list of restricted companies created pursuant to subdivision (1) of this subsection on an annual basis. This updated list shall be made publicly available and any updates shall be distributed to the North Carolina Retirement Systems.
  - (4) Investments prohibited. – Neither the North Carolina Retirement Systems nor the State Treasurer may invest funds with a company that is identified on a list created pursuant to subdivision (1) of this section as a company engaging in restricted investment activities.
  - (5) Existing investments. – Any existing investment with a company that is identified on a list created pursuant to subdivision (1) of this section as a company engaging in restricted activities must be divested within 180 days of the adoption of the list.

(b) Nothing in the policy or in this Article shall require the North Carolina Retirement Systems or the State Treasurer to take action unless it is determined by the State Treasurer, in good faith, that the action is consistent with the fiduciary responsibilities of the Retirement Systems and the State Treasurer. (2017-193, s. 1.1.)

#### **§ 147-86.82. Restrictions on contracts with the State or subdivisions of the State.**

(a) A company that is identified as a restricted company is ineligible to contract with the State or any political subdivision of the State.

(b) Any contract entered into with a company that is identified as a restricted company at the time of contract is void ab initio.

(c) Upon receiving information that a company that was not identified as a restricted company at the time of contract has later been identified as a restricted company, the State agency shall review the information and offer the company an opportunity to respond. If the company fails to demonstrate that the company should not have been identified as a restricted company within 90 days after notification by the State agency, then the State agency shall take action as may be appropriate and provided for by law, rule, or contract.

(d) Contracts in existence on October 1, 2017, with restricted companies shall be allowed to expire in accordance with the terms of the contract. (2017-193, s. 1.1.)

**§ 147-86.83. Exceptions.**

G.S. 147-86.82 shall not apply to contracts valued at one thousand dollars (\$1,000) or less. (2017-193, s. 1.1.)

**§ 147-86.84. Reporting.**

The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations annually by October 1 on information regarding investments sold, redeemed, divested, or withdrawn in compliance with this Article. (2017-193, s. 1.1.)

Article 7.

Secretary of Revenue.

**§ 147-87. Secretary of Revenue; appointment; salary.**

A Secretary of Revenue shall be appointed by the Governor on January 1, 1933, and quadrennially thereafter. The term of office of the Secretary shall be four years and until his successor is appointed and qualified. His salary shall be fixed by the General Assembly in the Current Operations Appropriations Act. (1921, c. 40, ss. 2, 6; 1929, c. 232; 1973, c. 476, s. 193; 1983, c. 717, s. 90; 1983 (Reg. Sess., 1984), c. 1034, s. 164.)

**§ 147-88: Repealed by Session Laws 1991, c. 10, s. 3.**

Article 8.

District Attorneys.

**§ 147-89. To prosecute cases removed to federal courts.**

It shall be the duty of the district attorneys of this State, in whose jurisdiction the circuit and district courts of the United States are held, having first obtained the permission of the judges of said courts, to prosecute, or assist in the prosecution of, all criminal cases in said courts where the defendants are charged with violations of the laws of this State, and have moved their cases from

the State to the federal courts under the provisions of the various acts of Congress on such subjects. (1874-5, c. 164, s. 1; Code, s. 1239; Rev., s. 5381; C.S., s. 7696; 1973, c. 47, s. 2.)

**§ 147-90. Investigations of uses of deadly force.**

In every instance in which a private citizen is killed as a result of the use of a firearm by a law enforcement officer in the line of duty, the district attorney in the prosecutorial district in which the death occurred shall, upon the request of the surviving spouse or next of kin of the private citizen within 180 days of the death, request the State Bureau of Investigation to conduct an investigation into the incident. For purposes of this section, the term "next of kin" includes only the child, father, mother, sister, or brother of the private citizen.

Statements prepared by or on behalf of a district attorney pursuant to this section are not public records as defined by G.S. 132-1 and may be released by the district attorney only as provided by G.S. 132-1.4 or other applicable law. (2007-129, s. 1.)